



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
March 1, 2016	Please review by March 4 meeting
To	Deadline
Rules and Policy Subcommittee	March 4, 2016
From	Contact
Tara Lundstrom, Attorney Legal Services	Tara Lundstrom 415-865-7650 phone tara.lundstrom@jud.ca.gov
Subject	
Legislative Proposal on E-Filing, E-Service, and E-Signatures	

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#### Background

The Rules and Policy Subcommittee is developing a legislative proposal that would amend the Code of Civil Procedure provisions governing e-filing, e-service, and e-signatures. The subcommittee first reviewed this proposal during its January 14 meeting. After the meeting, staff presented the proposal to the Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Family and Juvenile Law Advisory Committee for their input.

During its meeting on January 14, ITAC's Rules and Policy Subcommittee reviewed, but did not finally approve, proposed new Code of Civil Procedure section 1013b and proposed amendments to section 1010.6(b), (d), (f), and (g). However, parts of this proposal—proposed amendments to sections 664.5, 1010.6(a) and (d)(4), 1011, and 1013b(a)(2)(B)—were subsequently identified and developed by staff during its work with other advisory committees and have not yet been submitted to the Rules and Policy Subcommittee for its review.

The proposal is intended for circulation for public comment during the 2016 spring cycle.

### Subcommittee's Task

The subcommittee is tasked with reviewing the draft Invitation to Comment and:

- Advising ITAC to recommend that all or part of the proposal be circulated for public comment during the spring rules cycle;
- Rejecting the proposal; or
- Asking staff or group members for further information and analysis.

### Attachment

1. Draft Invitation to Comment with attachment (proposed new section 1013b and proposed amendments to Code of Civil Procedure sections 664.5, 1010.6, and 1011 with drafter's notes)

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455 Golden Gate Avenue · San Francisco, California 94102-3688  
[www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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Title	Action Requested
Technology: Electronic Filing, Service, and Signatures	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Code of Civil Procedure sections 664.5, 1010.6, and 1011; add section 1013b	January 1, 2018
Proposed by	Contact
Information Technology Advisory Committee Hon. Terence L. Bruiniers, Chair	Tara Lundstrom, 415-865-7650 <a href="mailto:tara.lundstrom@jud.ca.gov">tara.lundstrom@jud.ca.gov</a>

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### Executive Summary and Origin

The Information Technology Advisory Committee recommends adding new Code of Civil Procedure section 1013b and amending sections 664.5, 1010.6, and 1011. This legislative proposal would (1) authorize the use of electronic signatures for signatures made under penalty of perjury on electronically filed documents, (2) provide for a consistent effective date of electronic filing and service across courts and case types, (3) consolidate the mandatory electronic filing provisions, (4) clarify the application of section 1010.6's electronic service provisions in sections 664.5 and 1011, and (5) codify provisions on mandatory electronic service, effective date of electronic service, protections for self-represented litigants, and proof of electronic service that are currently in the California Rules of Court.

### Background

Superior courts across the state are implementing new case management systems that have electronic filing capabilities. Since January 1, 2000, Code of Civil Procedure section 1010.6 has authorized permissive electronic filing and service in the superior courts. (Dunn; Stats. 1999, ch. 514, § 1.) Four years ago, the Legislature enacted Assembly Bill 2073, which authorized the Superior Court of Orange County to implement a mandatory electronic filing and service pilot project. (Silva; Stats. 2012, ch. 320; Code of Civ. Proc., § 1010.6(d).)

In addition, AB 2073 instructed the Judicial Council to adopt uniform rules to permit mandatory electronic filing and service in specified civil actions. (Code of Civ. Proc., § 1010.6(f).) Upon adoption of those rules, AB 2073 allowed superior courts to require mandatory electronic filing by local rule. (*Id.*, § 1010.6(g).) Effective July 1, 2013, the Judicial Council adopted uniform

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

rules providing for mandatory electronic filing and service in civil cases. The trial court rules now provide a framework for mandatory and permissive filing and service in civil cases.

## **The Proposal**

This proposal builds upon the lessons learned in promulgating the uniform mandatory electronic filing and service rules and the experience of the Superior Court of Orange County and other superior courts in implementing mandatory and permissive electronic filing. It would amend the Code of Civil Procedure to authorize electronic signatures, to promote consistency in the requirements for electronic filing and service, to codify various provisions in the trial court rules, and to clarify the application of section 1010.6's electronic service provisions in other statutes.

In developing this proposal, ITAC sought input from the Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Advisory Committee on Providing Access and Fairness.

### **Proposed amendments to section 1010.6**

The proposed amendments to section 1010.6 would authorize electronic signatures on electronically filed documents, would provide for consistency in the effective date of filing across courts and case types, would consolidate the mandatory electronic filing provisions, and would codify the provisions on mandatory electronic service, effective date of electronic service, and protections for self-represented litigants that are currently in the rules.

***Authorize electronic signatures on electronically filed documents.*** Section 1010.6(b)(2)(B) currently requires that anyone electronically filing a document signed under penalty of perjury must print, sign, and keep the document indefinitely. These requirements have proved burdensome for litigants, especially government agencies and other high-frequency filers.

This proposal would amend subdivision (b)(2)(B) to provide that electronically filed documents may in the future be signed under penalty of perjury by means of an electronic signature. The proposed amendment would require that the electronic signature satisfy procedures, standards, and guidelines established by the Judicial Council. The language mirrors Government Code section 68150(g), which authorizes electronic signatures by judges and the courts.

To accommodate those without access to electronic signature technology, the proposal would also retain, but modify the procedures required in the current statute. The proposed amendment would still allow documents to be printed and signed by hand (in lieu of an electronic signature); however, it would eliminate the requirement that the original signature be maintained indefinitely. Instead, it would require the person signing the document to maintain the original signatures only until "final disposition of the case" as defined in Government Code section 68151(c).

***Provide for a consistent effective date of filing across courts and case types.*** Section 1010.6 would also be amended to provide for a consistent effective date of filing across courts and case

types: all electronically filed documents received electronically by the court on or after 5:00 p.m. would be deemed filed on the next court day.

Under current law, where electronic filing is permissive, documents must be received before the “close of business”—which is defined as 5:00 p.m. or the time when the court would not accept filing at its filing counter, whichever is earlier—in order to be deemed filed that day. (Code Civ. Proc., § 1010.6(b)(3).) However, in authorizing the Superior Court of Orange County’s mandatory electronic filing pilot project, the Legislature provided that the court “may permit documents to be filed electronically until 12 a.m. of the day after the court date that the filing is due, and the filing shall be considered timely.” (*Id.*, § 1010.6(d)(1)(D).)

With the exception of the Superior Court of Orange County’s mandatory electronic filing pilot project, the statute is silent as to when documents must be electronically filed for mandatory electronic filing cases to be deemed filed that day. (See *id.*, § 1010.6(g)(2).) In adopting uniform rules for mandatory electronic filing, the Judicial Council elected to allow courts to provide by local rule for up-until-midnight electronic filing in mandatory electronic filing cases (the approach provided by the Legislature for the Superior Court for Orange County’s mandatory electronic filing pilot project); otherwise, in the absence of such a local rule, the document must be filed by “close of business” to be deemed filed that day. (Cal. Rules of Court, rule 2.253(b)(7).) The rules also define “close of business” as “5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier.” (*Id.*, rule 2.250(b)(10).)

Accordingly, the current statute and rules allow for both inter- and intra-court variation in the effective date for electronic filing depending on (1) whether electronic filing is permissive or mandatory for the case type and (2) what time a court stops accepting filings each day. The potential for variation has increased in recent years as budget concerns have caused many courts to cut back on the hours that their filing counters are open. To provide for consistency across courts and case types, the committee recommends that the cutoff time be 5:00 p.m. for determining the effective date of filing for both permissive and mandatory electronic filing.

***Codify the effective date of electronic service.*** The statute is silent with respect to the effective date of electronic service. Instead, the effective date of electronic service is specified in rule 2.251(h)(4), which provides that electronic service that “occurs after the close of business is deemed to have occurred on the next court day.” As noted above, the rules define “close of business” as “5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier.” (*Id.*, rule 2.250(b)(10).)

This proposal would codify the effective date of service by adding a new paragraph (5) to section 1010.6(a). To provide for consistency across courts and with the proposed effective date of electronic filing, the new paragraph would provide that “[a]ny document that is served electronically on or after 5 p.m. on any day shall be deemed to have occurred on the next court day.”

**Consolidate the mandatory electronic filing provisions.** Subdivision (d) of section 1010.6 provides that the Superior Court of Orange County may establish a pilot project to require that parties to specified civil actions to electronically file and serve documents. Subdivision (g) provides that trial courts may require mandatory electronic filing by local rule after the Judicial Council adopts uniform mandatory electronic filing and service rules. Because the statutory authorization for the pilot project expired on July 1, 2014, this proposal would amend section 1010.6 to eliminate references to the pilot project and consolidate the provisions governing mandatory electronic filing in subdivision (d).

**Codify the mandatory electronic service provisions.** This proposal would codify the mandatory electronic service provisions from the rules. Subdivision (a) of section 1010.6—which governs electronic service in trial courts generally—does not expressly authorize mandatory electronic service. (See Code Civ. Proc., § 1010.6(a)(2) [authorizing electronic service of a document “when a party has agreed to accept service electronically in that action”].)<sup>1</sup> Subdivisions (c) and (d) recognize that mandatory electronic service may be required by court order in complex civil cases or by local rule as part of the Superior Court of Orange County’s electronic filing pilot project. The authority for the mandatory electronic service rules is instead derived from subdivision (f) of section 1010.6, which required the Judicial Council to adopt uniform rules to permit mandatory electronic filing and service of documents in the trial courts.

In adopting rules to implement subdivision (f), the Judicial Council decided to allow courts to require electronic service by local rule or court order. (Cal. Rules of Court, rule 2.251(c)(1) [“A court may require parties to serve documents electronically in specified actions by local rule or court order, as provided in the Code of Civil Procedure section 1010.6 and the rules”].) Similarly, under rule 2.251(c)(2), if a court requires a party to electronically file documents in an action, the party “must also serve documents and accept service of documents electronically from all other parties,” subject to certain exceptions. (See also *id.*, rule 2.251(b) [providing that a party consents to electronic service by electronic filing any document with the court, unless the party is self-represented].)

To codify these rules, this proposal would amend subdivision (d) not only to consolidate the mandatory electronic filing provisions, but to also authorize mandatory electronic service. Authorizing mandatory electronic service in revised subdivision (d) would track the language in current subdivisions (c) and (d), which authorize both mandatory electronic filing and service in complex cases and through the Superior Court of Orange County’s pilot project. This proposal

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<sup>1</sup> Subdivision (a)(3) does allow courts to e-serve a document if the party has agreed to accept e-service or the court has ordered electronic service under subdivisions (c) or (d), which currently refer to mandatory electronic service in complex civil cases and the Superior Court of Orange County’s pilot project. But it does not expressly allow courts—other than the Superior Court of Orange County—to require electronic service a document a document in cases other than complex civil cases. Nevertheless, because this proposal would amend subdivision (d) to address mandatory electronic service in all courts, this proposal would not need to make any further amendments to subdivision (a)(3).

would also codify these rules by amending subdivision (a)(2) to recognize that electronic service is required when a court has ordered electronic service under subdivisions (c) or (d) (as revised).

***Codify the protections for self-represented litigants.*** The trial court rules that implement the electronic filing and service provisions of section 1010.6 already contain significant protections for self-represented litigants. Rules 2.251(c)(2)(B) and 2.253(b)(2) exempt self-represented litigants from mandatory electronic filing and service. These rules were adopted in response to the instructions in section 1010.6(f) that the uniform mandatory electronic filing and service rules include statewide policies on unrepresented litigants.

This proposal would codify the exceptions for self-represented litigants by adding a new subdivision (d)(4) to provide that unrepresented litigants are exempt from mandatory electronic filing and service. It would also amend subdivisions (a)(2) and (3) to provide that mandatory electronic service applies to parties and other persons only if they are represented.

#### **Proposed amendment to sections 664.5 and 1011**

The proposed amendments to sections 664.5 and 1011 would clarify the application of section 1010.6's electronic service provisions. Under section 1010.6(a)(2), a document may be electronically served whenever "a document may be served by mail, express mail, overnight delivery, or facsimile transmission." Similarly, subdivision (a)(3) currently provides that where the parties have consented to electronic service, or the court has required electronic service (by order or local rule in complex civil cases or in the Superior Court of Orange County's mandatory electronic filing pilot project), a court may also electronically serve any document issued by the court that is not required to be personally served.

Section 664.5 provides for mailing notice of the entry of judgment. To clarify the application of section 1010.6, references to "mail" and "certificate of mailing" would be replaced with the more inclusive terms "serve" and "certificate of service."

Lastly, section 1011 recognizes possible means of service. This proposal would add a new subdivision (c) to cross-reference section 1010.6: "Electronic service shall be permitted pursuant to Section 1010.6 and the rules on electronic service in the California Rules of Court." This language is taken directly from section 1013, which governs service of notices or other papers. (See Code Civ. Proc., § 1013(g).)

#### **Proposed new section 1013b**

Proposed new section 1013b would codify the trial court rule governing proof of electronic service. Currently, the Code of Civil Procedure addresses proof of service by mailing, but not proof of electronic service. (See Code Civ. Proc., § 1013a.) Proof of electronic service is addressed only in the California Rules of Court. (See Cal. Rules of Court, rule 2.251(i).) To fix

this apparent statutory gap and to assist other advisory committees in their efforts to modernize their statutes,<sup>2</sup> the legislative proposal would add a new section 1013b.

The proposed language for section 1013b(a)(1) is not currently in rule 2.251; it is intended to correct an oversight in the rule that conflicts with section 1010.6.<sup>3</sup> Code of Civil Procedure section 1013a requires that proof of service by mail be made by affidavit or certificate showing that the “the person making the service” is “not a party to the cause.” However, Code of Civil Procedure section 1010.6 allows for electronic service by a party. (Code Civ. Proc., § 1010.6(a)(1)(A) [“Electronic service may be performed directly *by a party*, by an agent of a party, including the party’s attorney, or through an electronic filing service provider,” italics added].) To reflect this difference, proposed section 1013b(a) would add another exception to the general requirement that proof of electronic service be made by any of the methods provided in section 1013a for proof of mailing. Proposed section 1013b(a)(1) would recognize that proof of electronic service need not state that the party making the service is “not a party to a cause.”

The proposed language for section 1013b(a)(2) is taken directly from rule 2.251(i)(1). In stating the requirements for proof of electronic service, rule 2.251(i)(1) incorporates the requirements for proof of mailing in Code of Civil Procedure section 1013a, subject to several exceptions. The proposed language for section 1013b(a)(2) differs from rule 2.251(i)(1) in one way: it would require that the proof of electronic service list only the date of electronic service, not the time and date. In practice, it has been difficult to implement the requirement that the proof of electronic service list the time of electronic service; the person executing the proof of electronic service will not know the exact time of electronic service until after it has occurred.

Lastly, the proposed language for section 1013b(b) is taken directly from rule 2.251(i)(2), which provides that proof of electronic service may be in electronic form and may be electronically filed with the court. Proposed section 1013b(c) modifies the language in rule 2.51(i)(4) to cross-reference the proposed new signature requirements (discussed above) in Code of Civil Procedure section 1010.6(b)(2)(B).

### **Alternatives Considered**

The committee also considered amending subdivision (a)(5) and (b)(3) that documents electronically filed and served before midnight will deemed filed or served that day. The committee consulted with other advisory committees on this issue. Recognizing that there are

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<sup>2</sup> ITAC is currently leading a collaborative, multi-year effort to modernize the statutes and rules to facilitate e-business, electronic filing, and electronic service. As part of phase 2 of this project, the Probate and Mental Health Advisory Committee has recommended circulating for public comment a legislative proposal to amend the Probate Code to authorize electronic service of notices and other papers. The Probate Code currently cross-references Code of Civil Procedure section 1013a for proof of mailing. (See Prob. Code, § 1261.) Introducing a new section 1013b on proof of electronic service to the Code of Civil Procedure would avoid adding a reference to the rules in the Probate Code.

<sup>3</sup> ITAC and Civil and Small Claims Advisory Committee have also recommended circulating for public comment a rules proposal that would recommend eliminating this requirement from the rule as part of phase II of the Rules Modernization Project.



valid arguments in support of both options, the committee has specifically requested comment on this issue.

### **Implementation Requirements, Costs, and Operational Impacts**

To the extent that this proposal would codify existing requirements in the trial court rules, it is not expected to result in any additional costs or to otherwise affect the implementation of electronic filing and service in the superior courts. Standardizing the cutoff time for the effective date of electronic filing and service at 5:00 p.m. would require those courts that allow for electronic filing and service until midnight to make modifications to their case management systems. Overall, however, the consistency and clarity across courts and case types is expected to provide for efficiency gains for litigants.

To implement the authorization for electronic signatures, the Judicial Council would need to adopt standards and guidelines governing electronic signatures by parties and other persons. This would require staff time and resources. Because electronic signatures would be applied by the party or person either directly or through an Electronic Filing Service Provider, it is expected that there will be minimal implementation or ongoing costs for courts. Because original signatures made under penalty of perjury would no longer need to be retained indefinitely, it is expected to result in efficiencies for litigants and government agencies.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should Code of Civil Procedure section 1010.6(a)(5) and (b)(3) provide that documents electronically filed and served up until midnight be deemed filed or served on that day? Or should 5:00 p.m. be the cutoff time for electronic filing and electronic service?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 1 year from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Would removing the time of electronic service from the proof of electronic service cause any difficulties for the courts?

### Attachments and Links

1. Proposed amendments to Code of Civil Procedure sections 664.5, 1010.6, and 1011, and proposed new section 1013b, at pages 8–20

Section 1013b of the Code of Civil Procedure would be enacted and sections 664.5, 1010.6, and 1011 would be amended, effective January 1, 2018, to read as follows:

1 **664.5**

- 2
- 3 (a) In any contested action or special proceeding other than a small claims action or an  
4 action or proceeding in which a prevailing party is not represented by counsel, the  
5 party submitting an order or judgment for entry shall prepare and ~~mail~~ serve a copy  
6 of the notice of entry of judgment to all parties who have appeared in the action or  
7 proceeding and shall file with the court the original notice of entry of judgment  
8 together with the proof of service ~~by mail~~. This subdivision does not apply in a  
9 proceeding for dissolution of marriage, for nullity of marriage, or for legal  
10 separation.
- 11
- 12 (b) Promptly upon entry of judgment in a contested action or special proceeding in  
13 which a prevailing party is not represented by counsel, the clerk of the court shall  
14 ~~mail~~ serve notice of entry of judgment to all parties who have appeared in the  
15 action or special proceeding and shall execute a certificate of such ~~mailing~~ service  
16 and place it in the court's file in the cause.
- 17
- 18 (c) For purposes of this section, "judgment" includes any judgment, decree, or signed  
19 order from which an appeal lies.
- 20
- 21 (d) Upon order of the court in any action or special proceeding, the clerk shall ~~mail~~  
22 serve notice of entry of any judgment or ruling, whether or not appealable.
- 23
- 24 (e) The Judicial Council shall, ~~by January 1, 1999, adopt a rule of court for the~~  
25 ~~purposes of providing~~ by rule of court that, upon entry of judgment in a contested  
26 action or special proceeding in which a state statute or regulation has been declared  
27 unconstitutional by the court, the Attorney General is promptly notified of the  
28 judgment and that a certificate of that ~~mailing~~ service is placed in the court's file in  
29 the cause.
- 30

31 **DRAFTER'S NOTE:** The Rules and Policy Subcommittee has not yet reviewed the  
32 proposed amendment to section 664.5, which is intended to clarify the application of  
33 section 1010.6's electronic service provisions. Under section 1010.6(a)(2), a document  
34 may be electronically served whenever "a document may be served by mail, express  
35 mail, overnight delivery, or facsimile transmission." Similarly, subdivision (a)(3) provides  
36 that where the parties have consented to electronic service, or the court has required  
37 electronic service by order or local rule, a court may also electronically serve any  
38 document issued by the court that is not required to be personally served.

39

40 This proposed amendment is needed to resolve an apparent district split and ensure that  
41 superior court clerks have the authority necessary to e-serve the notice of entry of  
42 judgment.

1 In *Citizens for Civic Accountability v. Town of Danville* (2008) 167 Cal.App.4th 1158,  
2 1162–1164, the Court of Appeal for the First District interpreted rule 8.104(a), which then  
3 established that a notice of appeal must be filed on or before 60 days after the superior  
4 court clerk “mails” notice of the entry of judgment. Applying the principles of statutory  
5 construction, the First District construed the use of the term “mail” in the rule “as delivery  
6 by the United States Postal Service.” (*Id.* at pp. 1161–1163.) Notably, it differentiated  
7 between “mail” and “service by mail” in explaining why former rule 2.260—which then  
8 authorized e-service whenever “a notice may be *served by mail*” (and has since been  
9 renumbered as rule 2.251)—was inapposite. (*Id.* at pp. 1163–1164, italics added.) The  
10 First District reasoned that if rule 8.104(a) had instead stated that the appeal period  
11 began upon “service by mail” of the notice of entry of judgment, rule 2.260 and the  
12 court’s order mandating e-filing and e-service might have been sufficient to trigger the  
13 60-day appeal period. (*Ibid.*)

14  
15 The Court of Appeal for the Sixth District subsequently disagreed with this interpretation  
16 of rule 8.104(a) in *Insyst, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129.  
17 The Sixth District did recognize that the term “mail” in rule 8.104(a)(1) referred to mail  
18 through the U.S. Postal Service, but reasoned that *Citizens for Civic Accountability*  
19 “failed to consider whether section 1010.6 . . . has equated ‘electronic service’ with ‘mail’  
20 in cases like this one in which electronic service is authorized.” (*Id.* at pp. 1135–1139.) It  
21 concluded that “harmonizing rule 8.104(a)(1) with section 1010.6 and its statutory  
22 context, the superior court clerk may electronically serve a triggering document in a case  
23 in which electronic service has already been authorized.” (*Ibid.*)

24  
25 [Rule 8.104\(a\)](#) has since been amended to clarify that the notice of entry of judgment is  
26 triggered 60 days after the superior court clerk “serves” notice of the entry of judgment.  
27 But section 664.5 still contemplates only that the clerk “mails” the entry of judgment.  
28 Replacing references to “mail” with “serve” in section 664.5 will moot the split between  
29 the First and Sixth Districts by clarifying that the clerk retains the authority to e-serve  
30 notices under section 1010.6.

31  
32 In addition, the proposed amendment to section 664.5 would resolve an issue left open  
33 by the Court of Appeal for the Second District in *Nevis Homes LLC v. CW Roofing, Inc.*  
34 (2013) 216 Cal.App.4th 353. Similar to the First District in *Citizens for Civic*  
35 *Accountability*, the appellant distinguished between “service by mail” and “mail” in  
36 arguing that the five-day extension in [section 1013\(a\)](#) applies only to “service by mail.”<sup>1</sup>  
37 (*Id.* at p. 357.) It contended that the five-day extension in section 1013(a) did not apply to  
38 the time period for filing a memorandum of costs because rule 3.1700(a)(1) then  
39 provided that the period for filing a memorandum was triggered, inter alia, by the

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<sup>1</sup> Code of Civil Procedure section 1013(a) provides that “any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date is prescribed by statute or rule of court, shall be extended five calendar days, upon *service by mail*,” subject to certain exceptions.

1 “mailing” of the notice of entry of judgment by the clerk under Code of Civil Procedure  
2 section 664.5. (*Ibid.*) The court of appeal acknowledged the argument, but determined  
3 that it was unnecessary to resolve the issue. (*Id.* at pp. 357–358.)

4  
5 The Judicial Council amended [rule 3.1700\(a\)\(1\)](#), effective January 1, 2016, to replace  
6 the term “mailing” with “service,” but the rule still ties service by the clerk to Code of Civil  
7 Procedure section 664.5. (See Cal Rules of Court, rule 3.1700(a)(1) [requiring that the  
8 memorandum of costs be filed and served within 15 days, inter alia, “after the date of  
9 service of the notice of entry of judgment or dismissal by the clerk *under Code of Civil*  
10 *Procedure section 664.5,*” italics added].) Amending section 664.5 to replace references  
11 to “mail” with “service” would clarify the application of the time extensions in section  
12 1013(a), which are subject to certain express exceptions stated in the statute—namely,  
13 the time for filing notice of intention to move for new trial, notice of intention to vacate  
14 judgment pursuant to Section 663a, or notice of appeal. Limiting the exceptions to  
15 section 1013(a) to those stated expressly would provide clarity for practitioners when  
16 calculating filing deadlines.

## 17 18 **1010.6**

- 19  
20 (a) A document may be served electronically in an action filed with the court as  
21 provided in this section, in accordance with rules adopted pursuant to subdivision  
22 (e).
- 23  
24 (1) For purposes of this section:
- 25  
26 (A) “Electronic service” means service of a document, on a party or other  
27 person, by either electronic transmission or electronic notification.  
28 Electronic service may be performed directly by a party or other  
29 person, by an agent of a party or other person, including the party’s or  
30 other person’s attorney, or through an electronic filing service provider.
- 31  
32 (B) “Electronic transmission” means the transmission of a document by  
33 electronic means to the electronic service address at or through which a  
34 party or other person has authorized electronic service.
- 35  
36 (C) “Electronic notification” means the notification of the party or other  
37 person that a document is served by sending an electronic message to  
38 the electronic address at or through which the party or other person has  
39 authorized electronic service, specifying the exact name of the  
40 document served, and providing a hyperlink at which the served  
41 document may be viewed and downloaded.  
42

1 (2) If a document may be served by mail, express mail, overnight delivery, or  
2 facsimile transmission, electronic service of the document is authorized when  
3 a party or other person has agreed to accept service electronically in that  
4 action or when a court has ordered electronic service on a represented party  
5 or other person under (c) or (d).  
6

7 (3) In any action in which a party or other person has agreed to accept electronic  
8 service under paragraph (2), or in which the court has ordered electronic  
9 service on a represented party or other person under subdivision (c) or (d),  
10 the court may electronically serve any document issued by the court that is  
11 not required to be personally served in the same manner that parties  
12 electronically serve documents. The electronic service of documents by the  
13 court shall have the same legal effect as service by mail, except as provided  
14 in paragraph (4).  
15

16 **DRAFTER'S NOTE:** The Rules and Policy Subcommittee has not yet reviewed the  
17 proposed amendments to subdivisions (a)(1)(A), (a)(2), or (a)(3).  
18

19 In helping other advisory committees develop legislative proposals to amend the Welfare  
20 and Institutions Code and the Probate Code, it came to staff's attention that notices and  
21 other papers are served on and by individuals other than parties in juvenile and probate  
22 proceedings. Staff suggest amending these provisions to recognize that persons other  
23 than parties may electronically serve documents.  
24

25 In addition, the proposed amendments would codify the mandatory e-service provisions  
26 and the protections for self-represented litigants that are already in the rules. (See Cal.  
27 Rules of Court, [rules 2.251\(c\)\(2\)\(B\)](#), [2.253\(b\)\(2\)](#), [\(b\)\(3\)](#).)  
28

29 (4) Electronic service of a document is complete at the time of the electronic  
30 transmission of the document or at the time that the electronic notification of  
31 service of the document is sent. However, any period of notice, or any right  
32 or duty to do any act or make any response within any period or on a date  
33 certain after the service of the document, which time period or date is  
34 prescribed by statute or rule of court, shall be extended after service by  
35 electronic means by two court days, but the extension shall not apply to  
36 extend the time for filing any of the following:  
37

38 (A) A notice of intention to move for new trial.

39 (B) A notice of intention to move to vacate judgment under Section 663a.

40 (C) A notice of appeal.  
41  
42  
43

1 This extension applies in the absence of a specific exception provided by any  
2 other statute or rule of court.

3  
4 (5) Any document that is served electronically on or after 5 p.m. on any day shall  
5 be deemed to have occurred on the next court day.  
6

7 **DRAFTER’S NOTE:** During its January 14 meeting, the Rules and Policy Subcommittee  
8 recommended amending subdivision (b)(3), see below, to provide that the effective date  
9 of e-filing be 5:00 p.m. Section 1010.6 does not currently state the effective date of e-  
10 service; instead, this is specified in rule 2.251(h)(4), which provides that e-service that  
11 “occurs after the close of business is deemed to have occurred on the next court day.”  
12 The rules define “close of business” as “5 p.m. or any other time on a court day at which  
13 the court stops accepting documents for filing at its filing counter, whichever is earlier.”  
14 Staff suggest codifying the effective date of e-service in the statute and making it  
15 consistent with the effective date of e-filing.

16  
17 However, if the statute were ultimately amended to deem documents filed before  
18 midnight on a day as filed that day, this additional provision on the effective date of  
19 service would not be necessary and would not be included in the proposal.  
20

21 (b) A trial court may adopt local rules permitting electronic filing of documents,  
22 subject to rules adopted pursuant to subdivision (e) and the following conditions:

23  
24 (1) A document that is filed electronically shall have the same legal effect as an  
25 original paper document.  
26

27 (2)

28  
29 (A) When a document to be filed requires the signature, not under penalty  
30 of perjury, ~~of an attorney or a self-represented party~~, the document shall  
31 be deemed to have been signed by ~~that attorney or self-represented~~  
32 party the person filing if filed electronically.  
33

34 (B) When a document to be filed requires the signature, under penalty of  
35 perjury, of any person, the document shall be deemed to have been  
36 signed by that person if filed electronically and if either of the  
37 following conditions is satisfied:  
38

39 (i) That person has signed a printed form of the document ~~has been~~  
40 ~~signed by that person~~ prior to, or on the same day as, the date of  
41 filing. The attorney or person filing the document represents, by  
42 the act of filing, that the declarant has complied with this section.  
43 The attorney or person filing the document shall maintain the

1 printed form of the document bearing the original signature and  
2 make it available for review and copying upon the request of the  
3 court or any party to the action or proceeding in which it is filed.  
4 The attorney or person filing the document must maintain the  
5 original signature until final disposition of the case, as defined in  
6 Government Code section 68151(c).

7  
8 (ii) That person has signed the document using a computer or other  
9 technology in accordance with procedures, standards, and  
10 guidelines established by the Judicial Council pursuant to this  
11 section.

12  
13 **DRAFTER'S NOTE:** During its January 14 meeting, the Rules and Policy Subcommittee  
14 recommended proposed amendments to subdivision (b)(2)(B).

15  
16 Staff suggest making one change to subdivision (b)(2)(B)(i) based on input provided by  
17 the Advisory Committee on Providing Access and Fairness: instead of requiring that the  
18 attorney or person filing the document maintain the original signature for the period of  
19 time stated in Government Code section 68152 (the statute governing the retention of  
20 records by courts), subdivision (b)(2)(B)(i) would require maintaining the original  
21 signature only until final disposition of the case as defined in [Government Code section](#)  
22 [68151\(c\)](#). This suggestion appears advisable because tracking the records retention  
23 statutes would require maintaining the original signature for lengthy periods without any  
24 perceived need. Family law records, for example, must be maintained for 30 years after  
25 final disposition of the case, or permanently. (See [Gov. Code, § 68152\(a\)\(7\)](#).)

26  
27 (3) ~~Any document that is electronically filed with the~~ received electronically by  
28 the court on or after the close of business 5 p.m. on any day shall be is  
29 deemed to have been filed on the next court day. "Close of business," as used  
30 in this paragraph, shall mean 5 p.m. or the time at which the court would not  
31 accept filing at the court's filing counter, whichever is earlier.

32  
33 **DRAFTER'S NOTE:** During its January 14 meeting, the Rules and Policy Subcommittee  
34 recommended that the effective date of filing be 5:00 p.m.

35  
36 Since the meeting, three advisory committees reviewed the proposal and provided input.  
37 All three committees agreed with the subcommittee's recommendation that the effective  
38 date of filing be uniform across courts and case types; only one had a firm  
39 recommendation regarding the specific cutoff time: the Civil and Small Claims Advisory  
40 Committee felt strongly that the cutoff time should be midnight (with one member even  
41 dropping to his knees in supplication).



1 The committee discussed how the midnight cutoff time—if also applied to e-service—  
2 would prevent complications for courts that arise from eliminating the time of e-service  
3 from the proof of e-service. Anne Ronan, staff to the Civil and Small Claims Advisory  
4 Committee and a former research attorney at the Superior Court of Alameda County,  
5 had noted that research attorneys look at the proof of service to calculate whether a  
6 document was timely served. If the cutoff time of e-service were midnight, staff could still  
7 calculate whether the document was timely served regardless of whether the proof of e-  
8 service stated the time of e-service.

9  
10 Members of the Civil and Small Claims Advisory Committee also noted that even though  
11 there may be gamesmanship with some firms waiting until right before midnight to  
12 electronically serve the other party, this happens with a 5:00 p.m. deadline and with  
13 service by mail.

14  
15 The two other committees did not have a specific recommendation as committee  
16 members differed in whether they preferred 5:00 p.m. or midnight. In light of these  
17 varying preferences, the committees asked that input from their members be passed  
18 along to the subcommittee.

19  
20 The Family and Juvenile Law Advisory Committee split as to whether the cutoff time for  
21 e-filing should be midnight or 5:00 p.m. One judge noted that providing for a midnight  
22 cutoff time for e-filing would cause operational difficulties for juvenile dependency courts  
23 because the initial detention hearing must be scheduled within 24 hours of filing the  
24 petition when the child has been detained and because her court holds these hearings at  
25 8:30 a.m. It would be difficult for the court to schedule these morning hearings if the  
26 petition were filed after the court closes.

27  
28 Similarly, the Advisory Committee on Providing Access and Fairness agreed that  
29 uniformity was preferable. It was divided on whether the cutoff time for e-filing should be  
30 5:00 p.m. or midnight, although their comments tended to express a preference for  
31 midnight.

- 32  
33
- 34 1. A member noted that even allowing for filing up until 5:00 p.m. causes problems  
35 for scheduling initial detention hearings in dependency cases and indicated that  
36 his court had set an internal cutoff time at 2:00 p.m. for filing petitions in juvenile  
37 dependency cases where a child has been detained. He recommends providing  
38 for a midnight cutoff time because it would benefit people who work and is  
39 consistent with state and federal appellate courts.
  - 40 2. One member commented that a midnight cutoff time would be unfair because it  
41 would provide an advantage to those who do not own computers, printers, and  
scanners because the libraries are not open until midnight.

- 1 3. Another member noted that a 5 p.m. cutoff time is a problem for individuals who  
2 work; people who reside in her district often labor in the strawberry fields and  
3 warehouses and could stop at a public library on the way home.
- 4 4. Another member recommended a midnight cutoff time because many individuals  
5 do not have access to computers at work and would not be able to access  
6 computers until after 5 p.m.
- 7 5. Another member stated that the cutoff time doesn't make a difference because  
8 people take time off work; they have no alternative. Staff to the advisory  
9 committee responded that some litigants might lose their jobs because they have  
10 to take time off work.
- 11 6. Another member prefers a midnight cutoff time because it provides filers with  
12 more options and more access.
- 13 7. Another member indicated that there are some filings that must be filed within a  
14 short timeframe. These include unlawful detainer requests, family law ex parte  
15 matters, extensions of emergency protective orders, and replies to motions. A  
16 midnight cutoff time would help self-represented litigants who work to meet these  
17 deadlines.

18  
19 During the March 4 meeting, the subcommittee should consider the input provided by  
20 other advisory committees and decide whether to revisit its recommendation for a 5:00  
21 p.m. cutoff time.

- 22  
23 (4) The court receiving a document filed electronically shall issue a confirmation  
24 that the document has been received and filed. The confirmation shall serve  
25 as proof that the document has been filed.
- 26  
27 (5) Upon electronic filing of a complaint, petition, or other document that must  
28 be served with a summons, a trial court, upon request of the party filing the  
29 action, shall issue a summons with the court seal and the case number. The  
30 court shall keep the summons in its records and may electronically transmit a  
31 copy of the summons to the requesting party. Personal service of a printed  
32 form of the electronic summons shall have the same legal effect as personal  
33 service of an original summons. If a trial court plans to electronically transmit  
34 a summons to the party filing a complaint, the court shall immediately upon  
35 receipt of the complaint notify the attorney or party that a summons will be  
36 electronically transmitted to the electronic address given by the person filing  
37 the complaint.
- 38  
39 (6) The court shall permit a party or attorney to file an application for waiver of  
40 court fees and costs, in lieu of requiring the payment of the filing fee, as part  
41 of the process involving the electronic filing of a document. The court shall  
42 consider and determine the application in accordance with Sections 68630 to  
43 68641, inclusive, of the Government Code and shall not require the party or

1 attorney to submit any documentation other than that set forth in Sections  
2 68630 to 68641, inclusive, of the Government Code. Nothing in this section  
3 shall require the court to waive a filing fee that is not otherwise waivable.  
4

5 (c) If a trial court adopts rules conforming to subdivision (b), it may provide by order  
6 that all parties to an action file and serve documents electronically in a class action,  
7 a consolidated action, or a group of actions, a coordinated action, or an action that  
8 is deemed complex under Judicial Council rules, provided that the trial court's  
9 order does not cause undue hardship or significant prejudice to any party in the  
10 action.

11  
12 (d) A superior court may, by local rule, require electronic filing and service in civil  
13 cases, subject to the requirements and conditions stated in subdivision (b) of this  
14 section, the rules adopted by the Judicial Council under subdivision (f), and the  
15 following conditions:

16  
17 ~~(1) Notwithstanding subdivision (b), the Orange County Superior Court may, by~~  
18 ~~local rule and until July 1, 2014, establish a pilot project to require parties to~~  
19 ~~specified civil actions to electronically file and serve documents, subject to~~  
20 ~~the requirements set forth in paragraphs (1), (2), (4), (5), and (6) of~~  
21 ~~subdivision (b) and rules adopted pursuant to subdivision (e) and the~~  
22 ~~following conditions:~~

23  
24 ~~(A)~~ The court shall have the ability to maintain the official court record in  
25 electronic format for all cases where electronic filing is required.

26  
27 ~~(B)~~(2) The court and the parties shall have access either to more than one electronic  
28 filing service provider capable of electronically filing documents with the  
29 court, or to electronic filing access directly through the court. Any fees  
30 charged by the court shall be for no more than the actual cost of the electronic  
31 filing and service of the documents, and shall be waived when deemed  
32 appropriate by the court, including, but not limited to, for any party who has  
33 received a fee waiver. Any fees charged by an electronic filing service  
34 provider shall be reasonable and shall be waived when deemed appropriate  
35 by the court, including, but not limited to, for any party who has received a  
36 fee waiver.

37  
38 ~~(C)~~(3) The court shall have a procedure for the filing of nonelectronic documents in  
39 order to prevent the program from causing undue hardship or significant  
40 prejudice to any party in an action, including, but not limited to,  
41 unrepresented parties.  
42

1           (4) Unrepresented parties and other persons are exempt from mandatory  
2           electronic filing and service.

3  
4 **DRAFTER'S NOTE:** During its January 14 meeting, the Rules and Policy Subcommittee  
5 recommended proposed amendments to subdivision (d). A member of the Advisory  
6 Committee on Providing Access and Fairness recommended that the protections for  
7 self-represented litigants be made express in the statute.

8  
9 Staff suggest that the subcommittee also recommend amending subdivision (d) to codify  
10 the mandatory e-service provisions and protections for self-represented litigants in the  
11 rules. (See Cal. Rules of Court, rules [rules 2.251\(c\)\(1\), \(c\)\(2\)\(B\), 2.253\(b\)\(2\), \(b\)\(3\).](#))

12  
13 ~~(D) A court that elects to require electronic filing pursuant to this subdivision~~  
14 ~~may permit documents to be filed electronically until 12 a.m. of the day after~~  
15 ~~the court date that the filing is due, and the filing shall be considered timely.~~  
16 ~~However, if same day service of a document is required, the document shall~~  
17 ~~be electronically filed by 5 p.m. on the court date that the filing is due. Ex~~  
18 ~~parte documents shall be electronically filed on the same date and within the~~  
19 ~~same time period as would be required for the filing of a hard copy of the ex~~  
20 ~~parte documents at the clerk's window in the participating county.~~  
21 ~~Documents filed on or after 12 a.m., or filed upon a noncourt day, will be~~  
22 ~~deemed filed on the soonest court day following the filing.~~

23  
24 ~~(2) If a pilot project is established pursuant to paragraph (1), the Judicial Council~~  
25 ~~shall conduct an evaluation of the pilot project and report to the Legislature,~~  
26 ~~on or before December 31, 2013, on the results of the evaluation. The~~  
27 ~~evaluation shall review, among other things, the cost of the program to~~  
28 ~~participants, cost effectiveness for the court, effect on unrepresented parties~~  
29 ~~and parties with fee waivers, and ease of use for participants.~~

30  
31 (e) The Judicial Council shall adopt uniform rules for the electronic filing and service  
32 of documents in the trial courts of the state, which shall include statewide policies  
33 on vendor contracts, privacy, and access to public records, and rules relating to the  
34 integrity of electronic service. These rules shall conform to the conditions set forth  
35 in this section, as amended from time to time.

36  
37 (f) The Judicial Council shall, ~~on or before July 1, 2014,~~ adopt uniform rules to permit  
38 the mandatory electronic filing and service of documents for specified civil actions  
39 in the trial courts of the state, ~~which shall be informed by any study performed~~  
40 ~~pursuant to paragraph (2) of subdivision (d) and~~ which shall include statewide  
41 policies on vendor contracts, privacy, access to public records, unrepresented  
42 parties, parties with fee waivers, hardships, reasonable exceptions to electronic

1 filing, and rules relating to the integrity of electronic service. These rules shall  
2 conform to the conditions set forth in this section, as amended from time to time.

3  
4 ~~(g)~~

5  
6 ~~(1) Upon the adoption of uniform rules by the Judicial Council for mandatory~~  
7 ~~electronic filing and service of documents for specified civil actions in the~~  
8 ~~trial courts of the state, as specified in subdivision (f), a superior court may,~~  
9 ~~by local rule, require mandatory electronic filing, pursuant to paragraph (2) of~~  
10 ~~this subdivision.~~

11  
12 ~~(2) Any superior court that elects to adopt mandatory electronic filing shall do so~~  
13 ~~pursuant to the requirements and conditions set forth in this section,~~  
14 ~~including, but not limited to, paragraphs (1), (2), (4), (5), and (6) of~~  
15 ~~subdivision (b) of this section, and subparagraphs (A), (B), and (C) of~~  
16 ~~paragraph (1) of subdivision (d), and pursuant to the rules adopted by the~~  
17 ~~Judicial Council, as specified in subdivision (f).~~

18  
19 **1011**

20  
21 The service may be personal, by delivery to the party or attorney on whom the service is  
22 required to be made, or it may be as follows:

23  
24 (a) If upon an attorney, service may be made at the attorney's office, by leaving the  
25 notice or other papers in an envelope or package clearly labeled to identify the  
26 attorney being served, with a receptionist or with a person having charge thereof.  
27 When there is no person in the office with whom the notice or papers may be left  
28 for purposes of this subdivision at the time service is to be effected, service may be  
29 made by leaving them between the hours of nine in the morning and five in the  
30 afternoon, in a conspicuous place in the office, or, if the attorney's office is not  
31 open so as to admit of that service, then service may be made by leaving the notice  
32 or papers at the attorney's residence, with some person of not less than 18 years of  
33 age, if the attorney's residence is in the same county with his or her office, and, if  
34 the attorney's residence is not known or is not in the same county with his or her  
35 office, or being in the same county it is not open, or a person 18 years of age or  
36 older cannot be found at the attorney's residence, then service may be made by  
37 putting the notice or papers, enclosed in a sealed envelope, into the post office or a  
38 mail box, subpost office, substation, or mail chute or other like facility regularly  
39 maintained by the Government of the United States directed to the attorney at his or  
40 her office, if known and otherwise to the attorney's residence, if known. If neither  
41 the attorney's office nor residence is known, service may be made by delivering the  
42 notice or papers to the address of the attorney or party of record as designated on

1 the court papers, or by delivering the notice or papers to the clerk of the court, for  
2 the attorney.

3  
4 (b) If upon a party, service shall be made in the manner specifically provided in  
5 particular cases, or, if no specific provision is made, service may be made by  
6 leaving the notice or other paper at the party's residence, between the hours of eight  
7 in the morning and six in the evening, with some person of not less than 18 years of  
8 age. If at the time of attempted service between those hours a person 18 years of  
9 age or older cannot be found at the party's residence, the notice or papers may be  
10 served by mail. If the party's residence is not known, then service may be made by  
11 delivering the notice or papers to the clerk of the court, for that party.

12  
13 (c) Electronic service shall be permitted pursuant to Section 1010.6 and the rules on  
14 electronic service in the California Rules of Court.

15  
16 **DRAFTER'S NOTE:** The Rules and Policy Subcommittee has not yet reviewed  
17 amendments to Code of Civil Procedure section 1011. Proposed new subdivision (c) is a  
18 technical change that would recognize e-service. Its language is taken directly from  
19 [Code of Civil Procedure section 1013\(g\)](#), which governs service of notices or other  
20 papers.

21  
22 **1013b**

23  
24 (a) Proof of electronic service may be made by any of the methods provided in Section  
25 1013a, with the following exceptions:

26  
27 (1) The proof of electronic service does not need to state that the person making  
28 the service is not a party to the cause.

29  
30 (2) The proof of electronic service shall state:

31  
32 (A) The electronic service address of the person making the service, in  
33 addition to that person's residence or business address;

34  
35 (B) The date of the electronic service, instead of the date and place of  
36 deposit in the mail;

37  
38 (C) The name and electronic service address of the person served, in place  
39 of that person's name and address as shown on the envelope; and

40  
41 (D) That the document was served electronically in place of the statement  
42 that the envelope was sealed and deposited in the mail with postage  
43 fully prepaid.

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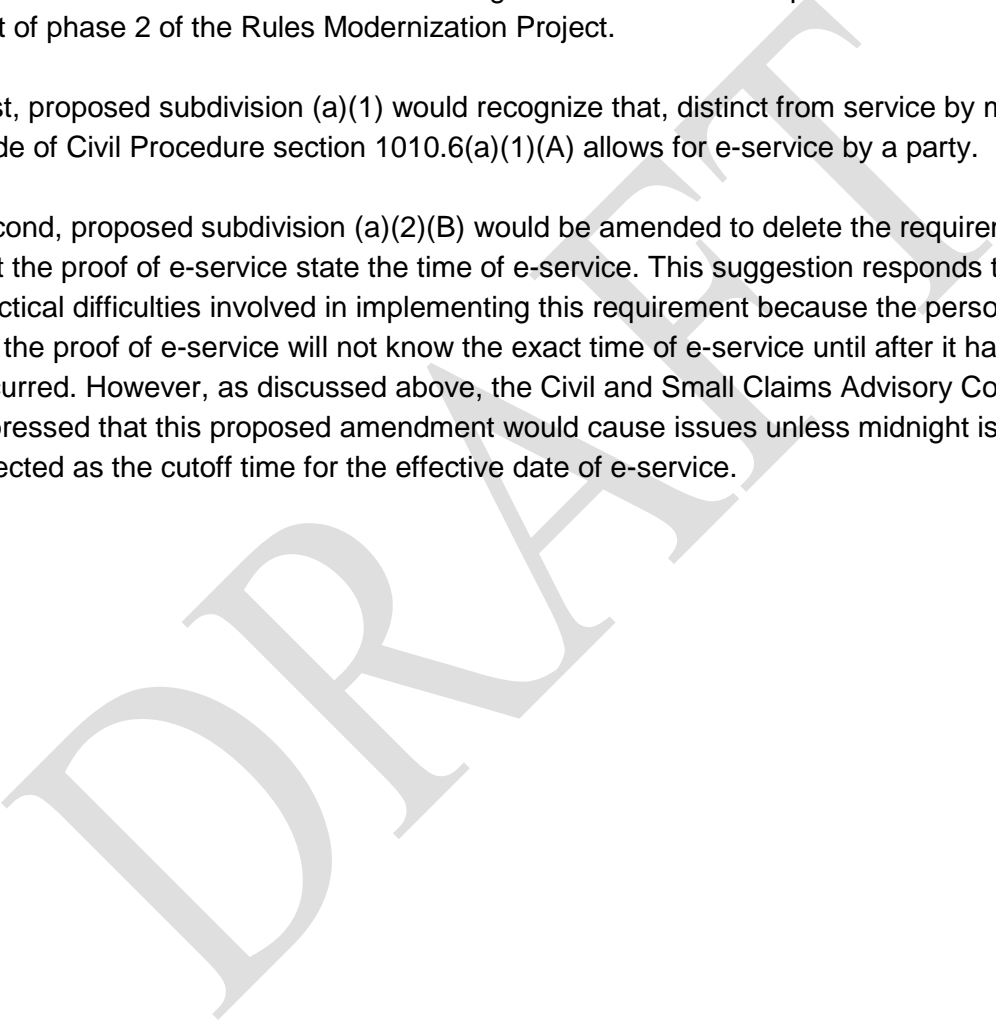
(b) Proof of electronic service may be in electronic form and may be filed electronically with the court.

(c) Proof of electronic service shall be signed as provided in Section 1010.6(b)(2)(B).

**DRAFTER’S NOTE:** During its meeting on January 14, the Rules and Policy Subcommittee reviewed new section 1013b. Staff suggest several additional changes to section 1013b that resulted from reviewing the trial court rule on proof of e-service as part of phase 2 of the Rules Modernization Project.

First, proposed subdivision (a)(1) would recognize that, distinct from service by mail, Code of Civil Procedure section 1010.6(a)(1)(A) allows for e-service by a party.

Second, proposed subdivision (a)(2)(B) would be amended to delete the requirement that the proof of e-service state the time of e-service. This suggestion responds to the practical difficulties involved in implementing this requirement because the person filling out the proof of e-service will not know the exact time of e-service until after it has occurred. However, as discussed above, the Civil and Small Claims Advisory Committee expressed that this proposed amendment would cause issues unless midnight is selected as the cutoff time for the effective date of e-service.





## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
March 1, 2016	Please review by March 4 meeting
To	Deadline
Rules and Policy Subcommittee	March 4, 2016
From	Contact
Tara Lundstrom, Attorney Legal Services	Tara Lundstrom, 415-865-7650 tara.lundstrom@jud.ca.gov
Subject	
Modernization: Proposals for Spring 2016 Cycle	

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#### Background

Recognizing that courts are swiftly proceeding to a paperless world, the Information Technology Advisory Committee (ITAC) is leading a multi-year, collaborative project to modernize the statutes and rules to facilitate e-service and e-filing and to foster modern e-business practices. This year, ITAC is collaborating with the Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, the Probate and Mental Health Advisory Committee, the Criminal Law Advisory Committee, and the Traffic Advisory Committee.

During its upcoming meetings on March 4 and possibly March 7, the subcommittee will review three legislative proposals, one rules proposal, and one form proposal. The three legislative proposals would amend the Welfare and Institutions Code, the Probate Code, and the Criminal Code to incorporate provisions of Code of Civil Procedure section 1010.6. The rules proposal would amend titles 2, 3, and 5 of the California Rules of Court, and the form proposal would add new forms for online traffic installment payments. Whereas ITAC will jointly sponsor the legislative and rules proposals, its Rules and Policy Subcommittee has been asked only to provide input on the traffic forms.



All proposals would circulate for public comment during the spring 2016 cycle.

### Legislative proposals

Attached to this memorandum are three legislative proposals for the subcommittee's review. The advisory committees with relevant subject matter expertise in juvenile, probate, and criminal law developed these proposals and have recommended to the Judicial Council's Rules and Projects Committee that they be circulated for public comment during the spring 2016 cycle.

#### **E-service of notices and other papers in probate proceedings**

The Probate and Mental Health Advisory Committee developed and recommended for circulation a legislative proposal to amend the Probate Code to authorize e-service of notices and other papers in guardianship, conservatorship, and other probate proceedings. The e-filing and e-service provisions of Code of Civil Procedure section 1010.6 currently apply to contested probate matters. (See Prob. Code, § 1000; Cal. Rules of Court, rule 7.802.) However, the Probate Code still requires that a number of notices and other papers be served by mail or personal service in guardianship, conservatorship, the administration of trusts and estates, and other probate proceedings.

This proposal would amend Probate Code section 1215 to recognize three types of service: mail service, personal service, and e-service. In authorizing e-service of notices or other papers, the Probate Advisory Committee recommended that e-service be by written consent only because there are a number of individuals entitled by statute to notice and service of other papers in probate proceedings who are not directly involved in the case.

In addition, this proposal amends other statutes in the Probate Code to cross-reference section 1215 and thereby allow for e-service of the notices and other papers described in those statutes.

#### **E-filing and e-service in juvenile dependency and delinquency proceedings**

The Family and Juvenile Law Advisory Committee developed and recommended for circulation a legislative proposal to amend the Welfare and Institutions Code to authorize e-filing and e-service in juvenile dependency and delinquency proceedings.

This proposal would add to the Welfare and Institutions Code a new section 212.5, which would incorporate the e-filing and e-service provisions of Code of Civil Procedure section 1010.6. By incorporating Code of Civil Procedure section 1010.6, the proposal would codify the existing authority in rule 5.522 for permissive and mandatory e-filing in juvenile cases. It would also, for the first time, allow for e-service by consent in all juvenile proceedings.

The proposed new Welfare and Institutions Code section 212.5 would provide for special protections for minors: e-service would be permitted on only minors who are 16 years old or older and only with the consent of both the minor and the minor's attorney. Other protections in section 212.5 include (1) prohibiting e-service of a minor's psychological or medical report, (2) providing that consent must be filed with the court by the party or other person entitled to service, or that person's attorney, (3) specifying that certain notices and documents (e.g., notices of hearings where a social worker has recommended termination of parental rights) would be both e-served and served by traditional means (e.g., mail or personal service), and (4) requiring that e-filing and e-service be conducted in a manner that preserves and ensures the confidentiality of records by encryption.

In addition, this proposal would amend other statutes in the Welfare and Institution Code that provide for service of specific notices and other documents to cross-reference the proposed new section 212.5.

#### **E-filing and e-service in criminal cases**

The Criminal Law Advisory Committee developed and recommended for circulation a proposal to clarify that permissive e-filing and e-service under Code of Civil Procedure section 1010.6 are authorized in criminal proceedings. This proposal would amend the Penal Code to add a new statute incorporating by reference subdivisions (a) and (b) of the Code of Civil Procedure. The Criminal Law Advisory Committee is still conferring on where to place this provision in the Penal Code. Staff will report orally during the subcommittee meeting on the status of this effort.

The Criminal Law Advisory Committee is exploring avenues to insert this proposal into a bill during the current legislative cycle. To avoid any unnecessary delay in the event that this effort is not successful, the committee has recommended concurrently circulating the legislative proposal for public comment during the spring 2016 cycle.

#### Rules proposal

Earlier this year, the Rules and Policy Subcommittee developed and recommended for circulation proposed amendments to titles 2 and 3 of the California Rules of Court. These proposed amendments were developed in collaboration with the Civil and Small Claims Advisory Committee's Unlimited Case and Complex Litigation Subcommittee.

Since the joint subcommittee meeting, the Civil and Small Claims Advisory Committee reviewed the proposed amendments to titles 2 and 3. The committee recommended revising the proposed new subdivision (i) to rule 2.252.

The proposed language recommended by the subcommittees stated:

A court may provide by local rule that electronic filers are required to submit paper courtesy copies of an electronically filed document if a hearing is scheduled to take place within two court days after the document is transmitted to the court.

The Civil and Small Claims Advisory Committee recommended the following language:

Any judge may request that electronic filers submit paper courtesy copies of an electronically filed document.

With this revision, the committee recommended to the Judicial Council's Rules and Projects Committee that the proposed amendments to titles 2 and 3 be circulated for public comment.

In light of the change recommended by the Civil and Small Claims Advisory Committee, the subcommittee may want to revisit its recommendation to ITAC regarding the proposed rule on paper courtesy copies. Attached to this memorandum is a draft Invitation to Comment that incorporates the advisory committee's changes to rule 2.252(i). It also makes a special request for comment on this issue.

In addition, the Family and Juvenile Law Advisory Committee developed and recommended for circulation several proposed amendments to title 5. These amendments are technical in nature. They have not yet been reviewed by the subcommittee.

#### Form proposal

The Traffic Advisory Committee has developed and recommended for circulation new forms for online traffic installment payments. These forms will be included in a broader proposal to revise form related to traffic installment payments. The subcommittee is asked to provide input on the new forms for online payments.

Several courts, including the Superior Court of Los Angeles County, have started offering online traffic installment payments on their websites, but the Judicial Council forms for traffic installment payments contemplate that the payment plan will be set up at the clerk's counter. Staff consulted with the Superior Court of Los Angeles County in drafting this proposal.

### Subcommittee's Task

The subcommittee is tasked with reviewing the draft legislative and rules proposals and:

- Advising ITAC to recommend that all or part of the proposals be circulated for public comment during the spring 2016 cycle;
- Rejecting the proposals; or
- Asking staff or group members for further information and analysis.

The subcommittee is also tasked with reviewing the draft online traffic installment payment forms and providing input to the Traffic Advisory Committee.

### Attachments

1. Draft legislative proposal to amend the Probate Code
2. Draft legislative proposal to amend the Welfare and Institutions Code
3. Draft legislative proposal to amend the Penal Code
4. Draft rules proposal to amend titles 2, 3, and 5
5. Draft new forms TR-305 and TR-315

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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Title

Probate: E-Service of Notices and Other Papers in Probate, Guardianship, Conservatorship, and Other Protective Proceedings

Proposed Rules, Forms, Standards, or Statutes Amend Probate Code sections 366, 453, 1050, 1209, 1212–1217, 1220, 1250, 1252, 1265, 1266, 1460, 1461, 1461.4, 1461.5, 1511, 1513.2, 1516, 1542, 1822, 1826, 1827.5, 1830, 1842, 1847, 1851, 2214, 2250, 2352, 2357, 2361, 2610, 2611, 2612, 2614, 2683, 2684, 2700, 2702, 2804, 2808, 3088, 3131, 3206, 3602, 3704, 3801, 3918, 8100, 8110, 8111, 8469, 8522, 8803, 8903, 8906, 8924, 9052, 9153, 9732, 9762, 9783, 9787, 10585–10587, 11601, 13200, 13655, 15686, 16061.7–16061.9, 16336.6, 16501–03, 17203–05, 17403, 17454, 19011, 19024, 19040, 19052, 19150, 19153, 19323, 20122, and 20222; amend Welfare and Institutions Code sections 728 and 5362; delete Probate Code section 1216; and add Probate Code section 1266.

Proposed by

Probate and Mental Health Advisory Committee

Hon. John H. Sugiyama, Chair

Information Technology Advisory Committee

Hon. Terence L. Bruiniers, Chair

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Action Requested

Review and submit comments by June 14, 2016

Proposed Effective Date

January 1, 2018

Contact

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## **Executive Summary and Origin**

The Probate and Mental Health Advisory Committee and the Information Technology Advisory Committee recommend amending the Probate Code to authorize the electronic service of notices and other papers in guardianship, conservatorship, and other probate matters. This legislative proposal would amend Probate Code section 1215 to allow for the electronic service of notices and other papers if the party or other person has consented to receiving service by electronic means notice and has provided an electronic service address. It would also amend various statutes throughout the Probate Code and Welfare and Institutions Code sections 728 and 5362 to implement this proposal.

## **Background**

The Information Technology Advisory Committee (ITAC) is leading a multi-year effort to comprehensively review and modernize the statutes and rules so that they will be consistent with and foster modern e-business practices. To ensure that each title is revised in view of any statutory requirements and policy concerns unique to that area of law, ITAC is coordinating with other advisory committees, including the Probate and Mental Health Advisory Committee, with relevant subject-matter expertise.

This modernization effort is being carried out in two phases. Last year, the advisory committees completed phase I—an initial round of technical rule amendments to address language in the rules that was incompatible with the current statutes and rules governing electronic filing and service and with e-business practices in general. This year, the committees are undertaking phase II, which involves a more in-depth examination of statutes and rules that may hinder electronic filing, electronic service, and modern e-business practices.

The Judicial Council's advisory committees are circulating three legislative proposals on modernization for public comment during the 2016 spring cycle. In addition to the present proposal, the proposals would amend the Penal Code to authorize permissive electronic filing and service in criminal matters and would amend the Welfare and Institutions Code to allow for electronic service of notices and other papers by consent in juvenile dependency and delinquency matters.

## **The Proposal**

This proposal would amend the Probate Code to authorize electronic service of notices and other papers if the party or other person consents to receive electronic service and provides an electronic service address.

### **Authorizing electronic service by consent**

Currently, Probate Code section 1215 states that if a notice or other paper is required or permitted to be mailed to a person, the notice or other paper must be mailed as provided in section 1215 or personally delivered as provided in section 1216.

This proposal would amend section 1215 to recognize three means of service of notices and other papers: service by mail, personal service, and electronic service. This would be accomplished by adding the provisions on personal service in section 1216 to a new subdivision (b) in section 1215.<sup>1</sup> Section 1215's provisions on mail service would be placed under a new subdivision (a) and would be updated to recognize current terminology in use by the U.S. Postal Service. A new subdivision (c) would allow for electronic service of notices and other papers on a person under Code of Civil Procedure section 1010.6(a), but only if the person has provided consent to receive electronic service in writing and filed with the court and has provided an electronic service address. Incorporating Code of Civil Procedure section 1010.6(a) by reference in the proposed new subdivision (c) of Probate Code section 1215 would provide for consistency in the implementation of electronic service across case types.

In addition, the committees concluded that consent was necessary before a notice or other paper could be electronically served on a person under Probate Code section 1215 because of the variety of persons entitled to be served with notices and other papers in the administration of a decedent's estate or trust and in conservatorship, guardianship, and other protective proceedings. These individuals differ from parties in general civil matters because they need not ever intervene or otherwise become actively involved in the proceeding or administration of the estate or trust.<sup>2</sup>

This proposal would also amend section 1265 and add a new section 1266. Section 1265 would provide that proof of electronic service may be made in the manner provide in Code of Civil Procedure section 1013b. In another legislative proposal circulating this spring, the Information Technology Advisory Committee and the Civil and Small Claims Advisory Committee have proposed adding a new section 1013b to the Code of Civil Procedure to codify rule 2.251(i) of the California Rules of Court, the trial court rule on proof of electronic service. The present proposal would also add a new Probate Code section 1266 that would contain section 1265's current language.

### **Designating which notices and other papers may be electronically served**

This proposal would authorize electronic service where the Probate Code currently allows for service by mail and personal delivery. Where the Probate Code allows for service only by personal delivery, the statute would remain unaltered; it would still require that these notices and other papers be personally delivered. To implement electronic service of notices and other papers under section 1215, this proposal would amend various statutes throughout the Probate Code by replacing the terms "mail" and "personal delivery" with references to "service pursuant to

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<sup>1</sup> Because Probate Code section 1216 would fully be incorporated into section 1215, this proposal would strike section 1216 in its entirety.

<sup>2</sup> Although Probate Code section 1215 would not apply to the service of documents in contested probate matters, the provisions authorizing electronic filing and service in Code of Civil Procedure section 1010.6 and its implementing rules would govern. (See Prob. Code, § 1000 [stating that the provisions in the Code of Civil Procedure apply to the Probate Code].)

Section 1215.” Welfare and Institutions Code sections 728 and 5362 would be similarly amended.

The following types of notices and other papers could be electronically served if the person or entity to be served has consented to receive electronic service:

***General provisions***

- Notices of hearing under the Fiduciaries’ Wartime Substitution Law (Prob. Code, § 366)
- Notices of hearing on petition for a protective order before a probate referee (Prob. Code, § 453(a))
- Notices provided to the Attorney General where notice to the State of California is required (Prob. Code, § 1209)
- Notices of hearing served on a surety who has filed a court bond in a proceeding (Prob. Code, § 1213)
- Requests for special notice and notices, petitions, reports, accounts, inventories, appraisals, and other papers served pursuant to a request for special notice (Prob. Code, §§ 1250, 1252)

***Probate administration of decedent estates and trusts***

- Notices of hearing on petition for administration of a decedent’s estate (Prob. Code, § 8110)
- Notices of hearing on petition for administration of an estate involving a testamentary trust of property for charitable purposes, copies of petition, and copies of will to the Attorney General (Prob. Code, § 8111)
- Notices of hearing on petition for appointment as administrator requesting priority (Prob. Code, § 8469)
- Notices of appointment of a successor personal representative (Prob. Code, § 8522);
- Copies of initial or supplemental inventories and appraisals on persons requesting special notice (Prob. Code, § 8803)
- Notices of hearing on petition for waiver of appraisal by a probate referee and copies of petition and proposed inventory and appraisal (Prob. Code, § 8903)
- Notices of hearing on written objection to the appraisal and copies of written objection (Prob. Code, § 8906)
- Notices of hearing on petition to remove the designated probate referee and copies of the personal representative’s affidavit (Prob. Code, § 8924)
- Notices of hearing on petition to invest money of the estate in possession of the personal representative and copies of petition (Prob. Code, § 9732)
- Notices of hearing on petition for personal representative’s participation as a general or limited partner in partnership in which decedent was a general partner and copies of petition (Prob. Code, § 9762)



- Written objections to disposition or abandonment of tangible personal property (Prob. Code, §§ 9783, 9787)
- Notices of proposed action without court supervision and written objections to proposed action (Prob. Code, §§ 10586, 10857)
- Notices of hearing on petition for preliminary or final distribution of decedent's estate (Prob. Code, § 11601)
- Copies of affidavits and attachments for claims to real property of small value (Prob. Code, § 13200)
- Notices of hearing on petition to request that administration of all or part of the estate is not necessary (Prob. Code, § 13655)
- Notifications served by the trustee on the beneficiaries of the trust (Prob. Code, §§ 16061.7–16061.9)
- Written objections to notice of the trustee's intention to reconvert the trust from a unitrust (Prob. Code, § 16336.6)
- Notices of new payout percentage of a unitrust by trustee (Prob. Code, § 16336.6)
- Notices of proposed action by trustee and written objections to proposed action (Prob. Code, §§ 16501–16503)
- Notices of hearing on petition concerning internal affairs or existence of trust (Prob. Code, § 17203)
- Notices of hearing on petition for approval and settlement of claims against deceased settlor (Prob. Code, § 19024);
- Copies of requests for special notice of filing of petitions in pending proceedings involving a trust (Prob. Code, § 17204)
- Copies of petition for trust proceedings (Prob. Code, § 17205)
- Notices of hearing on petition to transfer trust to and from another jurisdiction (Prob. Code, §§ 17403, 17454)
- Claims filed by creditors (Prob. Code, § 19150)
- Notices of hearing on petition to allocate debts between trust and surviving spouse and copies of petition (Prob. Code, § 19323)
- Notices of hearing on petition for proration of estate taxes or generation-skipping transfer tax and copies of petition (Prob. Code, §§ 20122, 20222)

### ***Guardianship proceedings***

- Notices of hearing in guardianship, conservatorship, and other protective proceedings (Prob. Code, § 1460)
- Notices of hearing and copies of petition, report, or account to the Director of State Hospitals and Director of Developmental Services (Prob. Code, § 1461)
- Notices of hearing and copies of petition served on directors of regional centers for the developmentally disabled (Prob. Code, § 1461.4)
- Notices of hearing, notices of the filing of an inventory, and copies of the underlying petition, report, inventory, or account to the Veterans Administration (Prob. Code, § 1461.5)

- Notices of hearings on the petition for the appointment of a guardian and copies of petition to the spouse and relatives named in the petition, the person having care of the proposed ward, the Director State Hospitals, the Director of Developmental Services, the Director of Social Services, and the Veterans Administration (Prob. Code, § 1511)
- Notices informing guardians of their responsibility to complete annual status reports (Prob. Code, § 1513.2)
- Notices of hearing and copies of petition for guardianship to the Director of Social Services and to the local agency designated to investigate guardianships for the court (Prob. Code, §§ 1516, 1542)
- Notice of a juvenile court's decision to terminate or modify a guardianship previously established under the Probate Code (Welf. & Inst. Code, § 728.)

### *Conservatorship proceedings*

- Notices of hearing on petition for appointment of a conservator and copies of petition (Prob. Code, § 1822)
- Copies of the report prepared by the court investigator (Prob. Code, § 1826)
- Copies of the report prepared by the regional center in limited conservatorship proceedings for persons with developmental disabilities (Prob. Code, § 1827.5)
- Orders appointing conservators and information notices of the rights of conservatees (Prob. Code, § 1830)
- Notices of hearing and copies of petition to secretary or head of the U.S. department or agency concerned if the proposed conservatee is an absentee (Prob. Code, § 1842)
- Notices of hearing and copies of petition for appointment of a conservator to the proposed conservatee (Prob. Code, § 1847)
- Findings of the court investigator on periodic review of conservatorship (Prob. Code, § 1851)
- Notices of hearing on petition for appointment of a conservator (Prob. Code, § 2250)
- Notices of a conservatee's death (Prob. Code, § 2357)
- Notices of hearing on petition for appointment of a successor conservator and copies of petition (Prob. Code, § 2683)
- Reports of court investigators on appointment of a successor conservators (Prob. Code, § 2684)
- Notices of hearing on petition to modify or vacate an order requiring application of the income or principal of community property to the support and maintenance of the conservatee and copies of petition (Prob. Code, § 3088)
- Notices of hearing on petition for authorization of a transaction involving community property where a spouse lacks legal capacity and copies of petition (Prob. Code, § 3131)
- Notices of hearing on petition for capacity determinations and health care decisions for adults without a conservator and copies of petition (Prob. Code, § 3206)
- Notifications of automatic termination of one-year appointment for conservators for gravely disabled persons and decrees terminating conservatorship (Welf. & Inst. Code, § 5362)

### ***Both guardianship and conservatorship proceedings***

- Notices of hearing on petition for transfer and copies of petition (Prob. Code, § 2214)
- Notices of hearing on petition for temporary appointment and copies of petition (Prob. Code, § 2250)
- Notices of change of residence of the guardian or conservator (Prob. Code, § 2352)
- Notices of intention to change the residence of the ward or conservatee (Prob. Code, § 2352)
- Notices of hearing on petition to authorize medical treatment and copies of petition to spouse or domestic partner of conservatee and relatives named in the petition (Prob. Code, § 2357)
- Copies of inventories and appraisals of the estate and notices of how to file an objection (Prob. Code, §§ 2610, 2611, 2612)
- Notices of hearing on written objections to an appraisal made by a probate referee and copies of objections (Prob. Code, § 2614)
- Requests for special notice in guardianship and conservatorship proceedings (Prob. Code, § 2700)
- Notices of hearing, petitions, accounts, inventories or appraisals of estates, or other papers served pursuant to a request for special notice (Prob. Code, § 2702)
- Notices of hearing on petition to transfer personal property out of state and copies of petition (Prob. Code, § 2804)
- Notices of hearing on petition for discharge after transfer of all property of the estate to the foreign guardian or conservator, copies of the final account of the guardian or conservator, and copies of petition (Prob. Code, § 2808)

### ***Other protective proceedings***

- Notices of hearing on petition to order that balance of estate be placed in a special needs trust and copies of petition (Prob. Code, § 3602)
- Notices of hearing on petition to set aside the personal property of absent federal personnel (Prob. Code, § 3704)
- Petitions for removal of property of a nonresident (Prob. Code, § 3801)
- Notices of hearing on petition to designate a minor's successor custodian (Prob. Code, § 3918)

### **Additional technical amendments to implement electronic service**

This proposal would also make various technical amendments to the Probate Code by replacing references to mail and personal delivery to provide for service, including electronic service, under section 1215:

- Amend Probate Code section 1050 to recognize that the judgment roll in a proceeding under the Probate Code consists of, inter alia, affidavits showing “service pursuant to Section 1215” of any notice of hearing or order to show cause;

- Amend Probate Code section 1212 to recognize that notice shall be given in the manner provided in Code of Civil Procedure 413.30 if the address of a person to whom a notice or other paper is required to be “served pursuant to Section 1215” is unknown;
- Amend Probate Code section 1214 to recognize that if a notice or other paper is required or permitted to be served “pursuant to Section 1215” on a represented person, the notice or other paper must also be served on the attorney;
- Amend Probate Code section 1217 to recognize that if a notice or other paper is required to be served or otherwise given, but the means of service is not specified in the statute, the notice or other paper shall be “served pursuant to Section 1215”;
- Amend Probate Code sections 8100, 9052, 9153, 19011, 19040, 19052, 19153 to notify creditors in specified notices and Judicial Council claim forms that they may “serve pursuant to Section 1215” copies of their claims; and
- Amend Probate Code section 10585 to require that the notice of a proposed action contain the e-mail addresses of the personal representative and other persons to contact.

### **Alternatives Considered**

The committees considered amending section 1215 to provide for “electronic delivery” instead of “electronic service” under Code of Civil Procedure section 1010.6(a). The committees decided against pursuing this option to provide for consistency across statutes and case types.

### **Implementation Requirements, Costs, and Operational Impacts**

This proposal is not expected to require implementation or result in any costs for the courts because most of these notices and other papers are not served by the courts. Electronic service of these notices and other papers would require access to the appropriate technology, but would also provide for efficiencies and cost savings. Because electronic service is authorized only by consent, it would be left up to the individual entitled to receive notice or other paper to determine whether any costs outweigh the benefits.

## **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

### **Attachments and Links**

1. Proposed amendments to the Probate Code, at pages 9–49
2. Proposed amendments to the Welfare and Institutions Code, at pages 50–51

Effective January 1, 2018, sections 366, 453, 1050, 1209, 1212–1217, 1220, 1250, 1252, 1265, 1266, 1460, 1461, 1461.4, 1461.5, 1511, 1513.2, 1516, 1542, 1822, 1826, 1827.5, 1830, 1842, 1847, 1851, 2214, 2250, 2352, 2357, 2361, 2610, 2611, 2612, 2614, 2683, 2684, 2700, 2702, 2804, 2808, 3088, 3131, 3206, 3602, 3704, 3801, 3918, 8100, 8110, 8111, 8469, 8522, 8803, 8903, 8906, 8924, 9052, 9153, 9732, 9762, 9783, 9787, 10585–10587, 11601, 13200, 13655, 15686, 16061.7–16061.9, 16336.6, 16501–03, 17203–05, 17403, 17454, 19011, 19024, 19040, 19052, 19150, 19153, 19323, 20122, and 20222 of the Probate Code would be amended, section 1216 would be deleted, and section 1266 would be added.

1 **§ 366.**

2 Notice of a hearing under this part shall be ~~mailed~~ served pursuant to Section 1215 at least 15  
3 days before the hearing ~~to~~ on each fiduciary and consultant and ~~to~~ on the following persons:

4  
5 (a) In the case of a trust, ~~to~~ on each known beneficiary, subject to the provisions of Chapter 2  
6 (commencing with Section 15800) of Part 3 of Division 9.

7 (b) In the case of a decedent’s estate, as provided in Section 1220 ~~to~~ on both of the following:

8 (1) Each known heir whose interest in the estate would be affected by the proceedings.

9 (2) Each known devisee whose interest in the estate would be affected by the proceedings.

10 (c) In the case of a guardianship or conservatorship estate, as provided in Section 1460.

11 (d) In other cases, ~~to~~ on any additional interested persons required by the court to receive notice.

12  
13 **§ 453.**

14 (a) On petition of a person required to appear before the probate referee pursuant to this chapter,  
15 the court may make a protective order to protect the person from annoyance, embarrassment, or  
16 oppression. The petitioner shall ~~mail~~ serve pursuant to Section 1215 notice of the hearing on the  
17 petition ~~to~~ on the probate referee and ~~to~~ on the personal representative, guardian, conservator, or  
18 other fiduciary at least 15 days before the date set for the hearing. Any subpoena issued by the  
19 probate referee is stayed during the pendency of the petition.

20 (b) On petition of the probate referee, the court may make an order to show cause why a person  
21 who is required, but fails, to appear before the probate referee pursuant to this chapter, should  
22 not be compelled to do so. The probate referee shall ~~mail~~ serve pursuant to Section 1215 notice  
23 of the hearing on the petition ~~to~~ on the person at least 15 days before the date set for the hearing.

24  
25 **§ 1050.** The judgment roll in a proceeding under this code consists of the following papers,  
26 where applicable:

27 (a) In all cases:

28 (1) The petition, application, report, or account that initiates a particular proceeding.

29 (2) Any order directing notice of the hearing to be given.

30 (3) Any notice of the hearing, and any order to show cause made in the proceeding, with the  
31 affidavits showing publication, posting, ~~or mailing, or personal delivery~~ service pursuant to  
32 Section 1215 of the notice or order as may be required by law or court order.

33 (4) Any citation, in case no answer or written opposition is filed by a party entitled, by law or  
34 court order, to notice of the proceeding by citation, with the affidavit or proof of service and, if  
35 service of the citation is made by publication, the affidavit of publication and the order directing  
36 publication.

37 (5) Any finding of the court or referee in the proceeding.

- 1 (6) The order or statement of decision made in the proceeding.  
2 (7) Any letters (as defined in Section 52).  
3 (b) If an answer, demurrer, written opposition, or counter petition is filed in a proceeding:  
4 (1) Pleadings and papers in the nature of pleadings.  
5 (2) Any orders striking out a pleading in whole or in part.  
6 (3) Any order made on demurrer, or relating to a change of parties, in the proceeding.  
7 (4) The verdict of the jury, if any.  
8 (c) If the proceeding is for the probate of a will, the will.  
9 (d) If the proceeding is a contest of a will, for the revocation of the probate of a will, or for a  
10 preliminary or final distribution of the estate under a will:  
11 (1) The will.  
12 (2) The order admitting the will to probate.  
13 (e) If the proceeding is for the settlement of the final account of a personal representative or for  
14 the final distribution of an estate, the affidavit showing publication of notice to creditors.

15

16 **§ 1209.**

- 17 (a) Where notice is required to be given to the State of California, the notice shall be given to the  
18 Attorney General.  
19 (b) Where notice is required to be given to the Attorney General, the notice shall be ~~mailed~~  
20 ~~to~~ served pursuant to Section 1215 on the Attorney General at the office of the Attorney General  
21 at Sacramento, California.

22

23 **§ 1212.**

24 Unless the court dispenses with the notice, if the address of the person to whom a notice or other  
25 paper is required to be ~~mailed or delivered~~ served pursuant to Section 1215 is not known, notice  
26 shall be given as the court may require in the manner provided in Section 413.30 of the Code of  
27 Civil Procedure.

28

29 **§ 1213.**

- 30 (a) The following persons shall ~~mail~~ serve pursuant to Section 1215 a notice, as described in  
31 Section 1211, ~~to~~ on a surety who has filed a court bond in a proceeding:  
32 (1) A person who files a petition to surcharge.  
33 (2) A person who files an objection to an account.  
34 (3) A person who files a petition to suspend or remove a guardian, conservator, or personal  
35 representative.  
36 (4) An attorney who files a motion to withdraw from representation of a guardian, conservator,  
37 or personal representative.  
38 (b) Within five days after entry of an order to suspend or remove a guardian, conservator, or  
39 personal representative, the person who filed a petition to suspend or remove a guardian or, if the  
40 order to suspend or remove a guardian, conservator, or personal representative was issued upon a  
41 motion by the court, the court, shall notify the surety who has filed a court bond of the order ~~by~~  
42 ~~first-class mail, postage prepaid.~~

1 (c) The notice required by this section shall be ~~mailed to~~ served on the addressee listed on the  
2 surety bond.

3 (d) Notwithstanding subdivisions (a) and (b), notice is not required to a surety pursuant to this  
4 section if the surety bond is for a guardian, conservator, or personal representative who is not the  
5 subject of the petition, motion, or order described in this section.

6  
7 **§ 1214.**

8 If a notice or other paper is required or permitted to be ~~mailed, delivered,~~ served pursuant to  
9 Section 1215 on, or otherwise given to a person who is represented by an attorney of record, the  
10 notice or other paper shall also be ~~mailed to~~ served on this attorney, unless otherwise specified in  
11 a request for special notice.

12  
13 **§ 1215.**

14 Unless otherwise expressly provided, ~~a notice or other paper that is required or permitted to be~~  
15 served on a person shall be served by mail as provided in subdivision (a), personally served as  
16 provided in subdivision (b), or electronically served as provided in subdivision (c) of this section.

17 ~~(a) Mail service If a notice or other paper is required or permitted to be mailed to a person, the~~  
18 ~~notice or other paper shall be mailed as provided in this section or personally delivered as~~  
19 ~~provided in Section 1216.~~

20 ~~(b) The A~~ notice or other paper shall ~~may~~ be ~~sent~~ served by mail as follows:

21 ~~(1A) First-class~~ By regular mail if the person's address is within the United States. ~~First-class~~  
22 Regular mail includes first-class, priority, certified, registered, and express mail.

23 ~~(2B) Airmail~~ By international mail if the person's address is not within the United  
24 States. International mail includes first-class international, priority mail international, priority  
25 mail express international, and global express guaranteed.

26 ~~(3) The~~ notice or other paper shall be deposited for collection in the United States mail, in a  
27 sealed envelope, with postage paid, addressed to the person to whom it is mailed.

28 ~~(4) Subject to~~ Section 1212, the notice or other paper shall be addressed to the person at the  
29 person's place of business or place of residence.

30 ~~(5) When the~~ notice or other paper is deposited in the mail, mailing is complete and the period  
31 of notice is not extended.

32 (b) Personal service

33 (1) A notice or other paper may be personally served on that person.

34 (2) Personal service is complete when the notice or other paper is personally served on the  
35 person who is to receive it.

36 (c) Electronic service

37 (1) A notice or other paper may be electronically served on a person under Section 1010.6(a) of  
38 the Code of Civil Procedure if the person has provided consent to receive electronic service in  
39 writing and filed with the court and has provided an electronic service address.

40 (2) Electronic service is complete when the notice or other paper is sent.

41  
42 **§ 1216.**

1 ~~(a) If a notice or other paper is required or permitted to be mailed to a person, it may be delivered~~  
2 ~~personally to that person. Personal delivery as provided in this section satisfies a provision~~  
3 ~~that requires or permits a notice or other paper to be mailed.~~

4 ~~(b) Personal delivery pursuant to this section is complete when the notice or other paper is~~  
5 ~~delivered personally to the person who is to receive it.~~

6  
7 **§ 1217.**

8 If a notice or other paper is required to be served or otherwise given and no other manner of  
9 giving the notice or other paper is specified by statute, the notice or other paper shall be ~~mailed~~  
10 ~~or personally delivered as provided in this chapter~~ served pursuant to Section 1215.

11  
12 **§ 1220.**

13 (a) When notice of hearing is required to be given or served as provided in this section:

14 (1) At least 15 days before the time set for the hearing, the petitioner or the person filing the  
15 report, account, or other paper shall cause notice of the time and place of the hearing to  
16 be ~~mailed to~~ served pursuant to Section 1215 on the persons required to be given notice.

17 (2) Unless the statute requiring notice specifies the persons to be given notice, notice shall  
18 be ~~mailed to~~ served pursuant to Section 1215 on all of the following:

19 (A) The personal representative.

20 (B) All persons who have requested special notice in the estate proceeding pursuant to Section  
21 1250.

22 (3) Subject to Section 1212, the notice shall be ~~addressed to~~ served pursuant to Section 1215 on  
23 the person required to be given notice at the person's place of business, ~~or~~ place of residence, or  
24 electronic service address.

25 (b) Subject to subdivision (c), nothing in this section excuses compliance with the requirements  
26 for notice to a person who has requested special notice pursuant to Chapter 6 (commencing with  
27 Section 1250).

28 (c) The court for good cause may dispense with the notice otherwise required to be given to a  
29 person as provided in this section.

30  
31 **§ 1250.**

32 (a) At any time after the issuance of letters in a proceeding under this code for the administration  
33 of a decedent's estate, any person interested in the estate, whether as devisee, heir, creditor,  
34 beneficiary under a trust, or as otherwise interested, may in person or by attorney, file with the  
35 court clerk a written request for special notice.

36 (b) The request for special notice shall be so entitled and shall set forth the name of the person  
37 and the address to which notices shall be ~~sent~~ served pursuant to Section 1215.

38 (c) Special notice may be requested of one or more of the following matters:

39 (1) Petitions filed in the administration proceeding.

40 (2) Inventories and appraisals of property in the estate, including any supplemental inventories  
41 and appraisals.

42 (3) Objections to an appraisal.

43 (4) Accounts of a personal representative.



1 (5) Reports of status of administration.

2 (d) Special notice may be requested of any matter in subdivision (c) by describing it, or of all the  
3 matters in subdivision (c) by referring generally to “the matters described in subdivision (c) of  
4 Section 1250 of the Probate Code” or by using words of similar meaning.

5 (e) A copy of the request shall be ~~personally delivered or mailed to~~ served pursuant to Section  
6 1215 on the personal representative or ~~to~~ on the attorney for the personal representative. If  
7 personally ~~delivered~~ served, the request is effective when it is delivered. If mailed or  
8 electronically served, the request is effective when it is received.

9 (f) When the original of the request is filed with the court clerk, it shall be accompanied by a  
10 written admission or proof of service.

11  
12 **§ 1252.**

13 (a) Unless the court makes an order dispensing with the notice, if a request has been made  
14 pursuant to Section 1250 for special notice of a hearing, the person filing the petition, report,  
15 account, or other paper shall give written notice of the filing, together with a copy of the petition,  
16 report, account, or other paper, and the time and place set for the hearing, by ~~mail to~~ service  
17 pursuant to Section 1215 on the person named in the request at the address set forth in the  
18 request, at least 15 days before the time set for the hearing.

19 (b) If a request has been made pursuant to Section 1250 for special notice of the filing of an  
20 inventory and appraisal of the estate or of the filing of any other paper that does not require a  
21 hearing, the inventory and appraisal or other paper shall be ~~mailed~~ served pursuant to Section  
22 1215 not later than 15 days after the inventory and appraisal or other paper is filed with the court.

23  
24 **§ 1265.**

25 ~~Proof of notice, however given, may be made by evidence presented at the hearing.~~ Proof of  
26 electronic service may be made in the manner prescribed in Section 1013b of the Code of Civil  
27 Procedure.

28  
29 **§ ~~1265~~ 1266.**

30 Proof of notice, however given, may be made by evidence presented at the hearing.

31  
32 **§ 1460.**

33 (a) Subject to Sections 1202 and 1203, if notice of hearing is required under this division but the  
34 applicable provision does not fix the manner of giving notice of hearing, the notice of the time  
35 and place of the hearing shall be given at least 15 days before the day of the hearing as provided  
36 in this section.

37 (b) Subject to subdivision (e), the petitioner, who includes for the purposes of this section a  
38 person filing a petition, report, or account, shall cause the notice of hearing to be ~~mailed~~  
39 ~~to~~ served pursuant to Section 1215 on each of the following persons:

40 (1) The guardian or conservator.

41 (2) The ward or the conservatee.

42 (3) The spouse of the ward or conservatee, if the ward or conservatee has a spouse, or the  
43 domestic partner of the conservatee, if the conservatee has a domestic partner.

- 1 (4) Any person who has requested special notice of the matter, as provided in Section 2700.  
2 (5) For any hearing on a petition to terminate a guardianship, to accept the resignation of, or to  
3 remove the guardian, the persons described in subdivision (c) of Section 1510.  
4 (6) For any hearing on a petition to terminate a conservatorship, to accept the resignation of, or  
5 to remove the conservator, the persons described in subdivision (b) of Section 1821.  
6 (c) The clerk of the court shall cause the notice of the hearing to be posted as provided in Section  
7 1230 if the posting is required by subdivision (c) of Section 2543.  
8 (d) Except as provided in subdivision (e), nothing in this section excuses compliance with the  
9 requirements for notice to a person who has requested special notice pursuant to Chapter 10  
10 (commencing with Section 2700) of Part 4.  
11 (e) The court for good cause may dispense with the notice otherwise required to be given to a  
12 person as provided in this section.  
13

14 **§ 1461.**

15 (a) As used in this section, “director” means:

16 (1) The Director of State Hospitals when the state hospital referred to in subdivision (b) is under  
17 the jurisdiction of the State Department of State Hospitals.

18 (2) The Director of Developmental Services when the state hospital referred to in subdivision (b)  
19 is under the jurisdiction of the State Department of Developmental Services.

20 (b) Notice of the time and place of hearing on the petition, report, or account, and a copy of the  
21 petition, report, or account, shall be ~~mailed to~~ served pursuant to Section 1215 on the director at  
22 the director’s office in Sacramento at least 15 days before the hearing if both of the following  
23 conditions exist:

24 (1) The ward or conservatee is or has been during the guardianship or conservatorship  
25 proceeding a patient in, or on leave from, a state hospital under the jurisdiction of the State  
26 Department of State Hospitals or the State Department of Developmental Services.

27 (2) The petition, report, or account is filed under any one or more of the following provisions:  
28 Section 1510, 1820, 1861, 2212, 2403, 2421, 2422, or 2423; Article 7 (commencing with Section  
29 2540) of Chapter 6 of Part 4; Section 2580, 2592, or 2620; Chapter 9.5 (commencing with  
30 Section 2670) of Part 4; Section 3080 or 3088; or Chapter 3 (commencing with Section 3100) of  
31 Part 6. Notice under this section is not required in the case of an account pursuant to Section  
32 2620 if the total guardianship or conservatorship assets are less than one thousand five hundred  
33 dollars (\$1,500) and the gross annual income, exclusive of any public assistance income, is less  
34 than six thousand dollars (\$6,000), and the ward or conservatee is not a patient in, or on leave or  
35 on outpatient status from, a state hospital at the time of the filing of the petition.

36 (c) If the ward or conservatee has been discharged from the state hospital, the director, upon  
37 ascertaining the facts, may file with the court a certificate stating that the ward or conservatee is  
38 not indebted to the state and waive the giving of further notices under this section. Upon the  
39 filing of the certificate of the director, compliance with this section thereafter is not required  
40 unless the certificate is revoked by the director and notice of the revocation is filed with the  
41 court.

42 (d) The statute of limitations does not run against any claim of the State Department of State  
43 Hospitals or the State Department of Developmental Services against the estate of the ward or

1 conservatee for board, care, maintenance, or transportation with respect to an account that is  
2 settled without giving the notice required by this section.

3  
4 **§ 1461.4.**

5 (a) The petitioner shall ~~mail or personally~~ serve pursuant to Section 1215 a notice of the hearing  
6 and a copy of the petition ~~to~~ on the director of the regional center for the developmentally  
7 disabled at least 30 days before the day of the hearing on a petition for appointment in any case  
8 in which all of the following conditions exist:

9 (1) The proposed ward or conservatee has developmental disabilities.

10 (2) The proposed guardian or conservator is not the natural parent of the proposed ward or  
11 conservatee.

12 (3) The proposed guardian or conservator is a provider of board and care, treatment, habilitation,  
13 or other services to persons with developmental disabilities or is a spouse or employee of a  
14 provider.

15 (4) The proposed guardian or conservator is not a public entity.

16 (b) The regional center shall file a written report and recommendation with the court regarding  
17 the suitability of the petitioners to meet the needs of the proposed ward or conservatee in any  
18 case described in subdivision (a).

19  
20 **§ 1461.5.**

21 Notice of the time and place of hearing on a petition, report, or account, and a notice of the filing  
22 of an inventory, together with a copy of the petition, report, inventory, or account, shall  
23 be ~~mailed to~~ served pursuant to Section 1215 on the office of the Veterans Administration having  
24 jurisdiction over the area in which the court is located at least 15 days before the hearing, or  
25 within 15 days after the inventory is filed, if both of the following conditions exist:

26 (a) The guardianship or conservatorship estate consists or will consist wholly or in part of any of  
27 the following:

28 (1) Money received from the Veterans Administration.

29 (2) Revenue or profit from such money or from property acquired wholly or in part from such  
30 money.

31 (3) Property acquired wholly or in part with such money or from such property.

32 (b) The petition, report, inventory, or account is filed under any one or more of the following  
33 provisions: Section 1510, 1601, 1820, 1861, 1874, 2422, or 2423; Article 7 (commencing with  
34 Section 2540) of Chapter 6 of Part 4; Section 2570, 2571, 2580, 2592, 2610, 2613, or 2620;  
35 Chapter 8 (commencing with Section 2640) of Part 4; Chapter 9.5 (commencing with Section  
36 2670) of Part 4; Section 3080 or 3088; or Chapter 3 (commencing with Section 3100) of Part 6.

37  
38 **§ 1511.**

39 (a) Except as provided in subdivisions (f) and (g), at least 15 days before the hearing on the  
40 petition for the appointment of a guardian, notice of the time and place of the hearing shall be  
41 given as provided in subdivisions (b), (c), (d), and (e) of this section. The notice shall be  
42 accompanied by a copy of the petition. The court may not shorten the time for giving the notice  
43 of hearing under this section.

- 1 (b) Notice shall be served in the manner provided in Section 415.10 or 415.30 of the Code of  
2 Civil Procedure, or in any manner authorized by the court, on all of the following persons:
- 3 (1) The proposed ward if 12 years of age or older.
  - 4 (2) Any person having legal custody of the proposed ward, or serving as guardian of the estate of  
5 the proposed ward.
  - 6 (3) The parents of the proposed ward.
  - 7 (4) Any person nominated as a guardian for the proposed ward under Section 1500 or 1501.
- 8 (c) Notice shall be ~~given by mail sent to~~ served pursuant to Section 1215 on their addresses  
9 stated in the petition, or in any manner authorized by the court, ~~to~~ on all of the following:
- 10 (1) The spouse named in the petition.
  - 11 (2) The relatives named in the petition, except that if the petition is for the appointment of a  
12 guardian of the estate only the court may dispense with the giving of notice to any one or more  
13 or all of the relatives.
  - 14 (3) The person having the care of the proposed ward if other than the person having legal  
15 custody of the proposed ward.
- 16 (d) If notice is required by Section 1461 or Section 1542 to be given to the Director of State  
17 Hospitals or the Director of Developmental Services or the Director of Social Services, notice  
18 shall be ~~mailed~~ served pursuant to Section 1215 as so required.
- 19 (e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from  
20 the Veterans Administration, notice shall be ~~mailed to~~ served pursuant to Section 1215 on the  
21 office of the Veterans Administration referred to in Section 1461.5.
- 22 (f) Unless the court orders otherwise, notice shall not be given to any of the following:
- 23 (1) The parents or other relatives of a proposed ward who has been relinquished to a licensed  
24 adoption agency.
  - 25 (2) The parents of a proposed ward who has been judicially declared free from their custody and  
26 control.
- 27 (g) Notice need not be given to any person if the court so orders upon a determination of either  
28 of the following:
- 29 (1) The person cannot with reasonable diligence be given the notice.
  - 30 (2) The giving of the notice would be contrary to the interest of justice.
- 31 (h) Before the appointment of a guardian is made, proof shall be made to the court that each  
32 person entitled to notice under this section either:
- 33 (1) Has been given notice as required by this section.
  - 34 (2) Has not been given notice as required by this section because the person cannot with  
35 reasonable diligence be given the notice or because the giving of notice to that person would be  
36 contrary to the interest of justice.
- 37 (i) If notice is required by Section 1460.2 to be given to an Indian custodian or tribe, notice shall  
38 be mailed as so required.

39  
40 **§ 1513.2.**

- 41 (a) To the extent resources are available, the court shall implement procedures, as described in  
42 this section, to ensure that every guardian annually completes and returns to the court a status  
43 report, including the statement described in subdivision (b). A guardian who willfully submits

1 any material information required by the form which he or she knows to be false shall be guilty  
2 of a misdemeanor. Not later than one month prior to the date the status report is required to be  
3 returned, the clerk of the court shall ~~mail to~~ serve pursuant to Section 1215 on the guardian ~~by~~  
4 ~~first class mail~~ a notice informing the guardian that he or she is required to complete and return  
5 the status report to the court. The clerk shall enclose or attach with the letter a blank status report  
6 form for the guardian to complete and return ~~by mail~~. If the status report is not completed and  
7 returned as required, or if the court finds, after a status report has been completed and returned,  
8 that further information is needed, the court shall attempt to obtain the information required in  
9 the report from the guardian or other sources. If the court is unable to obtain this information  
10 within 30 days after the date the status report is due, the court shall either order the guardian to  
11 make himself or herself available to the investigator for purposes of investigation of the  
12 guardianship, or to show cause why the guardian should not be removed.

13 (b) The Judicial Council shall develop a form for the status report. The form shall include the  
14 following statement: "A guardian who willfully submits any material information required by  
15 this form which he or she knows to be false is guilty of a misdemeanor." The form shall request  
16 information the Judicial Council deems necessary to determine the status of the guardianship,  
17 including, but not limited to, the following:

- 18 (1) The guardian's present address and electronic address.
- 19 (2) The name and birth date of the child under guardianship.
- 20 (3) The name of the school in which the child is enrolled, if any.
- 21 (4) If the child is not in the guardian's home, the name, relationship, address, electronic address,
- 22 and telephone number of the person or persons with whom the child resides.
- 23 (5) If the child is not in the guardian's home, why the child was moved.

24 (c) The report authorized by this section is confidential and shall only be made available to  
25 persons who have been served in the proceedings or their attorneys. The clerk of the court shall  
26 implement procedures for the limitation of the report exclusively to persons entitled to its receipt.

27 (d) The Judicial Council shall report to the Legislature no later than December 31, 2004,  
28 regarding the costs and benefits of utilizing the annual status report.

29

30 **§ 1516.**

31 (a) In each case involving a petition for guardianship of the person, the petitioner shall ~~mail~~ serve  
32 pursuant to Section 1215 a notice of the hearing and a copy of the petition, at least 15 days prior  
33 to the hearing, ~~to~~ on the local agency designated by the board of supervisors to investigate  
34 guardianships for the court. The local social services agency providing child protection services  
35 shall screen the name of the guardian for prior referrals of neglect or abuse of minors. The results  
36 of this screening shall be provided to the court.

37 (b) This section does not apply to guardianships resulting from a permanency plan for a  
38 dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

39

40 **§ 1542.**

41 In each case involving a petition for guardianship of the person, the petitioner shall ~~mail~~ serve  
42 pursuant to Section 1215 a notice of the hearing and a copy of the petition, at least 15 days prior  
43 to the hearing, ~~to~~ on the Director of Social Services at the director's office in Sacramento

1 and ~~to~~ on the local agency designated by the board of supervisors to investigate guardianships for  
2 the court.

3  
4 **§ 1822.**

5 (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of  
6 the time and place of the hearing shall be given as provided in this section. The notice shall be  
7 accompanied by a copy of the petition. The court may not shorten the time for giving the notice  
8 of hearing under this section.

9 (b) Notice shall be ~~mailed to~~ served pursuant to Section 1215 on the following persons:

10 (1) The spouse, if any, or registered domestic partner, if any, of the proposed conservatee at the  
11 address stated in the petition.

12 (2) The relatives named in the petition at their addresses stated in the petition.

13 (c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the  
14 Director of Developmental Services, notice shall be ~~mailed~~ served pursuant to Section 1215 as so  
15 required.

16 (d) If the petition states that the proposed conservatee is receiving or is entitled to receive  
17 benefits from the Veterans Administration, notice shall be ~~mailed to~~ served pursuant to Section  
18 1215 on the Office of the Veterans Administration referred to in Section 1461.5.

19 (e) If the proposed conservatee is a person with developmental disabilities, at least 30 days  
20 before the day of the hearing on the petition, the petitioner shall ~~mail~~ serve pursuant to Section  
21 1215 a notice of the hearing and a copy of the petition ~~to~~ on the regional center identified in  
22 Section 1827.5.

23 (f) If the petition states that the petitioner and the proposed conservator have no prior  
24 relationship with the proposed conservatee and are not nominated by a family member, friend, or  
25 other person with a relationship to the proposed conservatee, notice shall be ~~mailed to~~ served  
26 pursuant to Section 1215 on the public guardian of the county in which the petition is filed.

27  
28 **§ 1826.**

29 (a) Regardless of whether the proposed conservatee attends the hearing, the court investigator  
30 shall do all of the following:

31 (1) Conduct the following interviews:

32 (A) The proposed conservatee personally.

33 (B) All petitioners and all proposed conservators who are not petitioners.

34 (C) The proposed conservatee's spouse or registered domestic partner and relatives within the  
35 first degree. If the proposed conservatee does not have a spouse, registered domestic partner, or  
36 relatives within the first degree, to the greatest extent possible, the proposed conservatee's  
37 relatives within the second degree.

38 (D) To the greatest extent practical and taking into account the proposed conservatee's wishes,  
39 the proposed conservatee's relatives within the second degree not required to be interviewed  
40 under subparagraph (C), neighbors, and, if known, close friends.

41 (2) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and  
42 effect of the proceeding, and of the right of the proposed conservatee to oppose the proceeding,  
43 to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury,

- 1 to be represented by legal counsel if the proposed conservatee so chooses, and to have legal  
2 counsel appointed by the court if unable to retain legal counsel.
- 3 (3) Determine if it appears that the proposed conservatee is unable to attend the hearing and, if  
4 able to attend, whether the proposed conservatee is willing to attend the hearing.
- 5 (4) Review the allegations of the petition as to why the appointment of the conservator is  
6 required and, in making his or her determination, do the following:
- 7 (A) Refer to the supplemental information form submitted by the petitioner and consider the  
8 facts set forth in the form that address each of the categories specified in paragraphs (1) to (5),  
9 inclusive, of subdivision (a) of Section 1821.
- 10 (B) Consider, to the extent practicable, whether he or she believes the proposed conservatee  
11 suffers from any of the mental function deficits listed in subdivision (a) of Section 811 that  
12 significantly impairs the proposed conservatee's ability to understand and appreciate the  
13 consequences of his or her actions in connection with any of the functions described in  
14 subdivision (a) or (b) of Section 1801 and identify the observations that support that belief.
- 15 (5) Determine if the proposed conservatee wishes to contest the establishment of the  
16 conservatorship.
- 17 (6) Determine if the proposed conservatee objects to the proposed conservator or prefers another  
18 person to act as conservator.
- 19 (7) Determine if the proposed conservatee wishes to be represented by legal counsel and, if so,  
20 whether the proposed conservatee has retained legal counsel and, if not, the name of an attorney  
21 the proposed conservatee wishes to retain.
- 22 (8)(A) Determine if the proposed conservatee is incapable of communicating, with or without  
23 reasonable accommodations, a desire to participate in the voting process, and may be  
24 disqualified from voting pursuant to Section 2208 of the Elections Code.
- 25 (B) The proposed conservatee shall not be disqualified from voting on the basis that he or she  
26 does, or would need to do, any of the following to complete an affidavit of voter registration:
- 27 (i) Signs the affidavit of voter registration with a mark or a cross pursuant to subdivision (b) of  
28 Section 2150 of the Elections Code.
- 29 (ii) Signs the affidavit of voter registration by means of a signature stamp pursuant to Section  
30 354.5 of the Elections Code.
- 31 (iii) Completes the affidavit of voter registration with the assistance of another person pursuant  
32 to subdivision (d) of Section 2150 of the Elections Code.
- 33 (iv) Completes the affidavit of voter registration with reasonable accommodations.
- 34 (9) If the proposed conservatee has not retained legal counsel, determine if the proposed  
35 conservatee desires the court to appoint legal counsel.
- 36 (10) Determine if the appointment of legal counsel would be helpful to the resolution of the  
37 matter or is necessary to protect the interests of the proposed conservatee in a case where the  
38 proposed conservatee does not plan to retain legal counsel and has not requested the appointment  
39 of legal counsel by the court.
- 40 (11) Report to the court in writing, at least five days before the hearing, concerning all of the  
41 foregoing, including the proposed conservatee's express communications concerning both of the  
42 following:
- 43 (A) Representation by legal counsel.

1 (B) If the proposed conservatee is not willing to attend the hearing, does not wish to contest the  
2 establishment of the conservatorship, and does not object to the proposed conservator or prefers  
3 that another person act as conservator.

4 (12) ~~Mail~~ Serve pursuant to Section 1215, at least five days before the hearing, a copy of the  
5 report referred to in paragraph (11) ~~to~~ on all of the following:

6 (A) The attorney, if any, for the petitioner.

7 (B) The attorney, if any, for the proposed conservatee.

8 (C) The proposed conservatee.

9 (D) The spouse, registered domestic partner, and relatives within the first degree of the proposed  
10 conservatee who are required to be named in the petition for appointment of the conservator,  
11 unless the court determines that the mailing service will harm the conservatee.

12 (E) Any other persons as the court orders.

13 (b) The court investigator has discretion to release the report required by this section to the  
14 public conservator, interested public agencies, and the long-term care ombudsman.

15 (c) The report required by this section is confidential and shall be made available only to parties,  
16 persons described in paragraph (12) of subdivision (a), persons given notice of the petition who  
17 have requested this report or who have appeared in the proceedings, their attorneys, and the  
18 court. The court has discretion at any other time to release the report, if it would serve the  
19 interests of the conservatee. The clerk of the court shall provide for the limitation of the report  
20 exclusively to persons entitled to its receipt.

21 (d) This section does not apply to a proposed conservatee who has personally executed the  
22 petition for conservatorship, or a proposed conservatee who has nominated his or her own  
23 conservator, if he or she attends the hearing.

24 (e) If the court investigator has performed an investigation within the preceding six months and  
25 furnished a report thereon to the court, the court may order, upon good cause shown, that another  
26 investigation is not necessary or that a more limited investigation may be performed.

27 (f) An investigation by the court investigator related to a temporary conservatorship also may be  
28 a part of the investigation for the general petition for conservatorship, but the court investigator  
29 shall make a second visit to the proposed conservatee and the report required by this section shall  
30 include the effect of the temporary conservatorship on the proposed conservatee.

31 (g) The Judicial Council shall, on or before January 1, 2009, adopt rules of court and Judicial  
32 Council forms as necessary to implement an expedited procedure to authorize, by court order, a  
33 proposed conservatee's health care provider to disclose confidential medical information about  
34 the proposed conservatee to a court investigator pursuant to federal medical information privacy  
35 regulations promulgated under the federal Health Insurance Portability and Accountability Act of  
36 1996 (Public Law 104-191).

37 (h) A superior court shall not be required to perform any duties imposed pursuant to the  
38 amendments to this section enacted by Chapter 493 of the Statutes of 2006 until the Legislature  
39 makes an appropriation identified for this purpose.

40  
41 **§ 1827.5.**

42 (a) In the case of any proceeding to establish a limited conservatorship for a person with  
43 developmental disabilities, within 30 days after the filing of a petition for limited



1 conservatorship, a proposed limited conservatee, with his or her consent, shall be assessed at a  
2 regional center as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the  
3 Welfare and Institutions Code. The regional center shall submit a written report of its findings  
4 and recommendations to the court.

5 (b) In the case of any proceeding to establish a general conservatorship for a person with  
6 developmental disabilities, the regional center, with the consent of the proposed conservatee,  
7 may prepare an assessment as provided in Chapter 5 (commencing with Section 4620) of  
8 Division 4.5 of the Welfare and Institutions Code. If an assessment is prepared, the regional  
9 center shall submit its findings and recommendations to the court.

10 (c) A report prepared under subdivision (a) or (b) shall include a description of the specific areas,  
11 nature, and degree of disability of the proposed conservatee or proposed limited conservatee. The  
12 findings and recommendations of the regional center are not binding upon the court.

13 In a proceeding where the petitioner is a provider of board and care, treatment, habilitation, or  
14 other services to persons with developmental disabilities or a spouse or employee of a provider,  
15 is not the natural parent of the proposed conservatee or proposed limited conservatee, and is not  
16 a public entity, the regional center shall include a recommendation in its report concerning the  
17 suitability of the petitioners to meet the needs of the proposed conservatee or proposed limited  
18 conservatee.

19 (d) At least five days before the hearing on the petition, the regional center shall ~~mail~~ serve  
20 pursuant to Section 1215 a copy of the report referred to in subdivision (a) ~~to~~ on all of the  
21 following:

22 (1) The proposed limited conservatee.

23 (2) The attorney, if any, for the proposed limited conservatee.

24 (3) If the petitioner is not the proposed limited conservatee, the attorney for the petitioner or the  
25 petitioner if the petitioner does not have an attorney.

26 (4) Such other persons as the court orders.

27 (e) The report referred to in subdivisions (a) and (b) shall be confidential and shall be made  
28 available only to parties listed in subdivision (d) unless the court, in its discretion, determines  
29 that the release of the report would serve the interests of the conservatee who is developmentally  
30 disabled. The clerk of the court shall make provision for limiting disclosure of the report  
31 exclusively to persons entitled thereto under this section.

32  
33 **§ 1830.**

34 (a) The order appointing the conservator shall contain, among other things, the names, addresses,  
35 and telephone numbers of:

36 (1) The conservator.

37 (2) The conservatee's attorney, if any.

38 (3) The court investigator, if any.

39 (b) In the case of a limited conservator for a developmentally disabled adult, any order the court  
40 may make shall include the findings of the court specified in Section 1828.5. The order shall  
41 specify the powers granted to and duties imposed upon the limited conservator, which powers  
42 and duties may not exceed the powers and duties applicable to a conservator under this code. The  
43 order shall also specify the following:

- 1 (1) The properties of the limited conservatee to which the limited conservator is entitled to  
2 possession and management, giving a description of the properties that will be sufficient to  
3 identify them.
- 4 (2) The debts, rentals, wages, or other claims due to the limited conservatee which the limited  
5 conservator is entitled to collect, or file suit with respect to, if necessary, and thereafter to  
6 possess and manage.
- 7 (3) The contractual or other obligations which the limited conservator may incur on behalf of the  
8 limited conservatee.
- 9 (4) The claims against the limited conservatee which the limited conservator may pay,  
10 compromise, or defend, if necessary.
- 11 (5) Any other powers, limitations, or duties with respect to the care of the limited conservatee or  
12 the management of the property specified in this subdivision by the limited conservator which  
13 the court shall specifically and expressly grant.
- 14 (c) An information notice of the rights of conservatees shall be attached to the order. The  
15 conservator shall ~~mail~~ serve pursuant to Section 1215 the order and the attached information  
16 notice ~~to~~ on the conservatee and the conservatee's relatives, as set forth in subdivision (b) of  
17 Section 1821, within 30 days of the issuance of the order. By January 1, 2008, the Judicial  
18 Council shall develop the notice required by this subdivision.

19  
20 **§ 1842.**

21 In addition to the persons and entities to whom notice of hearing is required under Section 1822  
22 or 2002, if the proposed conservatee is an absentee, a copy of the petition and notice of the time  
23 and place of the hearing shall be ~~mailed~~ served pursuant to Section 1215 at least 15 days before  
24 the hearing ~~to~~ on the secretary concerned or to the head of the United States department or  
25 agency concerned, as the case may be. In such case, notice shall also be published pursuant to  
26 Section 6061 of the Government Code in a newspaper of general circulation in the county in  
27 which the hearing will be held.

28  
29 **§ 1847.**

30 In addition to the persons and entities to whom notice of hearing is required under Section 1822  
31 or 2002, if the proposed conservatee is a person who is missing and whose whereabouts is  
32 unknown:

33 (a) A copy of the petition for appointment of a conservator and notice of the time and place of  
34 the hearing on the petition shall be ~~mailed~~ served pursuant to Section 1215 at least 15 days  
35 before the hearing ~~to~~ on the proposed conservatee at the last known address of the proposed  
36 conservatee.

37 (b) Notice of the time and place of the hearing shall also be published pursuant to Section 6061  
38 of the Government Code in a newspaper of general circulation in the county in which the  
39 proposed conservatee was last known to reside if the proposed conservatee's last known address  
40 is in this state.

41 (c) Pursuant to Section 1202, the court may require that further or additional notice of the  
42 hearing be given.

43

1 § 1851.

2 (a)(1) If court review is required pursuant to Section 1850, the court investigator shall, without  
3 prior notice to the conservator except as ordered by the court for necessity or to prevent harm to  
4 the conservatee, visit the conservatee. The court investigator shall inform the conservatee  
5 personally that the conservatee is under a conservatorship and shall give the name of the  
6 conservator to the conservatee. The court investigator shall determine all of the following:

7 (A) If the conservatee wishes to petition the court for termination of the conservatorship.

8 (B) If the conservatee is still in need of the conservatorship.

9 (C) If the present conservator is acting in the best interests of the conservatee. In determining if  
10 the conservator is acting in the best interests of the conservatee, the court investigator's  
11 evaluation shall include an examination of the conservatee's placement, the quality of care,  
12 including physical and mental treatment, and the conservatee's finances. To the extent  
13 practicable, the investigator shall review the accounting with a conservatee who has sufficient  
14 capacity. To the greatest extent possible, the court investigator shall interview individuals set  
15 forth in paragraph (1) of subdivision (a) of Section 1826, in order to determine if the conservator  
16 is acting in the best interests of the conservatee.

17 (D)(i) If the conservatee is incapable of communicating, with or without reasonable  
18 accommodations, a desire to participate in the voting process and may be disqualified from  
19 voting pursuant to Section 2208 or 2209 of the Elections Code.

20 (ii) The conservatee shall not be disqualified from voting on the basis that he or she does, or  
21 would need to do, any of the following to complete an affidavit of voter registration:

22 (I) Signs the affidavit of voter registration with a mark or a cross pursuant to subdivision (b) of  
23 Section 2150 of the Elections Code.

24 (II) Signs the affidavit of voter registration by means of a signature stamp pursuant to Section  
25 354.5 of the Elections Code.

26 (III) Completes the affidavit of voter registration with the assistance of another person pursuant  
27 to subdivision (d) of Section 2150 of the Elections Code.

28 (IV) Completes the affidavit of voter registration with reasonable accommodations.

29 (2) If the court has made an order under Chapter 4 (commencing with Section 1870), the court  
30 investigator shall determine if the present condition of the conservatee is such that the terms of  
31 the order should be modified or the order revoked.

32 (3) Upon request of the court investigator, the conservator shall make available to the court  
33 investigator during the investigation for inspection and copying all books and records, including  
34 receipts and any expenditures, of the conservatorship.

35 (b)(1) The findings of the court investigator, including the facts upon which the findings are  
36 based, shall be certified in writing to the court not less than 15 days before the date of review. A  
37 copy of the report shall be ~~mailed to~~ served pursuant to Section 1215 on the conservator and ~~to~~  
38 on the attorneys of record for the conservator and conservatee at the same time it is certified to  
39 the court. A copy of the report, modified as set forth in paragraph (2), also shall be ~~mailed~~  
40 ~~to~~ served pursuant to Section 1215 on the conservatee's spouse or registered domestic partner,  
41 the conservatee's relatives in the first degree, and if there are no such relatives, ~~to~~ on the next  
42 closest relative, unless the court determines that the ~~mailing~~ service will harm the conservatee.

1 (2) Confidential medical information and confidential information from the California Law  
2 Enforcement Telecommunications System shall be in a separate attachment to the report and  
3 shall not be provided in copies sent to the conservatee's spouse or registered domestic partner,  
4 the conservatee's relatives in the first degree, and if there are no such relatives, to the next  
5 closest relative.

6 (c) In the case of a limited conservatee, the court investigator shall recommend continuing or  
7 terminating the limited conservatorship.

8 (d) The court investigator may personally visit the conservator and other persons as may be  
9 necessary to determine if the present conservator is acting in the best interests of the conservatee.

10 (e) The report required by this section shall be confidential and shall be made available only to  
11 parties, persons described in subdivision (b), persons given notice of the petition who have  
12 requested the report or who have appeared in the proceeding, their attorneys, and the court. The  
13 court shall have discretion at any other time to release the report if it would serve the interests of  
14 the conservatee. The clerk of the court shall limit disclosure of the report exclusively to persons  
15 entitled to the report under this section.

16 (f) A superior court shall not be required to perform any duties imposed pursuant to the  
17 amendments to this section enacted by Chapter 493 of the Statutes of 2006 until the Legislature  
18 makes an appropriation identified for this purpose.

19  
20 **§ 2214.**

21 Notice of the hearing shall be given for the period and in the manner provided in Chapter 3  
22 (commencing with Section 1460) of Part 1. In addition, the petitioner shall ~~mail~~ serve pursuant to  
23 Section 1215 a notice of the time and place of the hearing and a copy of the petition ~~to~~ on all  
24 persons required to be listed in the petition at least 15 days before the date set for the hearing.

25  
26 **§ 2250.**

27 (a) On or after the filing of a petition for appointment of a guardian or conservator, any person  
28 entitled to petition for appointment of the guardian or conservator may file a petition for  
29 appointment of:

30 (1) A temporary guardian of the person or estate, or both.

31 (2) A temporary conservator of the person or estate, or both.

32 (b) \* \* \*

33 (c) \* \* \*

34 (d) \* \* \*

35 (e) Unless the court for good cause otherwise orders, at least five court days before the hearing  
36 on the petition, notice of the hearing shall be given as follows:

37 (1) Notice of the hearing shall be personally delivered to the proposed ward if he or she is 12  
38 years of age or older, to the parent or parents of the proposed ward, and to any person having a  
39 valid visitation order with the proposed ward that was effective at the time of the filing of the  
40 petition. Notice of the hearing shall not be delivered to the proposed ward if he or she is under 12  
41 years of age. In a proceeding for temporary guardianship of the person, evidence that a custodial  
42 parent has died or become incapacitated, and that the petitioner or proposed guardian is the

1 nominee of the custodial parent, may constitute good cause for the court to order that this notice  
2 not be delivered.

3 (2) Notice of the hearing shall be personally delivered to the proposed conservatee, and notice of  
4 the hearing shall be served pursuant to Section 1215 on the persons required to be named in the  
5 petition for appointment of conservator. If the petition states that the petitioner and the proposed  
6 conservator have no prior relationship with the proposed conservatee and has not been  
7 nominated by a family member, friend, or other person with a relationship to the proposed  
8 conservatee, notice of hearing shall be served pursuant to Section 1215 on the public guardian of  
9 the county in which the petition is filed.

10 (3) A copy of the petition for temporary appointment shall be served pursuant to Section 1215  
11 with the notice of hearing.

12 (f) If a temporary guardianship is granted ex parte and the hearing on the general guardianship  
13 petition is not to be held within 30 days of the granting of the temporary guardianship, the court  
14 shall set a hearing within 30 days to reconsider the temporary guardianship. Notice of the hearing  
15 for reconsideration of the temporary guardianship shall be provided pursuant to Section 1511,  
16 except that the court may for good cause shorten the time for the notice of the hearing.

17 (g) Visitation orders with the proposed ward granted prior to the filing of a petition for temporary  
18 guardianship shall remain in effect, unless for good cause the court orders otherwise.

19 (h)(1) If a temporary conservatorship is granted ex parte, and a petition to terminate the  
20 temporary conservatorship is filed more than 15 days before the first hearing on the general  
21 petition for appointment of conservator, the court shall set a hearing within 15 days of the filing  
22 of the petition for termination of the temporary conservatorship to reconsider the temporary  
23 conservatorship. Unless the court otherwise orders, notice of the hearing on the petition to  
24 terminate the temporary conservatorship shall be given at least 10 days prior to the hearing.

25 (2) If a petition to terminate the temporary conservatorship is filed within 15 days before the first  
26 hearing on the general petition for appointment of conservator, the court shall set the hearing at  
27 the same time that the hearing on the general petition is set. Unless the court otherwise orders,  
28 notice of the hearing on the petition to terminate the temporary conservatorship pursuant to this  
29 section shall be given at least five court days prior to the hearing.

30 (i) \* \* \*

31 (j) \* \* \*

32 (k) On or before January 1, 2008, the Judicial Council shall adopt a rule of court that establishes  
33 uniform standards for good cause exceptions to the notice required by subdivision (e), limiting  
34 those exceptions to only cases when waiver of the notice is essential to protect the proposed  
35 conservatee or ward, or the estate of the proposed conservatee or ward, from substantial harm.

36 (l) \* \* \*

37

38 **§ 2352.**

39 (a) The guardian may establish the residence of the ward at any place within this state without  
40 the permission of the court. The guardian shall select the least restrictive appropriate residence  
41 that is available and necessary to meet the needs of the ward, and that is in the best interests of  
42 the ward.

1 (b) The conservator may establish the residence of the conservatee at any place within this state  
2 without the permission of the court. The conservator shall select the least restrictive appropriate  
3 residence, as described in Section 2352.5, that is available and necessary to meet the needs of the  
4 conservatee, and that is in the best interests of the conservatee.

5 (c) If permission of the court is first obtained, a guardian or conservator may establish the  
6 residence of a ward or conservatee at a place not within this state. Notice of the hearing on the  
7 petition to establish the residence of the ward or conservatee out of state, together with a copy of  
8 the petition, shall be given in the manner required by subdivision (a) of Section 1460 to all  
9 persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section  
10 1822.

11 (d)(1) An order under subdivision (c) relating to a ward shall require the guardian either to return  
12 the ward to this state, or to cause a guardianship proceeding or its equivalent to be commenced in  
13 the place of the new residence, when the ward has resided in the place of new residence for a  
14 period of four months or a longer or shorter period specified in the order.

15 (2) An order under subdivision (c) relating to a conservatee shall require the conservator to do  
16 one of the following when the conservatee has resided in the other state for a period of four  
17 months or a longer or shorter period specified in the order:

18 (A) Return the conservatee to this state.

19 (B) Petition for transfer of the conservatorship to the other state under Article 3 (commencing  
20 with Section 2001) of Chapter 8 of Part 3 and corresponding law of the other state.

21 (C) Cause a conservatorship proceeding or its equivalent to be commenced in the other state.

22 (e)(1) The guardian or conservator shall file a notice of change of residence with the court within  
23 30 days of the date of the change. The guardian or conservator shall include in the notice of  
24 change of residence a declaration stating that the ward's or conservatee's change of residence is  
25 consistent with the standard described in subdivision (b).

26 (2) The guardian or conservator shall ~~mail~~ serve pursuant to section 1215 a copy of the  
27 notice ~~to~~ on all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b)  
28 of Section 1822 and shall file proof of service of the notice with the court. The court may, for  
29 good cause, waive the ~~mailing~~ service requirement pursuant to this paragraph in order to prevent  
30 harm to the conservatee or ward.

31 (3) If the guardian or conservator proposes to remove the ward or conservatee from his or her  
32 personal residence, except as provided by subdivision (c), the guardian or conservator  
33 shall ~~mail~~ serve pursuant to section 1215 a notice of his or her intention to change the residence  
34 of the ward or conservatee ~~to~~ on all persons entitled to notice under subdivision (b) of Section  
35 1511 and subdivision (b) of Section 1822. In the absence of an emergency, that notice shall  
36 be ~~mailed~~ served at least 15 days before the proposed removal of the ward or conservatee from  
37 his or her personal residence. If the notice is served less than 15 days prior to the proposed  
38 removal of the ward or conservatee, the guardian or conservator shall set forth the basis for the  
39 emergency in the notice. The guardian or conservator shall file proof of service of that notice  
40 with the court.

41 (f) This section does not apply where the court has made an order under Section 2351 pursuant to  
42 which the conservatee retains the right to establish his or her own residence.

1 (g) As used in this section, “guardian” or “conservator” includes a proposed guardian or  
2 proposed conservator and “ward” or “conservatee” includes a proposed ward or proposed  
3 conservatee.

4 (h) This section does not apply to a person with developmental disabilities for whom the Director  
5 of Developmental Services or a regional center, established pursuant to Chapter 5 (commencing  
6 with Section 4620) of Division 4.5 of the Welfare and Institutions Code, acts as the conservator.  
7

8 **§ 2357.**

9 (a) \* \* \*

10 (b) \* \* \*

11 (c) The petition shall state, or set forth by medical affidavit attached thereto, all of the following  
12 so far as is known to the petitioner at the time the petition is filed:

13 (1)–(6) \* \* \*

14 (7) The name and addresses, so far as they are known to the petitioner, of the persons specified in  
15 subdivision (c) of Section 1510 in a guardianship proceeding or subdivision (b) of Section 1821  
16 in a conservatorship proceeding.

17 (d) Upon the filing of the petition, unless an attorney is already appointed the court shall appoint  
18 the public defender or private counsel under Section 1471, to consult with and represent the ward  
19 or conservatee at the hearing on the petition and, if that appointment is made, Section 1472  
20 applies.

21 (e) Notice of the petition shall be given as follows:

22 (1) Not less than 15 days before the hearing, notice of the time and place of the hearing, and a  
23 copy of the petition shall be personally served on the ward, if 12 years of age or older, or the  
24 conservatee, and on the attorney for the ward or conservatee.

25 (2) Not less than 15 days before the hearing, notice of the time and place of the hearing, and a  
26 copy of the petition shall be ~~mailed to~~ served pursuant to Section 1215 on the following persons:

27 (A) The spouse or domestic partner, if any, of the proposed conservatee at the address stated in  
28 the petition.

29 (B) The relatives named in the petition at their addresses stated in the petition.

30 (f) \* \* \*

31 (g) \* \* \*

32 (h) \* \* \*

33 (i) Upon petition of the ward or conservatee or other interested person, the court may order that  
34 the guardian or conservator obtain or consent to, or obtain and consent to, specified medical  
35 treatment to be performed upon the ward or conservatee. Notice of the hearing on the petition  
36 under this subdivision shall be given for the period and in the manner provided in Chapter 3  
37 (commencing with Section 1460) of Part 1.  
38

39 **§ 2361.**

40 A conservator shall provide notice of a conservatee’s death by ~~mailing~~ mailing serving a copy of the  
41 notice ~~to~~ pursuant to Section 1215 on all persons entitled to notice under Section 1460 and by  
42 filing a proof of service with the court, unless otherwise ordered by the court.  
43

1 **§ 2610.**

2 (a) Within 90 days after appointment, or within any further time as the court for reasonable cause  
3 upon ex parte petition of the guardian or conservator may allow, the guardian or conservator  
4 shall file with the clerk of the court and ~~mail to~~ serve pursuant to Section 1215 on the  
5 conservatee and ~~to~~ on the attorneys of record for the ward or conservatee, along with notice of  
6 how to file an objection, an inventory and appraisal of the estate, made as of the date of the  
7 appointment of the guardian or conservator. A copy of this inventory and appraisal, along with  
8 notice of how to file an objection, also shall be ~~mailed to~~ served on the conservatee's spouse or  
9 registered domestic partner, the conservatee's relatives in the first degree, and, if there are no  
10 such relatives, ~~to~~ on the next closest relative, unless the court determines that the mailing will  
11 result in harm to the conservatee.

12 (b) \* \* \*

13 (c) \* \* \*

14 (d) \* \* \*

15 (e) \* \* \*

16  
17 **§ 2611.**

18 If the ward or conservatee is or has been during the guardianship or conservatorship a patient in a  
19 state hospital under the jurisdiction of the State Department of State Hospitals or the State  
20 Department of Developmental Services, the guardian or conservator shall ~~mail~~ serve pursuant to  
21 Section 1215 a copy of the inventory and appraisal filed under Section 2610 ~~to~~ on the director of  
22 the appropriate department at the director's office in Sacramento not later than 15 days after the  
23 inventory and appraisal is filed with the court. Compliance with this section is not required if an  
24 unrevoked certificate described in subdivision (c) of Section 1461 is on file with the court with  
25 respect to the ward or conservatee.

26  
27 **§ 2612.**

28 If a timely request is made, the clerk of court shall ~~mail~~ serve pursuant to Section 1215 a copy of  
29 the inventory and appraisal filed under Section 2610 ~~to~~ on the county assessor.

30  
31 **§ 2614.**

32 (a) Within 30 days after the inventory and appraisal is filed, the guardian or conservator or any  
33 creditor or other interested person may file written objections to any or all appraisals. The clerk  
34 shall set the objections for hearing not less than 15 days after their filing.

35 (b) Notice of the hearing, together with a copy of the objections, shall be given for the period and  
36 in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. If the appraisal  
37 was made by a probate referee, the person objecting shall also ~~mail~~ serve pursuant to Section  
38 1215 notice of the hearing and a copy of the objection ~~to~~ on the probate referee at least 15 days  
39 before the time set for the hearing.

40 (c) The court shall determine the objections and may fix the true value of any asset to which  
41 objection has been filed. For the purpose of this subdivision, the court may cause an independent  
42 appraisal or appraisals to be made by at least one additional appraiser at the expense of the estate  
43 or, if the objecting party is not the guardian or conservator and the objection is rejected by the



1 court, the court may assess the cost of any such additional appraisal or appraisals against the  
2 objecting party.

3  
4 **§ 2683.**

5 (a) At least 15 days before the hearing on the petition for appointment of a successor  
6 conservator, notice of the time and place of the hearing shall be given as provided in this section.  
7 The notice shall be accompanied by a copy of the petition.

8 (b) Notice shall be ~~mailed to~~ served pursuant to Section 1215 on the persons designated in  
9 Section 1460 and to the relatives named in the petition.

10 (c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the  
11 Director of Developmental Services, notice shall be ~~mailed~~ served pursuant to Section 1215 as so  
12 required.

13 (d) If notice is required by Section 1461.5 to be given to the Veterans Administration, notice  
14 shall be ~~mailed~~ served pursuant to Section 1215 as so required.

15  
16 **§ 2684.**

17 Unless the petition states that the conservatee will be present at the hearing, the court investigator  
18 shall do all of the following:

19 (a) Interview the conservatee personally.

20 (b) Inform the conservatee of the nature of the proceeding to appoint a successor conservator, the  
21 name of the person proposed as successor conservator, and the conservatee's right to appear  
22 personally at the hearing, to object to the person proposed as successor conservator, to nominate  
23 a person to be appointed as successor conservator, to be represented by legal counsel if the  
24 conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal  
25 counsel.

26 (c) Determine whether the conservatee objects to the person proposed as successor conservator  
27 or prefers another person to be appointed.

28 (d) If the conservatee is not represented by legal counsel, determine whether the conservatee  
29 wishes to be represented by legal counsel and, if so, determine the name of an attorney the  
30 conservatee wishes to retain or whether the conservatee desires the court to appoint legal  
31 counsel.

32 (e) Determine whether the appointment of legal counsel would be helpful to the resolution of the  
33 matter or is necessary to protect the interests of the conservatee in any case where the  
34 conservatee does not plan to retain legal counsel and has not requested the appointment of legal  
35 counsel by the court.

36 (f) Report to the court in writing, at least five days before the hearing, concerning all of the  
37 foregoing, including the conservatee's express communications concerning representation by  
38 legal counsel and whether the conservatee objects to the person proposed as successor  
39 conservator or prefers that some other person be appointed.

40 (g) ~~Mail~~ Serve pursuant to Section 1215, at least five days before the hearing, a copy of the  
41 report referred to in subdivision (f) ~~to~~ on all of the following:

42 (1) The attorney, if any, for the petitioner.

43 (2) The attorney, if any, for the conservatee.

1 (3) Such other persons as the court orders.

2  
3 **§ 2700.**

4 (a) At any time after the issuance of letters of guardianship or conservatorship, the ward, if over  
5 14 years of age or the conservatee, the spouse of the ward or the spouse or domestic partner of  
6 the conservatee, any relative or creditor of the ward or conservatee, or any other interested  
7 person, in person or by attorney, may file with the court clerk a written request for special notice.

8 (b) The request for special notice shall be so entitled and shall set forth the name of the person  
9 and the address ~~to~~ on which notices shall be ~~sent~~ served pursuant to Section 1215.

10 (c) Special notice may be requested of any one or more of the following matters:

11 (1) Petitions filed in the guardianship or conservatorship proceeding.

12 (2) Inventories and appraisals of property in the estate, including any supplemental inventories  
13 and appraisals.

14 (3) Accounts of the guardian or conservator.

15 (4) Proceedings for the final termination of the guardianship or conservatorship proceeding.

16 (d) Special notice may be requested of:

17 (1) Any one or more of the matters in subdivision (c) by describing the matter or matters.

18 (2) All the matters in subdivision (c) by referring generally to “the matters described in  
19 subdivision (c) of Section 2700 of the Probate Code” or by using words of similar meaning.

20 (e) A copy of the request shall be ~~personally delivered or mailed to~~ served pursuant to Section  
21 1215 on the guardian or conservator or to the attorney for the guardian or conservator. If  
22 personally delivered served, the request is effective when it is delivered. If mailed or  
23 electronically served, the request is effective when it is received.

24 (f) When the original of the request is filed with the court clerk, it shall be accompanied by a  
25 written admission or proof of service.

26  
27 **§ 2702.**

28 (a) Unless the court makes an order dispensing with the notice, if a request has been made  
29 pursuant to this chapter for special notice of a hearing, the person filing the petition, account, or  
30 other paper shall ~~give~~ serve pursuant to Section 1215 written notice of the filing, together with a  
31 copy of the petition, account, or other paper, and the time and place set for the hearing, ~~by~~  
32 ~~mail to~~ on the person named in the request at the address set forth in the request, at least 15 days  
33 before the time set for the hearing.

34 (b) If a request has been made pursuant to this chapter for special notice of the filing of an  
35 inventory and appraisal of the estate or of the filing of any other paper that does not require a  
36 hearing, the inventory and appraisal or other paper shall be ~~mailed~~ served pursuant to Section  
37 1215 not later than 15 days after the inventory and appraisal or other paper is filed with the court.  
38

39 **§ 2804.**

40 At least 30 days before the hearing, the petitioner shall ~~mail~~ serve pursuant to Section 1215 a  
41 notice of the time and place of the hearing and a copy of the petition ~~to~~ on each person required  
42 to be listed in the petition at the address stated in the petition.  
43

1 **§ 2808.**

2 (a) If the court's order provides for the transfer of all of the property of the estate to the foreign  
3 guardian or conservator, the court, upon settlement of the final account, shall order the  
4 guardianship of the estate or the conservatorship of the estate terminated upon the filing with the  
5 clerk of the court of a receipt for the property executed by the foreign guardian or conservator.

6 (b) Unless notice is waived, a copy of the final account of the guardian or conservator and of the  
7 petition for discharge, together with a notice of the hearing thereon, shall be ~~mailed~~ served  
8 pursuant to Section 1215 at least 30 days before the date of the hearing ~~to~~ on all persons required  
9 to be listed in the petition for transfer, including the foreign guardian or conservator.

10  
11 **§ 3088.**

12 (a) \* \* \*

13 (b) \* \* \*

14 (c) \* \* \*

15 (d) \* \* \*

16 (e) \* \* \*

17 (f) The court retains jurisdiction to modify or to vacate an order made under this section where  
18 justice requires, except as to any amount that may have accrued prior to the date of the filing of  
19 the petition to modify or revoke the order. At the request of any interested person, the order of  
20 modification or revocation shall include findings of fact and may be made retroactive to the date  
21 of the filing of the petition to revoke or modify, or to any date subsequent thereto. At least 15  
22 days before the hearing on the petition to modify or vacate the order, the petitioner  
23 shall ~~mail~~ serve pursuant to Section 1215 a notice of the time and place of the hearing on the  
24 petition, accompanied by a copy of the petition, ~~to~~ on the spouse who has the management or  
25 control of the community property. Notice shall be given for the period and in the manner  
26 provided in Chapter 3 (commencing with Section 1460) of Part 1 to any other persons entitled to  
27 notice of the hearing under that chapter.

28 (g) \* \* \*

29  
30 **§ 3131.**

31 (a) At least 15 days before the hearing on the petition, the petitioner shall cause a notice of the  
32 time and place of the hearing and a copy of the petition to be served upon any nonpetitioning  
33 spouse not alleged to lack legal capacity for the proposed transaction.

34 (b) Service under subdivision (a) shall be made in the manner provided in Section 415.10 or  
35 415.30 of the Code of Civil Procedure or in such other manner as may be authorized by the  
36 court. If the person to be served is outside this state, service may also be made in the manner  
37 provided in Section 415.40 of the Code of Civil Procedure.

38 (c) At least 15 days before the hearing on the petition, the petitioner shall ~~mail~~ serve pursuant to  
39 Section 1215 a notice of the time and place of the hearing on the petition ~~to~~ on those persons  
40 required to be named in the petition at the addresses set forth in the petition.

1    **§ 3206.**

2    (a) Not less than 15 days before the hearing, notice of the time and place of the hearing and a  
3    copy of the petition shall be personally served on the patient, the patient’s attorney, and the agent  
4    under the patient’s power of attorney for health care, if any.

5    (b) Not less than 15 days before the hearing, notice of the time and place of the hearing and a  
6    copy of the petition shall be ~~mailed to~~ served pursuant to Section 1215 on the following persons:

7    (1) The patient’s spouse, if any, at the address stated in the petition.

8    (2) The patient’s relatives named in the petition at their addresses stated in the petition.

9    (c) For good cause, the court may shorten or waive notice of the hearing as provided by this  
10   section. In determining the period of notice to be required, the court shall take into account both  
11   of the following:

12   (1) The existing medical facts and circumstances set forth in the petition or in a medical  
13   declaration attached to the petition or in a medical declaration presented to the court.

14   (2) The desirability, where the condition of the patient permits, of giving adequate notice to all  
15   interested persons.

16  
17    **§ 3602.**

18    (a)–(e) \* \* \*

19    (f) Notice of the time and place of hearing on a petition under subdivision (d), and a copy of the  
20    petition, shall be ~~mailed to~~ served pursuant to Section 1215 on the State Director of Health Care  
21    Services, the Director of State Hospitals, and the Director of Developmental Services at the  
22    office of each director in Sacramento at least 15 days before the hearing.

23  
24    **§ 3704.**

25    (a) Notice of the nature of the proceedings and the time and place of the hearing shall be given  
26    by the petitioner at least 15 days before the hearing date by all of the following means:

27    (1) By ~~mail~~ service pursuant to Section 1215, together with a copy of the petition, ~~to~~ on all  
28    persons comprising the family of the absentee.

29    (2) By delivery by a method that would be sufficient for service of summons in a civil action,  
30    together with a copy of the petition, to the secretary concerned or to the head of the United States  
31    department or agency concerned.

32    (3) By publication pursuant to Section 6061 of the Government Code in a newspaper of general  
33    circulation in the county in which the proceedings will be held.

34    (b) Whenever notice to an officer or agency of this state or of the United States would be  
35    required under Section 1461 or Section 1822 upon petition for appointment of a conservator, like  
36    notice shall be given of the petition under this chapter.

37  
38    **§ 3801.**

39    (a) The petition shall be made upon 15 days’ notice, by ~~mail or personal delivery,~~ to service  
40    pursuant to Section 1215, on all of the following persons:

41    (1) The personal representative or other person in whose possession the property may be.

42    (2) Persons in this state, known to the petitioner, who are obligated to pay a debt, perform an  
43    obligation, or issue a security to the nonresident or the estate of the nonresident.

1 (b) The petition shall be made upon such additional notice, if any, as the court may order.

2  
3 **§ 3918.**

4 (a) \* \* \*

5 (b) \* \* \*

6 (c) \* \* \*

7 (d) \* \* \*

8 (e) \* \* \*

9 (f) A transferor, the legal representative of a transferor, an adult member of the minor’s family, a  
10 guardian of the person of the minor, the conservator of the minor, or the minor if the minor has  
11 attained the age of 14 years, may petition the court to remove the custodian for cause and to  
12 designate a successor custodian other than a transferor under Section 3904 or to require the  
13 custodian to give appropriate bond.

14 (g) At least 15 days before the hearing on a petition under subdivision (d) or (f), the petitioner  
15 shall serve notice ~~by mail or personal delivery~~ pursuant to Section 1215 on each of the following  
16 persons:

17 (1) The minor.

18 (2) The parent or parents of the minor.

19 (3) The transferor.

20 (h) \* \* \*

21  
22 **§ 8100.**

23 The notice of hearing of a petition for administration of a decedent’s estate, whether served  
24 under Article 2 (commencing with Section 8110) or published under Article 3 (commencing with  
25 Section 8120), shall state substantially as follows:

26  
27 NOTICE OF PETITION TO ADMINISTER

28 ESTATE OF \_\_\_\_\_, ESTATE NO. \_\_\_\_\_

29  
30 To all heirs, beneficiaries, creditors, and contingent creditors of \_\_\_\_\_ and persons who  
31 may be otherwise interested in the will or estate, or both:

32  
33 A petition has been filed by \_\_\_\_\_ in the Superior Court of California, County of  
34 \_\_\_\_\_, requesting that \_\_\_\_\_ be appointed as personal representative to administer the  
35 estate of \_\_\_\_\_ [and for probate of the decedent’s will, which is available for examination  
36 in the court file].

37  
38 [The petition requests authority to administer the estate under the Independent Administration of  
39 Estates Act. This will avoid the need to obtain court approval for many actions taken in  
40 connection with the estate. However, before taking certain actions, the personal representative  
41 will be required to give notice to interested persons unless they have waived notice or have  
42 consented to the proposed action. The petition will be granted unless good cause is shown why it  
43 should not be.]

1  
2 The petition is set for hearing in Dept. No.  
3 at \_\_\_\_\_ (Address) \_\_\_\_\_  
4 on \_\_\_\_\_ (Date of hearing) \_\_\_\_\_ at \_\_\_\_\_ (Time of hearing) \_\_\_\_\_ .  
5

6 IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your  
7 objections or file written objections with the court before the hearing. Your appearance may be  
8 in person or by your attorney.  
9

10 IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim  
11 with the court and ~~mail~~ serve pursuant to Section 1215 of the California Probate Code a  
12 copy ~~to~~ on the personal representative appointed by the court within the later of either (1) four  
13 months from the date of first issuance of letters to a general personal representative, as defined in  
14 subdivision (b) of Section 58 of the California Probate Code, or (2) 60 days from the date of  
15 mailing or personal delivery of the notice to you under Section 9052 of the California Probate  
16 Code.  
17

18 YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may  
19 request special notice of the filing of an inventory and appraisal of estate assets or of any petition  
20 or account as provided in Section 1250 of the California Probate Code.  
21

22 \_\_\_\_\_ (Name and address of petitioner or petitioner's attorney) \_\_\_\_\_  
23

24 **§ 8110.**

25 At least 15 days before the hearing of a petition for administration of a decedent's estate, the  
26 petitioner shall serve notice of the hearing ~~by mail or personal delivery~~ pursuant to Section 1215  
27 on all of the following persons:

- 28 (a) Each heir of the decedent, so far as known to or reasonably ascertainable by the petitioner.
- 29 (b) Each devisee, executor, and alternative executor named in any will being offered for probate,  
30 regardless of whether the devise or appointment is purportedly revoked in a subsequent  
31 instrument.  
32

33 **§ 8111.**

34 If the decedent's will involves or may involve a testamentary trust of property for charitable  
35 purposes other than a charitable trust with a designated trustee resident in this state, or involves  
36 or may involve a devise for charitable purposes without an identified devisee, notice of hearing  
37 accompanied by a copy of the petition and of the will shall be served pursuant to Section 1215 on  
38 the Attorney General as provided in Section 1209.  
39

40 **§ 8469.**

- 41 (a) For good cause, the court may allow the priority given by Section 8461 to a conservator or  
42 guardian of the estate of the decedent serving in that capacity at the time of death that has not  
43 filed a first account, or that is acting as guardian or conservator for another person, or both.

1 (b) If the petition for appointment as administrator requests the court to allow the priority  
2 permitted by subdivision (a), the petitioner shall, in addition to the notice otherwise required by  
3 statute, serve notice of the hearing ~~by mail or personal delivery~~ pursuant to Section 1215 on the  
4 public administrator.

5  
6 **§ 8522.**

7 (a) If a vacancy occurs in the office of a personal representative and there are no other personal  
8 representatives, the court shall appoint a successor personal representative.

9 (b) Appointment of a successor personal representative shall be made on petition and service of  
10 notice pursuant to Section 1215 on interested persons in the manner provided in Article 2  
11 (commencing with Section 8110) of Chapter 2, and shall be subject to the same priority as for an  
12 original appointment of a personal representative. The personal representative of a deceased  
13 personal representative is not, as such, entitled to appointment as successor personal  
14 representative.

15  
16 **§ 8803.**

17 On the filing of an inventory and appraisal or a supplemental inventory and appraisal, the  
18 personal representative shall, pursuant to Section 1252, ~~mail~~ serve a copy ~~to~~ on each person who  
19 has requested special notice.

20  
21 **§ 8903.**

22 (a) The court may, for good cause, waive appraisal by a probate referee in the manner provided  
23 in this section.

24 (b) \* \* \*

25 (c) The hearing on the waiver shall be not sooner than 15 days after the petition is filed. Notice  
26 of the hearing on the petition, together with a copy of the petition and a copy of the proposed  
27 inventory and appraisal, shall be ~~given~~ served as provided in Sections 1215 and 1220 ~~to~~ on all of  
28 the following persons:

29 (1) Each person listed in Section 1220.

30 (2) Each known heir whose interest in the estate would be affected by the waiver.

31 (3) Each known devisee whose interest in the estate would be affected by the waiver.

32 (4) The Attorney General, at the office of the Attorney General in Sacramento, if any portion of  
33 the estate is to escheat to the state and its interest in the estate would be affected by the waiver.

34 (5) The probate referee, if a probate referee has been designated.

35 (d) \* \* \*

36 (e) \* \* \*

37  
38 **§ 8906.**

39 (a) \* \* \*

40 (b) The clerk shall fix a time, not less than 15 days after the filing, for a hearing on the objection.

41 (c) The person objecting shall ~~give~~ serve notice of the hearing, together with a copy of the  
42 objection, as provided in Section 1220. If the appraisal was made by a probate referee, the person  
43 objecting shall also ~~mail~~ serve notice of the hearing and a copy of the objection ~~to~~ on the probate

1 referee at least 15 days before the date set for the hearing.

2 (d) \* \* \*

3 (e) \* \* \*

4

5 **§ 8924.**

6 (a) The court shall remove the designated probate referee in any of the following circumstances:

7 (1) The personal representative shows cause, including incompetence or undue delay in making  
8 the appraisal, that in the opinion of the court warrants removal of the probate referee. The

9 showing shall be made at a hearing on petition of the personal representative. The personal

10 representative shall ~~mail~~ serve pursuant to Section 1215 notice of the hearing on the

11 petition ~~to~~ on the probate referee at least 15 days before the date set for the hearing.

12 (2) The personal representative has the right to remove the first probate referee who is designated  
13 by the court. No cause need be shown for removal under this paragraph. The personal

14 representative may exercise the right at any time before the personal representative delivers the  
15 inventory to the probate referee. The personal representative shall exercise the right by filing an

16 affidavit or declaration under penalty of perjury with the court and ~~mailing~~ serving a copy ~~to~~ on

17 the probate referee. Thereupon, the court shall remove the probate referee without any further act  
18 or proof.

19 (3) Any other cause provided by statute.

20 (b) Upon removal of the probate referee, the court shall designate another probate referee in the  
21 manner prescribed in Section 8920.

22

23 **§ 9052.**

24 The notice shall be in substantially the following form:

25

26 NOTICE OF ADMINISTRATION OF

27 ESTATE OF \_\_\_\_\_, DECEDENT

28 Notice to creditors:

29

30 Administration of the estate of \_\_\_\_\_ (deceased) has been commenced by \_\_\_\_\_

31 (personal representative) in Estate No. \_\_\_\_\_ in the Superior Court of California, County of

32 \_\_\_\_\_. You must file your claim with the court and ~~mail~~ serve a copy pursuant to Section

33 1215 of the California Probate Code on the personal representative within the last to occur of

34 four months after \_\_\_\_\_ (the date letters were first issued to a general personal

35 representative, as defined in subdivision (b) of Section 58 of the California Probate Code), or 60

36 days after the date this notice was mailed to you or, in the case of personal delivery, 60 days after

37 the date this notice was delivered to you, or you must petition to file a late claim as provided in

38 Section 9103 of the California Probate Code. Failure to file a claim with the court and serve a

39 copy of the claim on the personal representative will, in most instances, invalidate your claim. A

40 claim form may be obtained from the court clerk. For your protection, you are encouraged to file

41 your claim by certified mail, with return receipt requested.

42

43 (Date of mailing this notice)



1 (Name and address of personal representative or attorney)

2  
3 **§ 9153.**

4 A claim form adopted by the Judicial Council shall inform the creditor that the claim must be  
5 filed with the court and a copy ~~mailed or delivered to~~ served pursuant to Section 1215 on the  
6 personal representative. The claim form shall include a proof of ~~mailing or delivery~~ service of a  
7 copy of the claim ~~to~~ on the personal representative, which may be completed by the creditor.  
8

9 **§ 9732.**

10 (a) \* \* \*

11 (b) To obtain an order under this section, the personal representative or any interested person  
12 shall file a petition showing the general condition of the estate and the types of investments that  
13 are proposed to be made.

14 (c) Notice of the hearing on the petition shall be ~~given~~ served as provided in Sections 1215 and  
15 1220. In addition, the petitioner shall cause notice of the hearing and a copy of the petition to  
16 be ~~mailed to~~ served pursuant to Section 1215 on all known devisees of property which is  
17 proposed to be invested. Where the property proposed to be invested is devised to a trust or  
18 trustee, notice of the hearing and a copy of the petition shall be ~~mailed to~~ served pursuant to  
19 Section 1215 on the trustee or, if the trustee has not yet accepted the trust, ~~to~~ on the person  
20 named in the will as trustee. Mailing Service pursuant to this subdivision shall be ~~to~~ on the  
21 person's last known address as provided in Section 1220.

22 (d) \* \* \*

23  
24 **§ 9762.**

25 (a) \* \* \*

26 (b) \* \* \*

27 (c) \* \* \*

28 (d) To obtain an order under this section, the personal representative or any interested person  
29 shall file a petition showing that the order requested would be to the advantage of the estate and  
30 in the best interest of the interested persons. Notice of the hearing on the petition shall  
31 be ~~given~~ served as provided in Sections 1215 and 1220. In addition, unless the court otherwise  
32 orders, the petitioner, not less than 15 days before the hearing, shall cause notice of hearing and a  
33 copy of the petition to be ~~mailed to~~ served pursuant to Section 1215 on each of the surviving  
34 general partners at his or her last known address.  
35

36 **§ 9783.**

37 A person described in Section 9782 may ~~deliver or mail~~ serve pursuant to Section 1215 a written  
38 objection to the disposition or abandonment to the personal representative on or before the date  
39 specified in the notice as the date on or after which the property will be disposed of or  
40 abandoned. Subject to Section 9788, after receipt of the written objection, the personal  
41 representative shall not dispose of or abandon the property without authorization by order of the  
42 court obtained under Section 9611.  
43

1 **§ 9787.**

2 (a) Except as provided in subdivision (b), a person described in Section 9782 who receives notice  
3 of the proposed disposition or abandonment as provided in Section 9782, waives the right to  
4 have the court later review the disposition or abandonment of the property unless the person does  
5 one of the following:

6 (1) ~~Delivers or mails~~ Serves pursuant to Section 1215 a written objection as provided in Section  
7 9783.

8 (2) Serves a restraining order obtained under Section 9784 before whichever of the following is  
9 the later time:

10 (A) The date specified in the notice of proposed disposition or abandonment as the date on or  
11 after which the property will be disposed of or abandoned.

12 (B) The date the property has actually been disposed of or abandoned.

13 (b) Subject to Section 9785, the court may review the disposition or abandonment of the property  
14 upon the motion of a person described in subdivision (a) of Section 9782 who establishes that he  
15 or she did not actually receive notice of the proposed disposition or abandonment before the time  
16 to object expired.

17  
18 **§ 10585.**

19 (a) The notice of proposed action shall state all of the following:

20 (1) The name, ~~and~~ mailing address, and electronic address of the personal representative.

21 (2) The person, ~~and~~ telephone number, and electronic address, to ~~call~~ contact to get additional  
22 information.

23 (3)–(4) \* \* \*

24 (b) The notice of proposed action may be given using the most current Notice of Proposed  
25 Action form prescribed by the Judicial Council.

26 (c) If the most current form prescribed by the Judicial Council is not used to give notice of  
27 proposed action, the notice of proposed action shall satisfy all of the following requirements:

28 (1) The notice of proposed action shall be in substantially the same form as the form prescribed  
29 by the Judicial Council.

30 (2) The notice of proposed action shall contain the statements described in subdivision (a).

31 (3) The notice of proposed action shall contain a form for objecting to the proposed action in  
32 substantially the form set out in the Judicial Council form.

33  
34 **§ 10586.**

35 The notice of proposed action shall be ~~mailed or personally delivered to~~ served pursuant to  
36 Section 1215 on each person required to be given notice of proposed action not less than 15 days  
37 before the date specified in the notice of proposed action on or after which the proposed action is  
38 to be taken. If mailed, the notice of proposed action shall be addressed to the person at the  
39 person's last known address. ~~Sections 1215 and 1216 apply to the mailing or delivery of the~~  
40 ~~notice of proposed action.~~

41  
42 **§ 10587.**

43 (a) Any person entitled to notice of proposed action under Section 10581 may object to the

1 proposed action as provided in this section.

2 (b) The objection to the proposed action is made by ~~delivering or mailing~~ serving pursuant to  
3 Section 1215 a written objection to the proposed action ~~to~~ on the personal representative at the  
4 address stated in the notice of proposed action. The person objecting to the proposed action  
5 either may use the Judicial Council form or may make the objection in any other writing that  
6 identifies the proposed action with reasonable certainty and indicates that the person objects to  
7 the taking of the proposed action.

8 (c) The personal representative is deemed to have notice of the objection to the proposed action  
9 if it is delivered or received at the address stated in the notice of proposed action before  
10 whichever of the following times is the later:

11 (1) The date specified in the notice of proposed action on or after which the proposed action is to  
12 be taken.

13 (2) The date the proposed action is actually taken.

14  
15 **§ 11601.**

16 Notice of the hearing on the petition shall be ~~given~~ served as provided in Sections 1215 and  
17 1220 ~~to~~ on all of the following persons:

18 (a) Each person listed in Section 1220.

19 (b) Each known heir whose interest in the estate would be affected by the petition.

20 (c) Each known devisee whose interest in the estate would be affected by the petition.

21 (d) The Attorney General, at the office of the Attorney General in Sacramento, if any portion of  
22 the estate is to escheat to the state and its interest in the estate would be affected by the petition.

23 (e) The Controller, if property is to be distributed to the state because there is no known  
24 beneficiary or if property is to be distributed to a beneficiary whose whereabouts is unknown. A  
25 copy of the latest account filed with the court shall be served on the Controller with the notice.  
26

27 **§ 13200.**

28 (a) No sooner than six months from the death of a decedent, a person or persons claiming as  
29 successor of the decedent to a particular item of property that is real property may file in the  
30 superior court in the county in which the decedent was domiciled at the time of death, or if the  
31 decedent was not domiciled in this state at the time of death, then in any county in which real  
32 property of the decedent is located, an affidavit in the form prescribed by the Judicial Council  
33 pursuant to Section 1001 stating all of the following:

34 (1) The name of the decedent.

35 (2) The date and place of the decedent's death.

36 (3) A legal description of the real property and the interest of the decedent therein.

37 (4) The name and address of each person serving as guardian or conservator of the estate of the  
38 decedent at the time of the decedent's death, so far as known to the affiant.

39 (5) "The gross value of all real property in the decedent's estate located in California, as shown  
40 by the inventory and appraisal attached to this affidavit, excluding the real property described in  
41 Section 13050 of the California Probate Code, does not exceed fifty thousand dollars (\$50,000)."

42 (6) "At least six months have elapsed since the death of the decedent as shown in a certified copy  
43 of decedent's death certificate attached to this affidavit."

- 1 (7) Either of the following, as appropriate:  
2 (A) “No proceeding is now being or has been conducted in California for administration of the  
3 decedent’s estate.”  
4 (B) “The decedent’s personal representative has consented in writing to use of the procedure  
5 provided by this chapter.”  
6 (8) “Funeral expenses, expenses of last illness, and all unsecured debts of the decedent have been  
7 paid.”  
8 (9) “The affiant is the successor of the decedent (as defined in Section 13006 of the Probate  
9 Code) and to the decedent’s interest in the described property, and no other person has a superior  
10 right to the interest of the decedent in the described property.”  
11 (10) “The affiant declares under penalty of perjury under the laws of the State of California that  
12 the foregoing is true and correct.”  
13 (b) For each person executing the affidavit, the affidavit shall contain a notary public’s certificate  
14 of acknowledgment identifying the person.  
15 (c) There shall be attached to the affidavit an inventory and appraisal of the decedent’s real  
16 property in this state, excluding the real property described in Section 13050. The inventory and  
17 appraisal of the real property shall be made as provided in Part 3 (commencing with Section  
18 8800) of Division 7. The appraisal shall be made by a probate referee selected by the affiant from  
19 those probate referees appointed by the Controller under Section 400 to appraise property in the  
20 county where the real property is located.  
21 (d) If the affiant claims under the decedent’s will and no estate proceeding is pending or has been  
22 conducted in California, a copy of the will shall be attached to the affidavit.  
23 (e) A certified copy of the decedent’s death certificate shall be attached to the affidavit. If the  
24 decedent’s personal representative has consented to the use of the procedure provided by this  
25 chapter, a copy of the consent and of the personal representative’s letters shall be attached to the  
26 affidavit.  
27 (f) The affiant shall ~~mail~~ serve pursuant to Section 1215 a copy of the affidavit and  
28 attachments ~~to~~ on any person identified in paragraph (4) of subdivision (a).

29

30 **§ 13655.**

31 (a) If proceedings for the administration of the estate of the deceased spouse are pending at the  
32 time a petition is filed under this chapter, or if the proceedings are not pending and if the petition  
33 filed under this chapter is not filed with a petition for probate of the deceased spouse’s will or for  
34 administration of the estate of the deceased spouse, notice of the hearing on the petition filed  
35 under this chapter shall be ~~given~~ served as provided in Sections 1215 and 1220 ~~to~~ on all of the  
36 following persons:

37 (1) Each person listed in Section 1220 and each person named as executor in any will of the  
38 deceased spouse.

39 (2) All devisees and known heirs of the deceased spouse and, if the petitioner is the trustee of a  
40 trust that is a devisee under the will of the decedent, all persons interested in the trust, as  
41 determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of  
42 Section 15804.

43 (b) The notice specified in subdivision (a) shall also be ~~mailed~~ served as provided in subdivision

1 (a) ~~to~~ on the Attorney General, addressed to the office of the Attorney General at Sacramento, if  
2 the petitioner bases the allegation that all or part of the estate of the deceased spouse is property  
3 passing to the surviving spouse upon the will of the deceased spouse and the will involves or  
4 may involve either of the following:

5 (1) A testamentary trust of property for charitable purposes other than a charitable trust with a  
6 designated trustee, resident in this state.

7 (2) A devise for a charitable purpose without an identified devisee or beneficiary.  
8

9 **§ 15686.**

10 (a) As used in this section, “trustee’s fee” includes, but is not limited to, the trustee’s periodic  
11 base fee, rate of percentage compensation, minimum fee, hourly rate, and transaction charge, but  
12 does not include fees for extraordinary services.

13 (b) A trustee may not charge an increased trustee’s fee for administration of a particular trust  
14 unless the trustee first gives at least 60 days’ written notice of that increased fee to all of the  
15 following persons:

16 (1) Each beneficiary who is entitled to an account under Section 16062.

17 (2) Each beneficiary who was given the last preceding account.

18 (3) Each beneficiary who has made a written request to the trustee for notice of an increased  
19 trustee’s fee and has given an address for receiving notice ~~by mail~~.

20 (c) If a beneficiary files a petition under Section 17200 for review of the increased trustee’s fee  
21 or for removal of the trustee and serves a copy of the petition on the trustee before the expiration  
22 of the 60-day period, the increased trustee’s fee does not take effect as to that trust until  
23 otherwise ordered by the court or the petition is dismissed.  
24

25 **§ 16061.7.**

26 (a) \* \* \*

27 (b) \* \* \*

28 (c) \* \* \*

29 (d) \* \* \*

30 (e) The notification by trustee shall be served pursuant to Section 1215 on ~~by mail to~~ the last  
31 known address, ~~or by personal delivery~~.

32 (f) \* \* \*

33 (g) The notification by trustee shall contain the following information:

34 (1) The identity of the settlor or settlors of the trust and the date of execution of the trust  
35 instrument.

36 (2) The name, ~~mailing~~ address, and telephone number of each trustee of the trust.

37 (3) The address of the physical location where the principal place of administration of the trust is  
38 located, pursuant to Section 17002.

39 (4) Any additional information that may be expressly required by the terms of the trust  
40 instrument.

41 (5) A notification that the recipient is entitled, upon reasonable request to the trustee, to receive  
42 from the trustee a true and complete copy of the terms of the trust.

43 (h) If the notification by the trustee is served because a revocable trust or any portion of it has

1 become irrevocable because of the death of one or more settlors of the trust, or because, by the  
2 express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor  
3 because of a contingency related to the death of one or more of the settlors of the trust, the  
4 notification by the trustee shall also include a warning, set out in a separate paragraph in not less  
5 than 10-point boldface type, or a reasonable equivalent thereof, that states as follows:  
6 “You may not bring an action to contest the trust more than 120 days from the date this  
7 notification by the trustee is served upon you or 60 days from the date on which a copy of the  
8 terms of the trust is ~~mailed or personally delivered to~~ served on you during that 120-day period,  
9 whichever is later.”

10 (i) \* \* \*

11 (j) \* \* \*

12  
13 **§ 16061.8.**

14 No person upon whom the notification by the trustee is served pursuant to this chapter, whether  
15 the notice is served on him or her within or after the time period set forth in subdivision (f) of  
16 Section 16061.7, may bring an action to contest the trust more than 120 days from the date the  
17 notification by the trustee is served upon him or her, or 60 days from the day on which a copy of  
18 the terms of the trust is ~~mailed or personally delivered to~~ served pursuant to Section 1215 on him  
19 or her during that 120-day period, whichever is later.

20  
21 **§ 16061.9.**

22 (a) A trustee who fails to serve the notification by trustee as required by Section 16061.7 on a  
23 beneficiary shall be responsible for all damages, attorney’s fees, and costs caused by the failure  
24 unless the trustee makes a reasonably diligent effort to comply with that section.

25 (b) A trustee who fails to serve the notification by trustee as required by Section 16061.7 on an  
26 heir who is not a beneficiary and whose identity is known to the trustee shall be responsible for  
27 all damages caused to the heir by the failure unless the trustee shows that the trustee made a  
28 reasonably diligent effort to comply with that section. For purposes of this subdivision,  
29 “reasonably diligent effort” means that the trustee has ~~sent~~ served notice ~~by first-class mail~~  
30 ~~to~~ pursuant to Section 1215 on the heir at the heir’s last ~~mailing~~ address actually known to the  
31 trustee.

32  
33 **§ 16336.6.**

34 Unless expressly prohibited by the governing instrument, a trustee may reconvert the trust from a  
35 unitrust or change the payout percentage of a unitrust.

36 (a) The trustee may make the reconversion or change in payout percentage without a court order  
37 if all of the following conditions are satisfied:

38 (1) At least three years have elapsed since the most recent conversion to a unitrust.

39 (2) The trustee determines that reconversion or change in payout percentage would enable the  
40 trustee to better comply with the provisions of subdivision (b) of Section 16335.

41 (3) One of the following notice requirements is satisfied:

42 (A) In the case of a proposed reconversion, the trustee gives written notice of the trustee’s  
43 intention to convert that complies with the requirements of Chapter 5 (commencing with Section

1 16500) and no beneficiary objects to the proposed action in a writing ~~delivered to~~ served  
2 pursuant to Section 1215 on the trustee within the period prescribed by subdivision (d) of Section  
3 16502. The trustee's notice shall include the information described in subdivision (3) and (4) of  
4 subdivision (c) of Section 16336.4.

5 (B) In the case of a proposed change in payout percentage, the trustee gives written notice stating  
6 the new payout percentage that the trustee proposes to adopt, which notice shall comply with the  
7 requirements of Chapter 5 (commencing with Section 16500), and no beneficiary objects to the  
8 proposed action in a writing ~~delivered~~ served pursuant to Section 1215 on the trustee within the  
9 period prescribed by subdivision (d) of Section 16502.

10 (b) The trustee may make the reconversion or change in payout percentage at any time pursuant  
11 to court order provided that: (1) the court determines that reconversion or change in payout  
12 percentage will enable the trustee to better comply with the provisions of subdivision (b) of  
13 Section 16335, and (2) in the case of a change in payout percentage, the new payout percentage  
14 is at least 3 percent and no greater than 5 percent. The court may enter an order pursuant to this  
15 subdivision upon the petition of the trustee or any beneficiary.

16  
17 **§ 16501.**

18 (a) The trustee who elects to provide notice pursuant to this chapter shall ~~mail~~ serve pursuant to  
19 Section 1215 notice of the proposed action ~~to~~ on each of the following:

20 (1) A beneficiary who is receiving, or is entitled to receive, income under the trust, including a  
21 beneficiary who is entitled to receive income at the discretion of the trustee.

22 (2) A beneficiary who would receive a distribution of principal if the trust were terminated at the  
23 time the notice is given.

24 (b) Notice of proposed action is not required to be given to a person who consents in writing to  
25 the proposed action. The consent may be executed at any time before or after the proposed action  
26 is taken.

27 (c) A trustee is not required to provide a copy of the notice of proposed action to a beneficiary  
28 who is known to the trustee but who cannot be located by the trustee after reasonable diligence  
29 or who is unknown to the trustee.

30 (d) Notwithstanding any other provision of this chapter, the trustee may not use a notice of  
31 proposed action in any of the following actions:

32 (1) Allowance of the trustee's compensation.

33 (2) Allowance of compensation of the attorney for the trustee.

34 (3) Settlement of accounts.

35 (4) Preliminary and final distributions and discharge.

36 (5) Sale of property of the trust to the trustee or to the attorney for the trustee.

37 (6) Exchange of property of the trust for property of the trustee or for property of the attorney for  
38 the trustee.

39 (7) Grant of an option to purchase property of the trust to the trustee or to the attorney for the  
40 trustee.

41 (8) Allowance, payment, or compromise of a claim of the trustee, or the attorney for the trustee,  
42 against the trust.

43 (9) Compromise or settlement of a claim, action, or proceeding by the trust against the trustee or

1 against the attorney for the trust.

2 (10) Extension, renewal, or modification of the terms of a debt or other obligation of the trustee,  
3 or the attorney for the trustee, owing to or in favor of the trust.

4  
5 **§ 16502.**

6 The notice of proposed action shall state that it is given pursuant to this section and shall include  
7 all of the following:

8 (a) The name, mailing address, and mailing electronic address of the trustee.

9 (b) The name, ~~and~~ telephone number, and electronic address of a person who may be contacted  
10 for additional information.

11 (c) A description of the action proposed to be taken and an explanation of the reasons for the  
12 action.

13 (d) The time within which objections to the proposed action can be made, which shall be at least  
14 45 days from the mailing service of the notice of proposed action.

15 (e) The date on or after which the proposed action may be taken or is effective.

16  
17 **§ 16503.** Objections to proposed actions by beneficiary; failure to object; petitions

18 (a) A beneficiary may object to the proposed action by mailing serving pursuant to Section 1215  
19 a written objection ~~to~~ on the trustee at the address stated in the notice of proposed action within  
20 the time period specified in the notice of proposed action.

21 (b) A trustee is not liable to a beneficiary for an action regarding a matter governed by this part if  
22 the trustee does not receive a written objection to the proposed action from a beneficiary within  
23 the applicable period and the other requirements of this section are satisfied. If no beneficiary  
24 entitled to notice objects under this section, the trustee is not liable to any current or future  
25 beneficiary with respect to the proposed action. This subdivision does not apply to a person who  
26 is a minor or an incompetent adult at the time of receiving the notice of proposed action unless  
27 the notice is served on a guardian or conservator of the estate of the person.

28 (c) If the trustee receives a written objection within the applicable period, either the trustee or a  
29 beneficiary may petition the court to have the proposed action taken as proposed, taken with  
30 modifications, or denied. In the proceeding, a beneficiary objecting to the proposed action has  
31 the burden of proving that the trustee's proposed action should not be taken. A beneficiary who  
32 has not objected is not estopped from opposing the proposed action in the proceeding.

33 (d) If the trustee decides not to implement the proposed action, the trustee shall notify the  
34 beneficiaries of the decision not to take the action and the reasons for the decision, and the  
35 trustee's decision not to implement the proposed action does not itself give rise to liability to any  
36 current or future beneficiary. A beneficiary may petition the court to have the action taken, and  
37 has the burden of proving that it should be taken.

38  
39 **§ 17203.**

40 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause  
41 notice of hearing to be ~~mailed to~~ served pursuant to Section 1215 on all of the following persons:

42 (1) All trustees.

43 (2) All beneficiaries, subject to Chapter 2 (commencing with Section 15800) of Part 3.



1 (3) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of  
2 the Attorney General.

3 (b) At least 30 days before the time set for hearing on the petition, the petitioner shall cause  
4 notice of the hearing and a copy of the petition to be served in the manner provided in Chapter 4  
5 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure on any  
6 person, other than a trustee or beneficiary, whose right, title, or interest would be affected by the  
7 petition and who does not receive notice pursuant to subdivision (a). The court may not shorten  
8 the time for giving notice under this subdivision.

9 (c) If a person to whom notice otherwise would be given has been deceased for at least 40 days,  
10 and no personal representative has been appointed for the estate of that person, and the deceased  
11 person's right, title, or interest has not passed to any other person pursuant to Division 8  
12 (commencing with Section 13000) or otherwise, notice may instead be ~~given to~~ served pursuant  
13 to Section 1215 on the following persons:

14 (1) Each heir and devisee of the decedent, and all persons named as executors of the will of the  
15 decedent, so far as known to the petitioner.

16 (2) Each person serving as guardian or conservator of the decedent at the time of the decedent's  
17 death, so far as known to the petitioner.

18  
19 **§17204.**

20 (a) If proceedings involving a trust are pending, a beneficiary of the trust may, in person or by  
21 attorney, file with the court clerk where the proceedings are pending a written request stating that  
22 the beneficiary desires special notice of the filing of petitions in the proceeding relating to any or  
23 all of the purposes described in Section 17200 and giving an address for receiving notice by  
24 mail. A copy of the request shall be ~~personally delivered to or mailed to~~ served pursuant to  
25 Section 1215 on the trustee or the trustee's attorney. If ~~personally delivered~~ served, the request is  
26 effective when it is delivered. If ~~mailed~~ or electronically served, the request is effective when it  
27 is received. When the original of the request is filed with the court clerk, it shall be accompanied  
28 by a written admission or proof of service. A request for special notice may be modified or  
29 withdrawn in the same manner as provided for the making of the initial request.

30 (b)(1) An interested person may request special notice in the same manner as a beneficiary under  
31 subdivision (a), for the purpose set forth in paragraph (9) of subdivision (b) of Section 17200.  
32 The request for special notice shall be accompanied by a verified statement of the person's  
33 interest.

34 (2) For purposes set forth in paragraphs (2), (4) to (6), inclusive, (8), (12), (16), (20), and (21) of  
35 subdivision (b) of Section 17200, an interested person may petition the court for an order for  
36 special notice of proceedings involving a trust. The petition shall include a verified statement of  
37 the creditor's interest and may be served on the trustee or the trustee's attorney by personal  
38 delivery or in the manner required by Section 1215. The petition may be made by ex parte  
39 application.

40 (3) For purposes of this subdivision, an "interested person" means only a creditor of a trust or, if  
41 the trust has become irrevocable upon the death of a trustor, a creditor of the trustor.

42 (4) This section does not confer standing on an interested person if standing does not otherwise  
43 exist.

1 (c) Except as provided in subdivision (d), after serving and filing a request and proof of service  
2 pursuant to subdivision (a) or paragraph (1) of subdivision (b), the beneficiary or the interested  
3 person is entitled to notice pursuant to Section 17203. If the petition of an interested person filed  
4 pursuant to paragraph (2) of subdivision (b) is granted by the court, the interested person is  
5 entitled to notice pursuant to Section 17203.

6 (d) A request for special notice made by a beneficiary whose right to notice is restricted by  
7 Section 15802 is not effective.

8  
9 **§ 17205.**

10 If a trustee or beneficiary has served and filed either a notice of appearance, in person or by  
11 counsel, directed to the petitioner or the petitioner's counsel in connection with a particular  
12 petition and proceeding or a written request for a copy of the petition, and has given an address  
13 to which notice or a copy of the petition may be ~~mailed or delivered~~ served pursuant to Section  
14 1215, the petitioner shall cause a copy of the petition to be ~~mailed to~~ served on that person within  
15 five days after service of the notice of appearance or receipt of the request.

16  
17 **§ 17403.**

18 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause  
19 notice of the time and place of the hearing to be ~~mailed to~~ served pursuant to Section 1215 on  
20 each of the persons named in the petition at their respective addresses as stated in the petition.

21 (b) Any person interested in the trust, as trustee, beneficiary, or otherwise, may appear and file  
22 written grounds in opposition to the petition.

23  
24 **§ 17454.**

25 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause  
26 notice of the time and place of the hearing to be ~~mailed to~~ served pursuant to Section 1215 on  
27 each of the persons named in the petition at their respective addresses as stated in the petition.

28 (b) Any person interested in the trust, as trustee, beneficiary, or otherwise, may appear and file  
29 written grounds in opposition to the petition.

30  
31 **§ 19011.**

32 (a) The Judicial Council may prescribe the form and contents of the petition, notice, claim form,  
33 and allowance or rejection form to be used pursuant to this part. The allowance or rejection form  
34 may be part of the claim form.

35 (b) Any claim form adopted by the Judicial Council shall inform the creditor that the claim must  
36 be filed with the court and a copy ~~mailed or delivered to~~ served pursuant to Section 1215 on the  
37 trustee. The claim form shall include a proof of ~~mailing or delivery~~ service of a copy of the  
38 claim ~~to~~ on the trustee, which may be completed by the claimant.

39  
40 **§ 19024.**

41 At least 30 days before the time set for the hearing on the petition, the petitioner shall cause  
42 notice of the time and place of the hearing, together with a copy of the petition, to be ~~mailed~~  
43 ~~to~~ served pursuant to Section 1215 on each of the following persons who is not a petitioner:

- 1 (a) All trustees of the trust and of any other trusts to which an allocation of liability may be
- 2 approved by the court pursuant to the petition.
- 3 (b) All beneficiaries affected.
- 4 (c) The personal representative of the deceased settlor's estate, if any is known to the trustee.
- 5 (d) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of
- 6 the Attorney General, unless the Attorney General waives notice.

7  
8 **§ 19040.**

- 9 (a) \* \* \*
- 10 (b) The caption of the notice, the deceased settlor's name, and the name of the trustee shall be in
- 11 at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall
- 12 state substantially as follows:

13 NOTICE TO CREDITORS  
14 OF \_\_\_\_\_  
15 # \_\_\_\_\_  
16 SUPERIOR COURT OF CALIFORNIA  
17 COUNTY OF \_\_\_\_\_  
18

19 Notice is hereby given to the creditors and contingent creditors of the above-named decedent,  
20 that all persons having claims against the decedent are required to file them with the Superior  
21 Court, at \_\_\_\_\_, and ~~mail~~ serve pursuant to Section 1215 of the California Probate Code a  
22 copy ~~to~~ on \_\_\_\_\_, as trustee of the trust dated \_\_\_\_\_ wherein the decedent was the settlor, at  
23 \_\_\_\_\_, within the later of four months after \_\_\_\_\_ (the date of the first publication of notice to  
24 creditors) or, if notice is mailed or personally delivered to you, 60 days after the date this notice  
25 is mailed or personally delivered to you. A claim form may be obtained from the court clerk. For  
26 your protection, you are encouraged to file your claim by certified mail, with return receipt  
27 requested.

28 (name and address of trustee or attorney)

- 29 (c) \* \* \*
- 30

31 **§ 19052.**

32 The notice shall be in substantially the following form:

33 NOTICE TO CREDITORS  
34 OF \_\_\_\_\_  
35  
36 # \_\_\_\_\_  
37 SUPERIOR COURT OF CALIFORNIA  
38 COUNTY OF \_\_\_\_\_

39 Notice is hereby given to the creditors and contingent creditors of the above-named decedent,  
40 that all persons having claims against the decedent are required to file them with the Superior  
41 Court, at \_\_\_\_\_, and ~~mail or deliver~~ serve pursuant to Section 1215 of the California Probate  
42 Code a copy ~~to~~ on \_\_\_\_\_, as trustee of the trust dated \_\_\_\_\_ wherein the decedent was the  
43 settlor, at \_\_\_\_\_, within the later of four months after \_\_\_\_\_ (the date of the first publication

1 of notice to creditors) or, if notice is mailed or personally delivered to you, 60 days after the date  
2 this notice is mailed or personally delivered to you, or you must petition to file a late claim as  
3 provided in Section 19103 of the Probate Code. A claim form may be obtained from the court  
4 clerk. For your protection, you are encouraged to file your claim by certified mail, with return  
5 receipt requested.

6 \_\_\_\_\_  
7 (Date of mailing this  
8 notice if applicable)

9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 (name and address of  
12 trustee or attorney)

13  
14 **§ 19150.**

15 (a) A claim may be filed by the creditor or a person acting on behalf of the claimant.

16 (b) A claim shall be filed with the court and a copy shall be ~~mailed to~~ served pursuant to Section  
17 1215 on the trustee. Failure to ~~mail~~ serve a copy ~~to~~ on the trustee does not invalidate a properly  
18 filed claim, but any loss that results from the failure shall be borne by the creditor.

19  
20 **§ 19153.**

21 The Judicial Council may adopt a claim form which shall inform the creditor that the claim must  
22 be filed with the court and a copy ~~mailed or delivered to~~ served pursuant to Section 1215 on the  
23 trustee. Any such claim form shall include a proof of ~~mailing or delivery~~ service of a copy of the  
24 claim ~~to~~ on the trustee which may be completed by the creditor.

25  
26 **§ 19323.**

27 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause  
28 notice of the time and place of the hearing and a copy of the petition to be served on the  
29 surviving spouse in the manner provided in Chapter 4 (commencing with Section 413.10) of  
30 Title 5 of Part 2 of the Code of Civil Procedure.

31 (b) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause  
32 notice of the time and place of hearing, together with a copy of the petition, to be ~~mailed to~~  
33 served pursuant to Section 1215 on each of the following persons who are not petitioners:

34 (1) All trustees of the trust and of any trusts to which an allocation of liability may be approved  
35 by the court pursuant to the petition.

36 (2) All beneficiaries affected.

37 (3) The personal representative of the deceased settlor's estate, if any is known to the trustee.

38 (4) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of  
39 the Attorney General, unless the Attorney General waives notice.

40  
41  
42 **§ 20122.**

43 Not less than 30 days before the hearing, the petitioner shall do both of the following:

1 (a) Cause notice of the hearing and a copy of the petition to be ~~mailed to~~ served pursuant to  
2 Section 1215 on the personal representative and ~~to~~ on each person interested in the estate against  
3 whom prorated amounts may be charged pursuant to paragraph (1) of subdivision (a) of Section  
4 20123.

5 (b) Cause a summons and a copy of the petition to be served on each person interested in the  
6 estate who may be directed to make payment of prorated amounts pursuant to paragraph (2) of  
7 subdivision (a) of Section 20123. The summons shall be in the form and shall be served in the  
8 manner prescribed in Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil  
9 Procedure.

10

11 **§ 20222.**

12 Not less than 30 days before the hearing the petitioner shall do both of the following:

13 (a) Cause notice of the hearing and a copy of the petition to be ~~mailed to~~ served pursuant to  
14 Section 1215 on the trustee and each transferee against whom prorated amounts may be charged  
15 pursuant to paragraph (1) of subdivision (a) of Section 20223.

16 (b) Cause a summons and a copy of the petition to be served on each transferee who may be  
17 directed to make payment of prorated amounts pursuant to paragraph (2) of subdivision (a) of  
18 Section 20223. The summons shall be in the form and shall be served in the manner prescribed in  
19 Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil Procedure.

Effective January 1, 2018, sections 728 and 5362 of the Welfare and Institutions Code would be amended.

1 **728**

2

3 (a) The juvenile court may terminate or modify a guardianship of the person of a minor  
4 previously established under the Probate Code, or appoint a coguardian or successor  
5 guardian of the person of the minor, if the minor is the subject of a petition filed under  
6 Section 300, 601, or 602. If the probation officer supervising the minor provides  
7 information to the court regarding the minor's present circumstances and makes a  
8 recommendation to the court regarding a motion to terminate or modify a guardianship  
9 established in any county under the Probate Code, or to appoint a coguardian or successor  
10 guardian, of the person of a minor who is before the juvenile court under a petition filed  
11 under Section 300, 601, or 602, the court shall order the appropriate county department,  
12 or the district attorney or county counsel, to file the recommended motion. The motion  
13 may also be made by the guardian or the minor's attorney. The hearing on the motion  
14 may be held simultaneously with any regularly scheduled hearing held in proceedings to  
15 declare the minor a dependent child or ward of the court, or at any subsequent hearing  
16 concerning the dependent child or ward. Notice requirements of Section 294 shall apply  
17 to the proceedings in juvenile court under this subdivision.

18 (b) If the juvenile court decides to terminate or modify a guardianship previously  
19 established under the Probate Code pursuant to subdivision (a), the juvenile court shall  
20 provide notice of that decision to the court in which the guardianship was originally  
21 established. The clerk of the superior court, upon receipt of the notice, shall file the notice  
22 with other documents and records of the pending proceeding and send by first-class  
23 mail or electronic service pursuant to Section 215 of the Probate Code a copy of the  
24 notice to all parties of record in the superior court.

25 (c) If, at any time during the period a minor under the age of 18 years is a ward of the  
26 juvenile court, the probation officer supervising the minor recommends to the court that  
27 the court establish a guardianship of the person of the minor and appoint a specific adult  
28 to act as guardian, or on the motion of the minor's attorney, or on the order of the court  
29 that a guardianship shall be established as the minor's permanent plan pursuant to  
30 paragraph (4) of subdivision (b) of Section 727.3, the court shall set a hearing to consider  
31 the recommendation or motion and shall order the clerk to notice the minor's parents and  
32 relatives as required in Section 294. If the motion is not made by the minor's attorney, the  
33 court may appoint the district attorney or county counsel to prosecute the action.

34 (d) The procedures for appointment of a guardian shall be conducted exclusively pursuant  
35 to Section 366.26, except that subdivision (j) of Section 366.26 shall not apply.

36 (e) Upon the appointment of a guardian pursuant to subdivision (d), the court may  
37 continue wardship and conditions of probation, or may terminate the wardship of the  
38 minor.

39 (f) Notwithstanding Section 1601 of the Probate Code, the proceedings to modify or  
40 terminate a guardianship granted under this section shall be held in the juvenile court  
41 unless the termination is due to the emancipation or adoption of the minor.

1 (g) The Judicial Council shall develop rules of court and adopt appropriate forms for the  
2 findings and orders under this section.

3  
4 **5362**

5  
6 (a) The clerk of the superior court shall notify each conservator, his or her conservatee  
7 and the person in charge of the facility in which the person resides, and the conservatee's  
8 attorney, at least 60 days before the termination of the one-year period. If the conservator  
9 is a private party, the clerk of the superior court shall also notify the mental health  
10 director and the county officer providing conservatorship investigation pursuant to  
11 Section 5355, at least 60 days before the termination of the one-year period. Notification  
12 shall be ~~given in person or by first class mail~~ served pursuant to Section 1215 of the  
13 Probate Code. The notification shall be in substantially the following form:

14  
15 [Form text here]

16  
17 (b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own  
18 motion, accept or reject the conservator's petition.

19  
20 If the conservator does not petition to reestablish conservatorship at or before the  
21 termination of the one-year period, the court shall issue a decree terminating  
22 conservatorship. The decree shall be ~~sent to~~ served pursuant to Section 1215 of the  
23 Probate Code on the conservator and his or her conservatee ~~by first class mail~~ and shall  
24 be accompanied by a statement of California law as set forth in Section 5368.

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

### LEG16-\_\_

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Title	Action Requested
Juvenile Law: Electronic Filing and Service in Juvenile Proceedings	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Add section 212.5 and amend sections 248, 248.5, 290.1, 290.2, 291, 292, 293, 294, 295, 297, 302, 316.1, 342, 362.4, 364.05, 366.05, 366.21, 366.26, 387, 607.2, 630, 658, 660, 661, 727.4, 777, 778, 779, 785 and 903.45 of the Welfare and Institutions Code	January 1, 2018
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Diana Glick, 916-643-7012 <a href="mailto:diana.glick@jud.ca.gov">diana.glick@jud.ca.gov</a>
Hon. Jerilyn L. Borack, Cochair	Tara Lundstrom, 415-865-7650 <a href="mailto:tara.lundstrom@jud.ca.gov">tara.lundstrom@jud.ca.gov</a>
Hon. Mark A. Juhas, Cochair	
Information Technology Advisory Committee	
Hon. Terence L. Bruiniers, Chair	

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee and the Information Technology Advisory Committee recommend amending the Welfare and Institutions Code to authorize electronic filing and service under Code of Civil Procedure section 1010.6 in juvenile proceedings. This legislative proposal would add a new section 212.5 to the Welfare and Institutions Code that would incorporate by reference Code of Civil Procedure section 1010.6, subject to appropriate conditions and limitations on electronic service for juvenile proceedings. The proposal would also amend various Welfare and Institutions Code provisions to implement new section 212.5 consistently throughout the code.

### Background

Code of Civil Procedure section 1010.6 and trial court rules 2.250–2.261 authorize electronic filing and electronic service in civil matters. Effective July 1, 2014, the Judicial Council amended rule 5.522 to enable the electronic filing of juvenile court documents in accordance

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*



with the trial court rules, specifically rules 2.252, et seq. However, the council expressly excluded the application of trial court rule 2.251 to juvenile proceedings. (See Cal. Rules of Court, rule 5.522(b)(4) [“This rule does not incorporate the electronic service provisions in rule 2.251”].) Rule 2.251 authorizes electronic service and sets forth technical requirements for electronic service.

Effective January 1, 2016, Assembly Bill 879 amended Welfare and Institutions Code sections 290.1–295 to authorize notice of certain juvenile dependency hearings by e-mail. While this legislative proposal circulates for public comment, the Judicial Council will consider whether to adopt rule amendments and a new form to implement AB 879.

### **The Proposal**

The provisions of AB 879 apply to a defined set of hearings conducted for children in the juvenile dependency system and authorize notice by e-mail for those hearings specified in sections 290.1–295. The legislation set important parameters for electronic service in the juvenile context and codified protections for parties and other persons who may consent to receive an e-mail notice of hearing.

This proposal seeks to apply the electronic filing and service provisions contained in section 1010.6 of the Code of Civil Procedure to juvenile dependency and delinquency proceedings, while preserving, and in some cases expanding upon the conditions and limitations on electronic service set forth in AB 879.

### **New proposed section 212.5**

Specifically, the proposal would add a new section 212.5 to Welfare and Institutions Code, which would expressly apply the provisions of section 1010.6 of the Code of Civil Procedure to all juvenile proceedings, while setting limitations and conditions on the electronic service of parties and other persons. The limitations on electronic service include the following:

- Electronic service is authorized only if the county and the court choose to permit electronic service.
- Electronic service on a party or other person is permitted only upon consent to receive electronic service by the party or other person.
- A party or other person may withdraw prior consent to electronic service
- Consent or withdrawal of prior consent to receive electronic service may be filed with the court only by a party or other person, or that person’s attorney.
- Electronic service is not permitted on minors who are under the age of 16.
- If the party or other person to be served is a minor who is 16 years old or older, electronic service is permitted only upon consent by both the minor and the minor’s attorney
- The party or other person must be served by both electronic means and by other means specified in the statute if (1) the document to be served is the notice of hearing at which the social worker will recommend the termination of parental rights, or the appellate advisements required pursuant to Welfare and Institutions Code section 366.26(l)(3)(A);

or (2) there is a citation issued pursuant to section 661, or a hearing is noticed under section 777(d).

- If the minor is an Indian child, or the court has reason to know that an Indian child is involved, service shall be provided exclusively in accordance with Welfare and Institutions Code section 224.2.

In addition, the proposed new section 212.5 codifies paragraph (3) of subdivision (b) of California Rule of Court 5.522, which provides that the confidentiality of juvenile records shall be preserved when these records are transmitted electronically through encryption. The requirement to apply encryption to ensure the confidentiality of records would apply to both electronic filing and electronic service. The committees explored the issue of encryption of documents and determined that the term “encryption” is unlikely to become obsolete in the near to mid-term future because it does not denote a specific technological application; rather, it applies broadly to technology that preserves the confidentiality of documents.

Lastly, proposed new section 212.5 would prohibit the electronic service of the psychological or medical report of a minor.

#### **Proposed amendments to sections 248 and 248.5**

These sections describe service of the written findings and court orders when a referee hears a juvenile case. This proposal would add references to the new section 212.5 to authorize electronic service of these written findings and orders.

#### **Proposed amendments to sections 290.1, 290.2, 291, 292, 293, 294, 295, and 316.1**

These sections govern notice in the following types of juvenile dependency hearings: detention, jurisdiction, disposition, review, and termination of jurisdiction hearings. They were amended by AB 879 to authorize e-mail notices of hearings. This proposal would amend sections 291, 292, 293, 294, 295, and 316.1 to replace the language added by AB 879 with a cross-reference to the proposed new section 212.5. These proposed amendments are intended to implement electronic service in juvenile proceedings and to streamline the notice provisions in the Welfare and Institutions Code.

In addition, in implementing AB 879, the committees determined that from an operational perspective, it is unlikely that a person entitled to notice would have the opportunity to be fully informed of his or her right to notice and the advisability of consenting to electronic notice of hearings before the initial petition hearing. Therefore, the authorization for electronic notice of an initial petition hearing in sections 290.1 and 290.2 would be removed from the Code. The proposal would clarify that electronic service of these notices is not permitted.

#### **Proposed amendments to section 297**

This section contains notice provisions for subsequent and supplemental petitions, as well as petitions for modification. The proposal would allow for electronic service of these types of petition hearings, pursuant to proposed new section 212.5.

**Proposed amendments to section 302**

This section requires a social worker who provides a parent or guardian with notice of a proceeding at which the social worker intends to present a report, to provide a copy of the report to the parents or guardians and to their attorneys. This proposal would authorize electronic service of this report under the proposed new section 212.5.

**Proposed amendments to section 342**

This section currently provides that procedures for initial hearings also apply to subsequent petitions. This proposal would allow for other procedures as provided by law. Section 297 contains greater detail on the notice requirements for subsequent petitions and also authorizes electronic service.

**Proposed amendments to section 362.4**

This section requires that upon the termination of jurisdiction over a minor, and if there is a juvenile court custody order filed, the clerk of the receiving court must mail a copy of the order with the case number to the juvenile court and mail a copy to the parents. This proposal would add a cross-reference to new proposed section 212.5 to allow the court to send the order to the receiving court by electronic means and to electronically serve a copy of the order on the parents.

**Proposed amendments to sections 364.05 and 366.05**

These sections apply to social workers in counties of the first class; they are required to mail a copy of specified reports to certain parties. The proposal would authorize electronic service of these reports subject to the requirements of proposed new section 212.5.

**Proposed amendments to section 366.21**

This section provides for regular status review hearings for dependent children. There are several social worker reports referenced in this section. The proposal would add a specific reference to proposed new section 212.5 authorizing electronic service of the social worker report required to be provided to parents and others at least 10 calendar days prior to the hearing. The proposal would also authorize electronic service of the report containing a summary of the social worker's recommendation for disposition that must be provided to foster parents, relative caregivers, and certified foster parents.

**Proposed amendments to section 366.26**

This section applies to permanency hearings for dependent children and requires that a notice of hearing pursuant to this section must contain an advisement regarding the appellate rights and responsibilities of litigants. Currently, the appellate advisements may be given orally, if the party is present in court, or by first-class mail. In keeping with the approach of AB 879, this proposal would allow for electronic service of the notice of appellate advisements, subject to one exception: if the social worker will recommend the termination of parental rights at the hearing, electronic service may only be in addition to service by first-class mail. This exception is also stated in the proposed new section 212.5.

**Proposed amendment to section 387**

This section contains a notice provision for supplemental petitions to modify a previous order of placement. The proposal would authorize electronic service of supplemental petitions under proposed new section 212.5.

**Proposed amendment to section 607.2**

This sections requires the court to hold a hearing prior to termination of jurisdiction over a ward under specified circumstances. The proposal would authorize electronic service of the notice of hearing under this section.

**Proposed amendment to section 630**

This section sets forth the requirements for notice of an initial detention hearing in juvenile delinquency. Mirroring the approach with initial petition hearings in juvenile dependency, the proposal would prohibit the electronic service of notice of initial detention hearings under this section.

**Proposed amendments to section 658**

This section describes the notice required for jurisdictional hearings on initial and supplemental petitions. The proposal would prohibit electronic service of notice for a jurisdictional hearing on an initial petition when the child was detained and those persons entitled to notice were not present at the initial detention hearing. The proposal would authorize electronic service of notice of a jurisdictional hearing on a supplemental petition.

**Proposed amendments to section 660**

This section provides different notice requirements for a jurisdictional hearing depending on whether the minor was detained in custody and whether the parties and persons entitled to notice were present at the detention hearing. The proposal would authorize electronic service for these hearings, except for hearings where the child is detained and those persons entitled to service were not present at the detention hearing.

**Proposed amendment to section 661**

This section provides for a citation to appear to be issued by the juvenile court to parents of wards. The proposal would authorize electronic service of the citation only in addition to other forms of service required by law.

**Proposed amendment to section 727.4**

This section contains notice provisions for several types of juvenile delinquency hearings that occur after the initial petition hearing. These include wardship probation hearings and six-month and twelve-month hearings for dependents who are subsequently adjudged to be wards of the court. The proposal would allow for electronic service of notices of these hearings under proposed new section 212.5.

**Proposed amendments to section 777**

This section provides for service of notice of hearing on a violation of probation. The proposal authorizes service of a notice of hearing issued pursuant to subdivision (b) to be electronic service according to new proposed section 212.5. The proposal would authorize electronic service of a notice of hearing held pursuant to subdivision (d), in which there is an order to detain the minor pending adjudication of the alleged violation, only in addition to other legally-required forms of service.

**Proposed amendment to section 778**

This section provides for a hearing on a petition to modify an order of the court. The proposal would authorize electronic service of the notice of this hearing.

**Proposed amendments to section 779**

Section 779 requires that courts serve notice on the Director of the Youth Authority by U.S. mail when the court decides to change, modify, or set aside an order of commitment. This proposal would eliminate the requirement that service must be by U.S. mail.

**Proposed amendment to section 785**

This section provides for a hearing on a petition to terminate jurisdiction or modify an order of the court for a ward who has not been committed to the Youth Authority. The proposal would authorize electronic service of the notice of this hearing.

**Proposed amendments to section 903.45**

This section describes the process by which a county financial evaluation officer determines whether a parent must pay for the costs of care for a minor who is in the custody of the juvenile court. The statute provides that if a parent or guardian agrees to assume responsibility for certain costs, the order to pay those costs may be granted as long as a copy of the order is served on the person by mail. This proposal would authorize electronic service of this order under proposed new section 212.5.

**Alternatives Considered**

As an alternative, the committees considered extending AB 879's authorization of e-mail notices of hearings to juvenile delinquency hearings, without adopting electronic service in the juvenile context.

**Implementation Requirements, Costs, and Operational Impacts**

Implementation may require additional training and changes in court procedures in those courts that choose to allow for electronic service of notices of hearing and other documents. Because AB 879's authorization for e-mailing notices of hearings will be in place for two years before this proposal could go into effect, it is foreseeable that some courts may implement electronic notice in the interim; implementing this proposal should result in minimal implementation costs for these courts.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Are there other sections in the Welfare and Institutions Code that will require amendment in order to facilitate electronic filing or service in juvenile proceedings?
- Are there any juvenile dependency or delinquency proceedings for which this proposal recommends extending electronic service of the notice of the hearing that should remain limited to first-class mail or personal delivery?
- Should this proposal limit the persons who are authorized to obtain the consent to electronic service and file the consent with the court to parties and other persons and their attorneys?
- Is the provision requiring the use of encryption to preserve the confidentiality of electronic documents sufficient to ensure that juvenile records will be protected?
- Is the prohibition on electronic service of psychological and medical evaluations sufficient to protect these documents from unwarranted disclosure? Are there other documents that should be included?
- Is it appropriate to limit electronic service to adults and minors who are at least 16 years old?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

### Attachments and Link

1. Proposed amendments to the Welfare and Institutions Code, at pages 8–35
2. Link A: Assembly Bill 879 (Stats. 2015, ch. 219), [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB879](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB879)

Section 212.5 of the Welfare and Institutions Code would be added and sections 248, 248.5, 290.1, 290.2, 291, 292, 293, 294, 295, 297, 302, 316.1, 342, 362.4, 364.05, 366.05, 366.21, 366.26, 387, 607.2, 630, 658, 660, 661, 727.4, 777, 778, 779, 785 and 903.45, would be amended, effective January 1, 2018, to read:

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**212.5.**

Unless otherwise provided by law, Section 1010.6 of the Code of Civil Procedure shall apply to juvenile matters, with the following exceptions and conditions:

(a) Electronic service is authorized only if the county and the court choose to permit electronic service.

(b) Electronic service on a party or other person shall be permitted only upon consent to receive electronic service by the party or other person. A party or other person may withdraw prior consent to electronic service. The Judicial Council shall create a form designed to implement this section.

(c) Consent or withdrawal of prior consent to receive electronic service may be filed with the court only by a party or other person entitled to service, or that person's attorney.

(d) If the party or other person to be served is a minor, electronic service shall be permitted only upon consent by the minor and by the minor's attorney.

(e) Electronic service is not permitted:

(1) On any party or other person who is under the age of 16 years old; or

(2) Of a psychological or medical report of a minor.

(f) The party or other person shall be served both by electronic means and by other means specified in the relevant statute if:

(1) The document to be served is the notice of hearing, or the appellate advisements required pursuant to Section 366.26(1)(3)(A), for a hearing at which the social worker will recommend the termination of parental rights; or

(2) The document to be served is a citation pursuant to Section 661, or a notice of hearing pursuant to subdivision (d) of Section 777.

(g) If the minor is an Indian child, or the court has reason to know that an Indian child is involved, service shall be provided exclusively in accordance with Section 224.2.

(h) Electronic service and electronic filing must be conducted in a manner that preserves and ensures the confidentiality of records by encryption.

**248.**

(a) A referee shall hear those cases that are assigned to him or her by the presiding judge of the juvenile court, with the same powers as a judge of the juvenile court, except that a referee shall not conduct any hearing to which the state or federal constitutional prohibitions against double jeopardy apply unless all of the parties thereto stipulate in writing that the referee may act in the capacity of a temporary judge. A referee shall promptly furnish to the presiding judge of the juvenile court and the minor, if the minor is 14 or more years of age or if younger has so requested, and shall serve upon the minor's attorney of record and the minor's parent or guardian or adult relative and the attorney of record for the minor's parent or guardian or adult relative a written copy of his or her findings and order and shall also furnish to the minor, if the minor is 14 or more years of age or if younger has so requested, and to the parent or guardian or adult

1 relative, with the findings and order, a written explanation of the right of those persons to seek  
2 review of the order by the juvenile court.

3 (b) Service, as provided in this section, shall be made as follows:

4 (1) If a minor, parent, or guardian is present in court at the time the findings and order are made,  
5 then the findings and order may be served in court on any minor, parent, or guardian who is  
6 present in court on that date and a written explanation of the right to seek review of the order as  
7 required pursuant to subdivision (a) shall be furnished at that time.

8 (2) If paragraph (1) is not applicable, service shall be made by mail or by electronic service  
9 pursuant to Section 212.5, within the time period specified in Section 248.5, to the last known  
10 address of those persons or to the address designated by those persons appearing at the hearing  
11 before the referee and the ~~mailing~~ documents served shall include, if applicable, the written  
12 explanation of the right to seek review of the order. If the parent or guardian does not have a last  
13 known address or electronic service address designated, then service ~~by mail~~ shall be to that  
14 party in care of his or her counsel.

15  
16 **248.5.**

17 All written findings and orders of the court shall be served by the clerk of the court personally, ~~or~~  
18 by first-class mail, or by electronic service pursuant to Section 212.5, within three judicial days  
19 of their issuance on the petitioner, the minor or the minor's counsel, the parent or the parent's  
20 counsel, and the guardian or the guardian's counsel.

21  
22 **290.1.**

23 If the probation officer or social worker determines that the child shall be retained in custody, he  
24 or she shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile  
25 court, who shall set the matter for hearing on the detention hearing calendar. The probation  
26 officer or social worker shall serve notice as prescribed in this section.

27 (a) Notice shall be given to the following persons whose whereabouts are known or become  
28 known prior to the initial petition hearing:

29 (1) The mother.

30 (2) The father or fathers, presumed and alleged.

31 (3) The legal guardian or guardians.

32 (4) The child, if the child is 10 years of age or older.

33 (5) Any known sibling of the child who is the subject of the hearing if that sibling either is the  
34 subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile  
35 court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the  
36 sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's  
37 attorney. However, notice is not required to be given to any sibling whose matter is calendared in  
38 the same court on the same day.

39 (6) If there is no parent or guardian residing in California, or if the residence is unknown, then to  
40 any adult relative residing within the county, or, if none, the adult relative residing nearest the  
41 court.

42 (7) The attorney for the parent or parents, or legal guardian or guardians.



1 (8) The district attorney, if the district attorney has notified the clerk of the court that he or she  
2 wishes to receive the petition, containing the time, date, and place of the hearing.  
3 (9) The probate department of the superior court that appointed the guardian, if the child is a  
4 ward of a guardian appointed pursuant to the Probate Code.  
5 (b) No notice is required for a parent whose parental rights have been terminated.  
6 (c) The notice shall be given as soon as possible after the filing of the petition.  
7 (d) The notice of the initial petition hearing shall include all of the following:  
8 (1) The date, time, and place of the hearing.  
9 (2) The name of the child.  
10 (3) A copy of the petition.  
11 (e) Service of the notice shall be written or oral. If the person being served cannot read, notice  
12 shall be given orally. ~~Except as provided in subdivisions (f), (g), and (h), written notice may be~~  
13 ~~served by electronic mail if the county, or city and county, and the court choose to permit service~~  
14 ~~by electronic mail and the person to be served has consented to service by electronic mail by~~  
15 ~~signing Judicial Council Form EFS-005. Notice shall not be served electronically under this~~  
16 ~~section.~~  
17 (f) If the probation officer or social worker knows or has reason to know that an Indian child is  
18 involved, notice shall be given in accordance with Section 224.2.  
19 ~~(g) Except as provided in subdivision (h), if notice is required to be provided to a child pursuant~~  
20 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~  
21 ~~mail only if all of the following requirements are satisfied:~~  
22 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~  
23 ~~(2) The child is 16 years of age or older.~~  
24 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
25 ~~005.~~  
26 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
27 ~~Judicial Council Form EFS-005.~~  
28 ~~(h) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~  
29 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~  
30 ~~of the following requirements are satisfied:~~  
31 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~  
32 ~~(2) The child is 14 or 15 years of age.~~  
33 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
34 ~~005.~~  
35 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
36 ~~Judicial Council Form EFS-005.~~  
37 ~~(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~  
38 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~  
39  
40 **290.2.**  
41 Upon the filing of a petition by a probation officer or social worker, the clerk of the juvenile  
42 court shall issue notice, to which shall be attached a copy of the petition, and he or she shall  
43 cause the same to be served as prescribed in this section.

1 (a) Notice shall be given to the following persons whose address is known or becomes known  
2 prior to the initial petition hearing:  
3 (1) The mother.  
4 (2) The father or fathers, presumed and alleged.  
5 (3) The legal guardian or guardians.  
6 (4) The child, if the child is 10 years of age or older.  
7 (5) Any known sibling of the child who is the subject of the hearing if that sibling either is the  
8 subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile  
9 court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the  
10 sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's  
11 attorney. However, notice is not required to be given to any sibling whose matter is calendared in  
12 the same court on the same day.  
13 (6) If there is no parent or guardian residing in California, or if the residence is unknown, to any  
14 adult relative residing within the county, or, if none, the adult relative residing nearest the court.  
15 (7) Upon reasonable notification by counsel representing the child, parent, or guardian, the clerk  
16 of the court shall give notice to that counsel as soon as possible.  
17 (8) The district attorney, if the district attorney has notified the clerk of the court that he or she  
18 wishes to receive the petition, containing the time, date, and place of the hearing.  
19 (9) The probate department of the superior court that appointed the guardian, if the child is a  
20 ward of a guardian appointed pursuant to the Probate Code.  
21 (b) No notice is required for a parent whose parental rights have been terminated.  
22 (c) Notice shall be served as follows:  
23 (1) If the child is retained in custody, the notice shall be given to the persons required to be  
24 noticed as soon as possible, and at least five days before the hearing, unless the hearing is set to  
25 be heard in less than five days in which case notice shall be given at least 24 hours prior to the  
26 hearing.  
27 (2) If the child is not retained in custody, the notice shall be given to those persons required to be  
28 noticed at least 10 days prior to the date of the hearing. If any person who is required to be given  
29 notice is known to reside outside of the county, the clerk of the juvenile court shall mail the  
30 notice and copy of the petition by first-class mail to that person as soon as possible after the  
31 filing of the petition and at least 10 days before the time set for hearing. Failure to respond to the  
32 notice is not cause for an arrest or detention. In the instance of a failure to appear after notice by  
33 first-class mail, the court shall direct that the notice and copy of the petition be personally served  
34 on all persons required to receive the notice and copy of the petition. For these purposes,  
35 personal service of the notice and copy of the petition outside of the county at least 10 days  
36 before the time set for hearing is equivalent to service by first-class mail. Service may be waived  
37 by any person by a voluntary appearance entered in the minutes of the court or by a written  
38 waiver of service filed with the clerk of the court at, or prior to, the hearing.  
39 ~~(3) Except as provided in subdivisions (e), (f), and (g), notice may be served by electronic mail~~  
40 ~~in lieu of notice by first class mail if the county, or city and county, and the court choose to~~  
41 ~~permit service by electronic mail and the person to be served has consented to service by~~  
42 ~~electronic mail by signing Judicial Council Form EFS-005. Notice shall not be served~~  
43 electronically under this section.

- 1 (d) The notice of the initial petition hearing shall include all of the following:
- 2 (1) The date, time, and place of the hearing.
- 3 (2) The name of the child.
- 4 (3) A copy of the petition.
- 5 (e) If the court knows or has reason to know that an Indian child is involved, notice shall be
- 6 given in accordance with Section 224.2.
- 7 ~~(f) Except as provided in subdivision (g), if notice is required to be provided to a child pursuant~~
- 8 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~
- 9 ~~mail only if all of the following requirements are satisfied:~~
- 10 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~
- 11 ~~(2) The child is 16 years of age or older.~~
- 12 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
- 13 ~~005.~~
- 14 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
- 15 ~~Judicial Council Form EFS-005.~~
- 16 ~~(g) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~
- 17 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~
- 18 ~~of the following requirements are satisfied:~~
- 19 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~
- 20 ~~(2) The child is 14 or 15 years of age.~~
- 21 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
- 22 ~~005.~~
- 23 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
- 24 ~~Judicial Council Form EFS-005.~~
- 25 ~~(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
- 26 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

27

28 **291.**

29 After the initial petition hearing, the clerk of the court shall cause the notice to be served in the

30 following manner:

31 (a) Notice of the hearing shall be given to the following persons:

- 32 (1) The mother.
- 33 (2) The father or fathers, presumed and alleged.
- 34 (3) The legal guardian or guardians.
- 35 (4) The child, if the child is 10 years of age or older.
- 36 (5) Any known sibling of the child who is the subject of the hearing if that sibling either is the
- 37 subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile
- 38 court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the
- 39 sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's
- 40 attorney. However, notice is not required to be given to any sibling whose matter is calendared in
- 41 the same court on the same day.
- 42 (6) Each attorney of record unless counsel of record is present in court when the hearing is
- 43 scheduled, then no further notice need be given.

1 (7) If there is no parent or guardian residing in California, or if the residence is unknown, then to  
2 any adult relative residing within the county, or, if none, the adult relative residing nearest the  
3 court.

4 (8) If the hearing is a dispositional hearing that is also serving as a permanency hearing pursuant  
5 to subdivision (f) of Section 361.5, notice shall be given to the current caregiver for the child,  
6 including foster parents, relative caregivers, preadoptive parents, and nonrelative extended  
7 family members. Any person notified may attend all hearings and may submit any information  
8 he or she deems relevant to the court in writing.

9 (b) No notice is required for a parent whose parental rights have been terminated.

10 (c) Notice shall be served as follows:

11 (1) If the child is detained, the notice shall be given to the persons required to be noticed as soon  
12 as possible, and at least five days before the hearing, unless the hearing is set less than five days  
13 and then at least 24 hours prior to the hearing.

14 (2) If the child is not detained, the notice shall be given to those persons required to be noticed at  
15 least 10 days prior to the date of the hearing.

16 (d) The notice shall include all of the following:

17 (1) The name and address of the person notified.

18 (2) The nature of the hearing.

19 (3) Each section and subdivision under which the proceeding has been initiated.

20 (4) The date, time, and place of the hearing.

21 (5) The name of the child upon whose behalf the petition has been brought.

22 (6) A statement that:

23 (A) If they fail to appear, the court may proceed without them.

24 (B) The child, parent, guardian, Indian custodian, or adult relative to whom notice is required to  
25 be given pursuant to paragraph (1), (2), (3), (4), or (7) of subdivision (a) is entitled to have an  
26 attorney present at the hearing.

27 (C) If the parent, guardian, Indian custodian, or adult relative noticed pursuant to paragraph (1),  
28 (2), (3), or (7) of subdivision (a) is indigent and cannot afford an attorney, and desires to be  
29 represented by an attorney, the parent, guardian, Indian custodian, or adult relative shall  
30 promptly notify the clerk of the juvenile court.

31 (D) If an attorney is appointed to represent the parent, guardian, Indian custodian, or adult  
32 relative, the represented person shall be liable for all or a portion of the costs to the extent of his  
33 or her ability to pay.

34 (E) The parent, guardian, Indian custodian, or adult relative may be liable for the costs of support  
35 of the child in any out-of-home placement.

36 (7) A copy of the petition.

37 (e) Service of the notice of the hearing shall be given in the following manner:

38 (1) If the child is detained and the persons required to be noticed are not present at the initial  
39 petition hearing, they shall be noticed by personal service or by certified mail, return receipt  
40 requested.

41 (2) If the child is detained and the persons required to be noticed are present at the initial petition  
42 hearing, they shall be noticed by personal service, ~~or~~ by first-class mail, or by electronic service  
43 pursuant to Section 212.5.

1 (3) If the child is not detained, the persons required to be noticed shall be noticed by personal  
2 service, ~~or by first-class mail, or by electronic service pursuant to Section 212.5,~~ unless the  
3 person to be served is known to reside outside the county, in which case service shall be by first-  
4 class mail ~~or by electronic service pursuant to Section 212.5.~~

5 ~~Except as provided in subdivisions (g), (h), and (i), notice may be served by electronic mail in~~  
6 ~~lieu of notice by first class mail if the county, or city and county, and the court choose to permit~~  
7 ~~service by electronic mail and the person to be served has consented to service by electronic mail~~  
8 ~~by signing Judicial Council Form EFS-005.~~

9 (f) Any of the notices required to be given under this section or Sections 290.1 and 290.2 may be  
10 waived by a party in person or through his or her attorney, or by a signed written waiver filed on  
11 or before the date scheduled for the hearing.

12 (g) If the court knows or has reason to know that an Indian child is involved, notice shall be  
13 given in accordance with Section 224.2.

14 ~~(h) Except as provided in subdivision (i), if notice is required to be provided to a child pursuant~~  
15 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~  
16 ~~mail only if all of the following requirements are satisfied:~~

17 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

18 ~~(2) The child is 16 years of age or older.~~

19 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
20 ~~005.~~

21 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
22 ~~Judicial Council Form EFS-005.~~

23 ~~(i) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~  
24 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~  
25 ~~of the following requirements are satisfied:~~

26 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

27 ~~(2) The child is 14 or 15 years of age.~~

28 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
29 ~~005.~~

30 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
31 ~~Judicial Council Form EFS-005.~~

32 ~~(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~  
33 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

34  
35 **292.**

36 The social worker or probation officer shall give notice of the review hearing held pursuant to  
37 Section 364 in the following manner:

38 (a) Notice of the hearing shall be given to the following persons:

39 (1) The mother.

40 (2) The presumed father or any father receiving services.

41 (3) The legal guardian or guardians.

42 (4) The child, if the child is 10 years of age or older.

1 (5) Any known sibling of the child who is the subject of the hearing if that sibling either is the  
2 subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile  
3 court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the  
4 sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's  
5 attorney. However, notice is not required to be given to any sibling whose matter is calendared in  
6 the same court on the same day.

7 (6) Each attorney of record, if that attorney was not present at the time that the hearing was set  
8 by the court.

9 (b) No notice is required for a parent whose parental rights have been terminated.

10 (c) The notice of the hearing shall be served not earlier than 30 days, nor later than 15 days,  
11 before the hearing.

12 (d) The notice shall contain a statement regarding the nature of the hearing to be held and any  
13 change in the custody or status of the child being recommended by the supervising agency. The  
14 notice shall also include a statement that the child and the parent or parents or legal guardian or  
15 guardians have a right to be present at the hearing, to be represented by counsel at the hearing  
16 and the procedure for obtaining appointed counsel, and to present evidence regarding the proper  
17 disposition of the case. The notice shall also state that if the parent or parents or legal guardian or  
18 guardians fail to appear, the court may proceed without them.

19 (e) Service of the notice shall be by personal service, by first-class mail, ~~or~~ by certified mail,  
20 return receipt requested, addressed to the last known address of the person to be noticed, or by  
21 electronic service pursuant to Section 212.5. Except as provided in subdivisions (f), (g), and (h),  
22 ~~notice may be served by electronic mail if the county, or city and county, and the court choose to~~  
23 ~~permit service by electronic mail and the person to be served has consented to service by~~  
24 ~~electronic mail by signing Judicial Council Form EFS-005.~~

25 (f) If the social worker or the probation officer knows or has reason to know that an Indian child  
26 is involved, notice shall be given in accordance with Section 224.2.

27 ~~(g) Except as provided in subdivision (h), if notice is required to be provided to a child pursuant~~  
28 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~  
29 ~~mail only if all of the following requirements are satisfied:~~

30 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~  
31 ~~(2) The child is 16 years of age or older.~~  
32 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
33 ~~005.~~

34 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
35 ~~Judicial Council Form EFS-005.~~

36 ~~(h) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~  
37 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~  
38 ~~of the following requirements are satisfied:~~

39 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~  
40 ~~(2) The child is 14 or 15 years of age.~~  
41 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
42 ~~005.~~

1 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
2 ~~Judicial Council Form EFS-005.~~

3 ~~(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~  
4 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

5  
6 **293.**

7 The social worker or probation officer shall give notice of the review hearings held pursuant to  
8 Section 366.21, 366.22, or 366.25 in the following manner:

9 (a) Notice of the hearing shall be given to the following persons:

10 (1) The mother.

11 (2) The presumed father or any father receiving services.

12 (3) The legal guardian or guardians.

13 (4) The child, if the child is 10 years of age or older.

14 (5) Any known sibling of the child who is the subject of the hearing if that sibling either is the  
15 subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile  
16 court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the  
17 sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's  
18 attorney. However, notice is not required to be given to any sibling whose matter is calendared in  
19 the same court on the same day.

20 (6) In the case of a child removed from the physical custody of his or her parent or legal  
21 guardian, the current caregiver of the child, including the foster parents, relative caregivers,  
22 preadoptive parents, nonrelative extended family members, community care facility, or foster  
23 family agency having custody of the child. In a case in which a foster family agency is notified  
24 of the hearing pursuant to this section, and the child resides in a foster home certified by the  
25 foster family agency, the foster family agency shall provide timely notice of the hearing to the  
26 child's caregivers.

27 (7) Each attorney of record if that attorney was not present at the time that the hearing was set by  
28 the court.

29 (b) No notice is required for a parent whose parental rights have been terminated. On and after  
30 January 1, 2012, in the case of a nonminor dependent, as described in subdivision (v) of Section  
31 11400, no notice is required for a parent.

32 (c) The notice of hearing shall be served not earlier than 30 days, nor later than 15 days, before  
33 the hearing.

34 (d) The notice shall contain a statement regarding the nature of the hearing to be held and any  
35 change in the custody or status of the child being recommended by the supervising agency. If the  
36 notice is to the child, parent or parents, or legal guardian or guardians, the notice shall also  
37 advise them of the right to be present, the right to be represented by counsel, the right to request  
38 counsel, and the right to present evidence. The notice shall also state that if the parent or parents  
39 or legal guardian or guardians fail to appear, the court may proceed without them.

40 (e) Service of the notice shall be by first-class mail addressed to the last known address of the  
41 person to be noticed, ~~or~~ by personal service on the person, or by electronic service pursuant to  
42 Section 212.5. Service of a copy of the notice shall be by personal service, ~~or~~ by certified mail,  
43 return receipt requested, by electronic service under Section 212.5, or any other form of notice

1 that is equivalent to service by first-class mail. ~~Except as provided in subdivisions (g), (h), and~~  
2 ~~(i), notice may be served by electronic mail in lieu of notice by first class mail if the county, or~~  
3 ~~city and county, and the court choose to permit service by electronic mail and the person to be~~  
4 ~~served has consented to service by electronic mail by signing Judicial Council Form EFS-005.~~

5 (f) Notice to the current caregiver of the child, including a foster parent, a relative caregiver, a  
6 preadoptive parent, or a nonrelative extended family member, or to a certified foster parent who  
7 has been approved for adoption, or the State Department of Social Services when it is acting as  
8 an adoption agency or by a county adoption agency, shall indicate that the person notified may  
9 attend all hearings or may submit any information he or she deems relevant to the court in  
10 writing.

11 (g) If the social worker or probation officer knows or has reason to know that an Indian child is  
12 involved, notice shall be given in accordance with Section 224.2.

13 ~~(h) Except as provided in subdivision (i), if notice is required to be provided to a child pursuant~~  
14 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~  
15 ~~mail only if all of the following requirements are satisfied:~~

16 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

17 ~~(2) The child is 16 years of age or older.~~

18 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
19 ~~005.~~

20 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
21 ~~Judicial Council Form EFS-005.~~

22 ~~(i) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~  
23 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~  
24 ~~of the following requirements are satisfied:~~

25 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

26 ~~(2) The child is 14 or 15 years of age.~~

27 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
28 ~~005.~~

29 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
30 ~~Judicial Council Form EFS-005.~~

31 ~~(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~  
32 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

33  
34 **294.**

35 The social worker or probation officer shall give notice of a selection and implementation  
36 hearing held pursuant to Section 366.26 in the following manner:

37 (a) Notice of the hearing shall be given to the following persons:

38 (1) The mother.

39 (2) The fathers, presumed and alleged.

40 (3) The child, if the child is 10 years of age or older.

41 (4) Any known sibling of the child who is the subject of the hearing if that sibling either is the  
42 subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile  
43 court. If the sibling is 10 years of age or older, the sibling, the sibling's caregiver, and the



1 sibling's attorney. If the sibling is under 10 years of age, the sibling's caregiver and the sibling's  
2 attorney. However, notice is not required to be given to any sibling whose matter is calendared in  
3 the same court on the same day.

4 (5) The grandparents of the child, if their address is known and if the parent's whereabouts are  
5 unknown.

6 (6) All counsel of record.

7 (7) To any unknown parent by publication, if ordered by the court pursuant to paragraph (2) of  
8 subdivision (g).

9 (8) The current caregiver of the child, including foster parents, relative caregivers, preadoptive  
10 parents, and nonrelative extended family members. Any person notified may attend all hearings  
11 and may submit any information he or she deems relevant to the court in writing.

12 (b) The following persons shall not be notified of the hearing:

13 (1) A parent who has relinquished the child to the State Department of Social Services, county  
14 adoption agency, or licensed adoption agency for adoption, and the relinquishment has been  
15 accepted and filed with notice as required under Section 8700 of the Family Code.

16 (2) An alleged father who has denied paternity and has executed a waiver of the right to notice of  
17 further proceedings.

18 (3) A parent whose parental rights have been terminated.

19 (c)(1) Service of the notice shall be completed at least 45 days before the hearing date. Service is  
20 deemed complete at the time the notice is personally delivered to the person named in the notice  
21 or 10 days after the notice has been placed in the mail or sent by electronic means ~~mail~~, or at the  
22 expiration of the time prescribed by the order for publication.

23 (2) Service of notice in cases where publication is ordered shall be completed at least 30 days  
24 before the date of the hearing.

25 (d) Regardless of the type of notice required, or the manner in which it is served, once the court  
26 has made the initial finding that notice has properly been given to the parent, or to any person  
27 entitled to receive notice pursuant to this section, subsequent notice for any continuation of a  
28 Section 366.26 hearing may be by first-class mail to any last known address, by an order made  
29 pursuant to Section 296, by electronic service pursuant to Section 212.5, except as provided in  
30 ~~paragraphs (2) and (3) of subdivision (h) and subdivision (i), by electronic mail if the county, or~~  
31 ~~city and county, and the court choose to permit service by electronic mail and the person to be~~  
32 ~~served has consented to service by electronic mail by signing Judicial Council Form EFS-005, or~~  
33 by any other means that the court determines is reasonably calculated, under any circumstance,  
34 to provide notice of the continued hearing. However, if the recommendation changes from the  
35 recommendation contained in the notice previously found to be proper, notice shall be provided  
36 to the parent, and to any person entitled to receive notice pursuant to this section, regarding that  
37 subsequent hearing.

38 (e) The notice shall contain the following information:

39 (1) The date, time, and place of the hearing.

40 (2) The right to appear.

41 (3) The parents' right to counsel.

42 (4) The nature of the proceedings.

43 (5) The recommendation of the supervising agency.

1 (6) A statement that, at the time of hearing, the court is required to select a permanent plan of  
2 adoption, legal guardianship, or long-term foster care for the child.

3 (f) Notice to the parents may be given in any one of the following manners:

4 (1) If the parent is present at the hearing at which the court schedules a hearing pursuant to  
5 Section 366.26, the court shall advise the parent of the date, time, and place of the proceedings,  
6 their right to counsel, the nature of the proceedings, and the requirement that at the proceedings  
7 the court shall select and implement a plan of adoption, legal guardianship, or long-term foster  
8 care for the child. The court shall direct the parent to appear for the proceedings and then direct  
9 that the parent be notified thereafter only by first-class mail to the parent's usual place of  
10 residence or business ~~only~~ or by electronic service pursuant to Section 212.5. ~~In lieu of notice by~~  
11 ~~first class mail, notice may be served by electronic mail if the county, or city and county, and the~~  
12 ~~court choose to permit service by electronic mail and the person to be served has consented to~~  
13 ~~service by electronic mail by signing Judicial Council Form EFS-005.~~

14 (2) Certified mail, return receipt requested, to the parent's last known mailing address. This  
15 notice shall be sufficient if the child welfare agency receives a return receipt signed by the  
16 parent.

17 (3) Personal service to the parent named in the notice.

18 (4) Delivery to a competent person who is at least 18 years of age at the parent's usual place of  
19 residence or business, and thereafter ~~mailed to~~ served on the parent named in the notice by first-  
20 class mail at the place where the notice was delivered or by electronic service pursuant to Section  
21 212.5.

22 (5) If the residence of the parent is outside the state, service may be made as described in  
23 paragraph (1), (3), or (4) or by certified mail, return receipt requested.

24 (6) If the recommendation of the probation officer or social worker is legal guardianship or long-  
25 term foster care, service may be made by first-class mail to the parent's usual place of residence  
26 or business or by electronic service pursuant to Section 212.5. ~~or, i~~ In the case of an Indian child,  
27 tribal customary adoption, service may be made by first-class mail to the parent's usual place of  
28 residence or business. ~~In lieu of notice by first class mail, notice may be serviced by electronic~~  
29 ~~mail if the county, or city and county, and the court choose to permit service by electronic mail~~  
30 ~~and the person to be served has consented to service by electronic mail by signing Judicial~~  
31 ~~Council Form EFS-005.~~

32 (7) If a parent's identity is known but his or her whereabouts are unknown and the parent cannot,  
33 with reasonable diligence, be served in any manner specified in paragraphs (1) to (6), inclusive,  
34 the petitioner shall file an affidavit with the court at least 75 days before the hearing date, stating  
35 the name of the parent and describing the efforts made to locate and serve the parent.

36 (A) If the court determines that there has been due diligence in attempting to locate and serve the  
37 parent and the probation officer or social worker recommends adoption, service shall be to that  
38 parent's attorney of record, if any, by certified mail, return receipt requested. If the parent does  
39 not have an attorney of record, the court shall order that service be made by publication of  
40 citation requiring the parent to appear at the date, time, and place stated in the citation, and that  
41 the citation be published in a newspaper designated as most likely to give notice to the parent.  
42 Publication shall be made once a week for four consecutive weeks. Whether notice is to the  
43 attorney of record or by publication, the court shall also order that notice be given to the

1 grandparents of the child, if their identities and addresses are known, by first-class mail or by  
2 electronic service pursuant to Section 212.5.

3 (B) If the court determines that there has been due diligence in attempting to locate and serve the  
4 parent and the probation officer or social worker recommends legal guardianship or long-term  
5 foster care, no further notice is required to the parent, but the court shall order that notice be  
6 given to the grandparents of the child, if their identities and addresses are known, by first-class  
7 mail or by electronic service pursuant to Section 212.5.

8 (C) In any case where the residence of the parent becomes known, notice shall immediately be  
9 served upon the parent as provided for in either paragraph (2), (3), (4), (5), or (6).

10 (g) (1) If the identity of one or both of the parents, or alleged parents, of the child is unknown, or  
11 if the name of one or both parents is uncertain, then that fact shall be set forth in the affidavit  
12 filed with the court at least 75 days before the hearing date and the court, consistent with the  
13 provisions of Sections 7665 and 7666 of the Family Code, shall issue an order dispensing with  
14 notice to a natural parent or possible natural parent under this section if, after inquiry and a  
15 determination that there has been due diligence in attempting to identify the unknown parent, the  
16 court is unable to identify the natural parent or possible natural parent and no person has  
17 appeared claiming to be the natural parent.

18 (2) After a determination that there has been due diligence in attempting to identify an unknown  
19 parent pursuant to paragraph (1) and the probation officer or social worker recommends  
20 adoption, the court shall consider whether publication notice would be likely to lead to actual  
21 notice to the unknown parent. The court may order publication notice if, on the basis of all  
22 information before the court, the court determines that notice by publication is likely to lead to  
23 actual notice to the parent. If publication notice to an unknown parent is ordered, the court shall  
24 order the published citation to be directed to either the father or mother, or both, of the child, and  
25 to all persons claiming to be the father or mother of the child, naming and otherwise describing  
26 the child. An order of publication pursuant to this paragraph shall be based on an affidavit  
27 describing efforts made to identify the unknown parent or parents. Service made by publication  
28 pursuant to this paragraph shall require the unknown parent or parents to appear at the date, time,  
29 and place stated in the citation. Publication shall be made once a week for four consecutive  
30 weeks.

31 (3) If the court determines that there has been due diligence in attempting to identify one or both  
32 of the parents, or alleged parents, of the child and the probation officer or social worker  
33 recommends legal guardianship or long-term foster care, no further notice to the parent shall be  
34 required.

35 (h) (1) Notice to all counsel of record shall be by first-class mail; or by electronic service  
36 pursuant to Section 212.5. ~~by electronic mail if the county, or city and county, and the court~~  
37 ~~choose to permit service by electronic mail and the person to be served has consented to service~~  
38 ~~by electronic mail by signing Judicial Council Form EFS-005.~~

39 (2) ~~Except as provided in paragraph (3), if notice is required to be provided to a child, written~~  
40 ~~notice may be served on the child by electronic mail only if all of the following requirements are~~  
41 ~~satisfied:~~

42 (A) ~~The county, or city and county, and the court choose to permit service by electronic mail.~~  
43 (B) ~~The child is 16 years of age or older.~~

1 ~~(C) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
2 ~~005.~~

3 ~~(D) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
4 ~~Judicial Council Form EFS-005.~~

5 ~~(3) If notice is required to be provided to a child, written notice may be served on the child by~~  
6 ~~electronic mail as well as by regular mail if all of the following requirements are satisfied:~~

7 ~~(A) The county, or city and county, and the court choose to permit service by electronic mail.~~

8 ~~(B) The child is 14 or 15 years of age.~~

9 ~~(C) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
10 ~~005.~~

11 ~~(D) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
12 ~~Judicial Council Form EFS-005.~~

13 (i) If the court knows or has reason to know that an Indian child is involved, notice shall be given  
14 in accordance with Section 224.2.

15 (j) Notwithstanding subdivision (a), if the attorney of record is present at the time the court  
16 schedules a hearing pursuant to Section 366.26, no further notice is required, except as required  
17 by subparagraph (A) of paragraph (7) of subdivision (f).

18 (k) This section shall also apply to children adjudged wards pursuant to Section 727.31.

19 (l) The court shall state the reasons on the record explaining why good cause exists for granting  
20 any continuance of a hearing held pursuant to Section 366.26 to fulfill the requirements of this  
21 section.

22 ~~(m) Notwithstanding any choice by a county, or city and county, and the court to permit service~~  
23 ~~of written notice of court proceedings by electronic mail, or consent by any person to service of~~  
24 ~~written notice by electronic mail by signing Judicial Council Form EFS-005, notice of any~~  
25 ~~hearing at which the county welfare department is recommending the termination of parental~~  
26 ~~rights may only be served electronically by electronic mail only if notice is also given by another~~  
27 ~~means of service provided for in this section.~~

28 ~~(n) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~  
29 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

30  
31 **295.**

32 The social worker or probation officer shall give notice of review hearings held pursuant to  
33 Sections 366.3 and 366.31 and for termination of jurisdiction hearings held pursuant to Section  
34 391 in the following manner:

35 (a) Notice of the hearing shall be given to the following persons:

36 (1) The mother.

37 (2) The presumed father.

38 (3) The legal guardian or guardians.

39 (4) The child, if the child is 10 years of age or older, or a nonminor dependent.

40 (5) Any known sibling of the child or nonminor dependent who is the subject of the hearing if  
41 that sibling either is the subject of a dependency proceeding or has been adjudged to be a  
42 dependent child of the juvenile court. If the sibling is 10 years of age or older, the sibling, the  
43 sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, the sibling's

1 caregiver and the sibling's attorney. However, notice is not required to be given to any sibling  
2 whose matter is calendared in the same court on the same day.

3 (6) The current caregiver of the child, including the foster parents, relative caregivers,  
4 preadoptive parents, nonrelative extended family members, community care facility, or foster  
5 family agency having physical custody of the child if a child is removed from the physical  
6 custody of the parents or legal guardian. The person notified may attend all hearings and may  
7 submit any information he or she deems relevant to the court in writing.

8 (7) The current caregiver of a nonminor dependent, as described in subdivision (v) of Section  
9 11400. The person notified may attend all hearings and may submit for filing an original and  
10 eight copies of written information he or she deems relevant to the court. The court clerk shall  
11 provide the current parties and attorneys of record with a copy of the written information  
12 immediately upon receipt and complete, file, and distribute a proof of service.

13 (8) The attorney of record if that attorney of record was not present at the time that the hearing  
14 was set by the court.

15 (9) The alleged father or fathers, but only if the recommendation is to set a new hearing pursuant  
16 to Section 366.26.

17 (b) No notice shall be required for a parent whose parental rights have been terminated or for the  
18 parent of a nonminor dependent, as described in subdivision (v) of Section 11400, unless the  
19 parent is receiving court-ordered family reunification services pursuant to Section 361.6.

20 (c) The notice of the review hearing shall be served no earlier than 30 days, nor later than 15  
21 days, before the hearing.

22 (d) The notice of the review hearing shall contain a statement regarding the nature of the hearing  
23 to be held, any recommended change in the custody or status of the child, and any  
24 recommendation that the court set a new hearing pursuant to Section 366.26 in order to select a  
25 more permanent plan.

26 (e) Service of notice shall be by first-class mail addressed to the last known address of the person  
27 to be provided notice or by electronic service pursuant to Section 212.5. ~~Except as provided in~~  
28 ~~subdivisions (g), (h), and (i), notice may be served by electronic mail in lieu of notice by first-~~  
29 ~~class mail if the county, or city and county, and the court choose to permit service by electronic~~  
30 ~~mail and the person to be served has consented to service by electronic mail by signing Judicial~~  
31 ~~Council Form EFS-005.~~ In the case of an Indian child, notice shall be by registered mail, return  
32 receipt requested.

33 (f) If the child is ordered into a permanent plan of legal guardianship, and subsequently a petition  
34 to terminate or modify the guardianship is filed, the probation officer or social worker shall serve  
35 notice of the petition not less than 15 court days prior to the hearing on all persons listed in  
36 subdivision (a) and on the court that established legal guardianship if it is in another county.

37 (g) If the social worker or probation officer knows or has reason to know that an Indian child is  
38 involved, notice shall be given in accordance with Section 224.2.

39 ~~(h) Except as provided in subdivision (i), if notice is required to be provided to a child pursuant~~  
40 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~  
41 ~~mail only if all of the following requirements are satisfied:~~

42 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~  
43 ~~(2) The child is 16 years of age or older.~~

1 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
2 ~~005.~~

3 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
4 ~~Judicial Council Form EFS-005.~~

5 ~~(i) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~  
6 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~  
7 ~~of the following requirements are satisfied:~~

8 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

9 ~~(2) The child is 14 or 15 years of age.~~

10 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~  
11 ~~005.~~

12 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~  
13 ~~Judicial Council Form EFS-005.~~

14 ~~(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~  
15 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

16  
17 **297.**

18 (a) ~~Notice required for an initial petition filed pursuant to Section 300 is applicable to a~~  
19 ~~subsequent petition filed pursuant to Section 342. A subsequent petition filed pursuant to Section~~  
20 ~~342 shall be noticed pursuant to Sections 290.1 and 290.2, except that service may be electronic~~  
21 ~~service pursuant to Section 212.5.~~

22 (b) Upon the filing of a supplemental petition pursuant to Section 387, the clerk of the juvenile  
23 court shall immediately set the matter for hearing within 30 days of the date of the filing, and the  
24 social worker or probation officer shall cause notice thereof to be served upon the persons  
25 required by, and in the manner prescribed by, Sections 290.1, 290.2, and 291, except that service  
26 may be electronic service pursuant to Section 212.5.

27 (c) If a petition for modification has been filed pursuant to Section 388, and it appears that the  
28 best interest of the child may be promoted by the proposed change of the order, the recognition  
29 of a sibling relationship, or the termination of jurisdiction, the court shall order that a hearing be  
30 held and shall give prior notice, or cause prior notice to be given, to the social worker or  
31 probation officer and to the child's attorney of record, or if there is no attorney of record for the  
32 child, to the child, and his or her parent or parents or legal guardian or guardians in the manner  
33 prescribed by Section 291 unless a different manner is prescribed by the court.

34 (d) If the court knows or has reason to know that an Indian child is involved, notice shall be  
35 given in accordance with Section 224.2.

36 (e) On and after January 1, 2012, if a petition for modification has been filed pursuant to  
37 subdivision (e) of Section 388 by a nonminor dependent, as described in subdivision (v) of  
38 Section 11400, no notice is required for a parent.

39  
40 **302.**

41 (a) A juvenile court may assume jurisdiction over a child described in Section 300 regardless of  
42 whether the child was in the physical custody of both parents or was in the sole legal or physical

1 custody of only one parent at the time that the events or conditions occurred that brought the  
2 child within the jurisdiction of the court.

3 (b) Unless their parental rights have been terminated, both parents shall be notified of all  
4 proceedings involving the child. In any case where the social worker is required to provide a  
5 parent or guardian with notice of a proceeding at which the social worker intends to present a  
6 report, the social worker shall also provide both parents, whether custodial or noncustodial, or  
7 any guardian, or the counsel for the parent or guardian a copy of the report prior to the  
8 hearing, ~~either personally by personal service, or by first-class mail, or by electronic service~~  
9 pursuant to Section 212.5. The social worker shall not charge any fee for providing a copy of a  
10 report required by this subdivision. The social worker shall keep confidential the address of any  
11 parent who is known to be the victim of domestic violence.

12 (c) When a child is adjudged a dependent of the juvenile court, any issues regarding custodial  
13 rights between his or her parents shall be determined solely by the juvenile court, as specified in  
14 Sections 304, 361.2, and 362.4, so long as the child remains a dependent of the juvenile court.

15 (d) Any custody or visitation order issued by the juvenile court at the time the juvenile court  
16 terminates its jurisdiction pursuant to Section 362.4 regarding a child who has been previously  
17 adjudged to be a dependent child of the juvenile court shall be a final judgment and shall remain  
18 in effect after that jurisdiction is terminated. The order shall not be modified in a proceeding or  
19 action described in Section 3021 of the Family Code unless the court finds that there has been a  
20 significant change of circumstances since the juvenile court issued the order and modification of  
21 the order is in the best interests of the child.

22  
23 **316.1.**

24 (a)(1) Upon his or her appearance before the court, each parent or guardian shall designate for  
25 the court his or her permanent mailing address. The court shall advise each parent or guardian  
26 that the designated mailing address will be used by the court and the social services agency for  
27 notice purposes unless and until the parent or guardian notifies the court or the social services  
28 agency of a new mailing address in writing.

29 ~~(2) Except as provided in subdivisions (b) and (c), in addition to providing his or her permanent~~  
30 ~~mailing address, the court may, if the county, or city and county, and the court choose to permit~~  
31 ~~service by electronic mail, permit any party who is entitled to notice of court proceedings, upon~~  
32 ~~his or her consent to service by electronic mail by signing Judicial Council Form EFS-005, to~~  
33 ~~voluntarily provide the court with a designated electronic mail address for the purpose of~~  
34 ~~receiving notice by electronic mail.~~ Upon his or her appearance before the court, each party who  
35 consents to electronic service pursuant to Section 212.5 ~~by electronic mail~~ shall designate for the  
36 court his or her electronic mail service address. The court shall advise each party that the  
37 electronic mail service address will be used by the court and the social services agency for  
38 purposes of providing notice pursuant to Sections ~~290.1, 290.2,~~ 291, 292, 293, 294, 295, 297,  
39 and 342, unless and until the party notifies the court or the social services agency of a new  
40 electronic mail service address in writing or unless the party withdraws consent to electronic  
41 service.

42 ~~(b) Except as provided in subdivision (c), the court may permit a child who appears before the~~  
43 ~~court and who is entitled to notice of court proceedings to voluntarily provide the court with a~~

1 designated electronic mail address for the purpose of receiving notice by electronic mail only  
2 under the following circumstances:

3 (1) If the child is 16 years of age or older, notice shall be served by first class mail, or if all of the  
4 following requirements are satisfied, by electronic mail:

5 (A) The county, or city and county, and the court choose to permit service by electronic mail.

6 (B) The child has consented to service by electronic mail by signing Judicial Council Form EFS-  
7 005.

8 (C) The attorney for the child has consented to service of the minor by electronic mail by signing  
9 Judicial Council Form EFS-005.

10 (2) If the child is 14 or 15 years of age, written notice may be served on the child by electronic  
11 mail as well as by regular mail if all of the following requirements are satisfied:

12 (A) The county, or city and county, and the court choose to permit service by electronic mail.

13 (B) The child has consented to service by electronic mail by signing Judicial Council Form EFS-  
14 005.

15 (C) The attorney for the child has consented to service of the minor by electronic mail by signing  
16 Judicial Council Form EFS-005.

17 (e) Notice of court proceedings by electronic mail is not permitted in any of the following  
18 circumstances:

19 (1) For notice of any hearing at which the county welfare department is recommending  
20 termination of parental rights, in which case notice may only be served by electronic mail if  
21 supplemental and in addition to first class mail.

22 (2) If the social worker or probation officer knows or has reason to know that an Indian child is  
23 involved, in which case notice shall be given in accordance with Section 224.2.

24 (3) If the person entitled to notice is a child under 14 years of age.

25 (d) The Judicial Council may develop a form for the designation of a permanent mailing address  
26 by parents and guardians for use by the courts and social services agencies.

27 (e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,  
28 unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

29  
30 **342.**

31 In any case in which a minor has been found to be a person described by Section 300 and the  
32 petitioner alleges new facts or circumstances, other than those under which the original petition  
33 was sustained, sufficient to state that the minor is a person described in Section 300, the  
34 petitioner shall file a subsequent petition. This section does not apply if the jurisdiction of the  
35 juvenile court has been terminated prior to the new allegations.

36 Unless otherwise provided by law, aAll procedures and hearings required for an original petition  
37 are applicable to a subsequent petition filed under this section.

38  
39 **362.4**

40 When the juvenile court terminates its jurisdiction over a minor who has been adjudged a  
41 dependent child of the juvenile court prior to the minor's attainment of the age of 18 years, and  
42 proceedings for dissolution of marriage, for nullity of marriage, or for legal separation, of the  
43 minor's parents, or proceedings to establish the paternity of the minor child brought under the



1 Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family  
2 Code, are pending in the superior court of any county, or an order has been entered with regard  
3 to the custody of that minor, the juvenile court on its own motion, may issue a protective order as  
4 provided for in Section 213.5 or as defined in Section 6218 of the Family Code, and an order  
5 determining the custody of, or visitation with, the child.

6 Any order issued pursuant to this section shall continue until modified or terminated by a  
7 subsequent order of the superior court. The order of the juvenile court shall be filed in the  
8 proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity,  
9 at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part  
10 thereof.

11 If no action is filed or pending relating to the custody of the minor in the superior court of any  
12 county, the juvenile court order may be used as the sole basis for opening a file in the superior  
13 court of the county in which the parent, who has been given custody, resides. The court may  
14 direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior  
15 court of the county in which the order is to be filed. The clerk of the superior court shall,  
16 immediately upon receipt, open a file, without a filing fee, and assign a case number.

17 The clerk of the superior court shall, upon the filing of any juvenile court custody order,  
18 send a copy of the order with the case number by first-class mail or by electronic means pursuant  
19 to Section 212.5 ~~a copy of the order with the case number~~ to the juvenile court and to the parents  
20 at the address listed on the order. The Judicial Council shall adopt forms for any custody or  
21 restraining order issued under this section. These form orders shall not be confidential.

22  
23 **364.05.**

24 Notwithstanding Section 364, in a county of the first class, a copy of the report required pursuant  
25 to subdivision (b) of Section 364 shall be provided to all parties at least 10 calendar days prior to  
26 the hearing. This may be accomplished by mailing or electronically serving pursuant to Section  
27 212.5 the report at least 15 calendar days prior to the hearing to a party whose address is within  
28 the State of California, or at least 20 calendar days prior to the hearing to a party whose address  
29 is outside the State of California. The court shall grant a reasonable continuance, not to exceed  
30 10 calendar days, upon request by any party or his or her counsel on the ground that the report  
31 was not provided at least 10 calendar days prior to the hearing as required by this section, unless  
32 the party or his or her counsel has expressly waived the requirement that the report be provided  
33 within the 10-day period or the court finds that the party's ability to proceed at the hearing is not  
34 prejudiced by the lack of timely service of the report. In making this determination, the court  
35 shall presume that a party is prejudiced by the lack of timely service of the report, and may find  
36 that the party is not prejudiced only by clear and convincing evidence to the contrary.

37  
38 **366.05.**

39 Notwithstanding subdivision (c) of Section 366.21, in a county of the first class, any  
40 supplemental report filed in connection with a status review hearing held pursuant to subdivision  
41 (a) of Section 366 shall be provided to the parent or legal guardian and to counsel for the child at  
42 least 10 calendar days prior to the hearing. This may be accomplished by mailing or  
43 electronically serving pursuant to Section 212.5 the report at least 15 calendar days prior to the

1 hearing to a party whose address is within the State of California, or at least 20 calendar days  
2 prior to the hearing to a party whose address is outside the State of California. The court shall  
3 grant a reasonable continuance, not to exceed 10 calendar days, upon request by any party or his  
4 or her counsel on the ground that the report was not provided at least 10 calendar days prior to  
5 the hearing as required by this section, unless the party or his or her counsel has expressly  
6 waived the requirement that the report be provided within the 10-day period or the court finds  
7 that the party's ability to proceed at the hearing is not prejudiced by the lack of timely service of  
8 the report. In making this determination, the court shall presume that a party is prejudiced by the  
9 lack of timely service of the report, and may find that the party is not prejudiced only by clear  
10 and convincing evidence to the contrary.

11  
12 **366.21.**

13 (a)-(b) \* \* \*

14 (c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental  
15 report with the court regarding the services provided or offered to the parent or legal guardian to  
16 enable him or her to assume custody and the efforts made to achieve legal permanence for the  
17 child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships  
18 between a child who is 10 years of age or older and has been in out-of-home placement for six  
19 months or longer and individuals who are important to the child, consistent with the child's best  
20 interests; the progress made; and, where relevant, the prognosis for return of the child to the  
21 physical custody of his or her parent or legal guardian; and shall make his or her  
22 recommendation for disposition. If the child is a member of a sibling group described in  
23 subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and  
24 recommendation may also take into account those factors described in subdivision (e) relating to  
25 the child's sibling group. If the recommendation is not to return the child to a parent or legal  
26 guardian, the report shall specify why the return of the child would be detrimental to the child.  
27 The social worker shall provide the parent or legal guardian, counsel for the child, and any court-  
28 appointed child advocate with a copy of the report, including his or her recommendation for  
29 disposition, at least 10 calendar days prior to the hearing. The report may be served  
30 electronically pursuant to Section 212.5. In the case of a child removed from the physical  
31 custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days  
32 prior to the hearing, provide a summary of his or her recommendation for disposition to any  
33 foster parents, relative caregivers, and certified foster parents who have been approved for  
34 adoption by the State Department of Social Services when it is acting as an adoption agency or  
35 by a county adoption agency, community care facility, or foster family agency having the  
36 physical custody of the child. The social worker shall include a copy of the Judicial Council  
37 Caregiver Information Form (JV-290) with the summary of recommendations to the child's  
38 foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's  
39 primary language when available, along with information on how to file the form with the  
40 court. The summary of the recommendation may be served electronically pursuant to Section  
41 212.5.

42 (d)-(l) \* \* \*

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**366.26.**

(a)-(k) \* \* \*

(1)(1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply:

- (A) A petition for extraordinary writ review was filed in a timely manner.
- (B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.
- (C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

- (A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if the party is present at the time of the making of the order. or If the party is not present at the time of making the order, this notice shall be made by the clerk of the court by first-class mail by the clerk of the court to the last known address of a party not present at the time of making the order or by electronic service pursuant to Section 212.5. If the notice is for a hearing at which the social worker will recommend the termination of parental rights, service may be electronic service only in addition to service by first-class mail.
- (B) The prompt transmittal of the records from the trial court to the appellate court.
- (C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.
- (D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

- (A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21, 366.22, and 366.25 for holding a hearing pursuant to this section.
- (B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

(m)-(n) \* \* \*

**387.**

1 (a) An order changing or modifying a previous order by removing a child from the physical  
2 custody of a parent, guardian, relative, or friend and directing placement in a foster home, or  
3 commitment to a private or county institution, shall be made only after noticed hearing upon a  
4 supplemental petition.

5 (b) The supplemental petition shall be filed by the social worker in the original matter and shall  
6 contain a concise statement of facts sufficient to support the conclusion that the previous  
7 disposition has not been effective in the rehabilitation or protection of the child or, in the case of  
8 a placement with a relative, sufficient to show that the placement is not appropriate in view of  
9 the criteria in Section 361.3.

10 (c) Notwithstanding subdivision (a), dependency jurisdiction shall be resumed for a child as to  
11 whom dependency jurisdiction has been suspended pursuant to Section 366.5 if the jurisdiction  
12 established pursuant to Section 601 or 602 is terminated and if, after the issuance of a joint  
13 assessment pursuant to Section 366.5, the court determines that the court's dependency  
14 jurisdiction should be resumed.

15 (d) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately  
16 set the same for hearing within 30 days, and the social worker shall cause notice thereof to be  
17 served upon the persons and in the manner prescribed by Sections 290.1 and 291, except that  
18 service under this subdivision may be electronic service pursuant to Section 212.5.

19 (e) An order for the detention of the child pending adjudication of the petition may be made only  
20 after a hearing is conducted pursuant to Article 7 (commencing with Section 305).

21  
22 **607.2**

23 (a) On and after January 1, 2012, the court shall hold a hearing prior to terminating jurisdiction  
24 over a ward who satisfies any of the following criteria:

25 (1) Is a minor subject to an order for foster care placement described in Section 11402 as a ward  
26 who has not previously been subject to the jurisdiction of the court as a result of a petition filed  
27 pursuant to Section 325.

28 (2) Is a nonminor who was subject to an order for foster care placement described in Section  
29 11402 as a ward on the day he or she attained 18 years of age.

30 (3) Is a ward who was subject to an order for foster care placement described in Section 11402 as  
31 a dependent of the court at the time the court adjudged the child to be a ward of the court under  
32 Section 725.

33 (4) Service of the notice of hearing may be electronic service pursuant to Section 212.5

34 (b) At a hearing during which termination of jurisdiction over a ward described in subdivision (a)  
35 is being considered, the court shall take one of the following actions:

36 (1) Modify its jurisdiction from delinquency jurisdiction to transition jurisdiction, if the court  
37 finds the ward is a person described in Section 450.

38 (2) (A) For a ward who was not previously subject to the jurisdiction of the court as a result of a  
39 petition filed pursuant to Section 325, order the probation department or the ward's attorney to  
40 submit an application to the child welfare services department pursuant to Section 329 to declare  
41 the minor a dependent of the court and modify the court's jurisdiction from delinquency  
42 jurisdiction to dependency jurisdiction, if the court finds all of the following:

- 1 (i) The ward is a minor.
- 2 (ii) The ward does not come within the description in Section 450, but jurisdiction as a ward may  
3 no longer be required.
- 4 (iii) The ward appears to come within the description of Section 300 and cannot be returned  
5 home safely.
- 6 (B) The court shall set a hearing within 20 judicial days of the date of the order described in  
7 subparagraph (A) to review the child welfare services department's decision and may either  
8 affirm its decision not to file a petition pursuant to Section 300 or order the child welfare  
9 services department to file a petition pursuant to Section 300. Service of the notice of hearing  
10 may be electronic service pursuant to Section 212.5
- 11 (3) Vacate the order terminating jurisdiction over the minor as a dependent of the court, resume  
12 jurisdiction pursuant to Section 300 based on the prior petition filed pursuant to Section 325, and  
13 terminate the court's jurisdiction over the minor as a ward, if the minor was subject to an order  
14 for foster care placement described in Section 11402 as a dependent of the court at the time the  
15 court adjudged the minor to be a ward and assumed jurisdiction over the minor under Section  
16 725.
- 17 (4) Continue its delinquency jurisdiction over a ward pursuant to Section 303 as a nonminor  
18 dependent, as defined in subdivision (v) of Section 11400, who is eligible to remain in foster care  
19 pursuant to Section 11403, if the ward is a nonminor and the court did not modify its jurisdiction  
20 as described in Section 450, unless the court finds that after reasonable and documented efforts,  
21 the ward cannot be located or does not wish to become a nonminor dependent. In making this  
22 finding and prior to entering an order terminating its delinquency jurisdiction, the court shall  
23 ensure that the ward has had an opportunity to confer with his or her counsel and has been  
24 informed of his or her options, including the right to reenter foster care placement by completing  
25 a voluntary reentry agreement as described in subdivision (z) of Section 11400 and to file a  
26 petition pursuant to subdivision (e) of Section 388 for the court to assume or resume transition  
27 jurisdiction over him or her pursuant to Section 450. The fact that a ward declines to be a  
28 nonminor dependent does not restrict the authority of the court to maintain delinquency  
29 jurisdiction pursuant to Section 607.
- 30 (5) Continue its delinquency jurisdiction.
- 31 (6) Terminate its delinquency jurisdiction if the ward does not come within the provisions of  
32 paragraphs (1) to (4), inclusive.
- 33 (c) If the court modifies jurisdiction, its order shall comply with the requirements of subdivision  
34 (f) of Section 241.1.
- 35 (d) This section shall not be construed as changing the requirements of Section 727.2 or 727.3  
36 with respect to reunification of minors with their families or the establishment of an alternative  
37 permanent plan for minors for whom reunification is not pursued.

38

39 **630.**

- 40 (a) If the probation officer determines that the minor shall be retained in custody, he shall  
41 immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the

1 filing of a petition pursuant to Section 656 with the clerk of the juvenile court who shall set the  
2 matter for hearing on the detention calendar. Immediately upon filing the petition with the clerk  
3 of the juvenile court, if the minor is alleged to be a person described in Section 601 or 602, the  
4 probation officer or the prosecuting attorney, as the case may be, shall serve such minor with a  
5 copy of the petition and notify him of the time and place of the detention hearing. The probation  
6 officer, or the prosecuting attorney, as the case may be, shall thereupon notify each parent or  
7 each guardian of the minor of the time and place of such hearing if the whereabouts of each  
8 parent or guardian can be ascertained by due diligence. Such notice may be given orally. Service  
9 under this subdivision shall not be made electronically.

10 (b) In such hearing the minor has a privilege against self-incrimination and has a right to  
11 confrontation by, and cross-examination of, any person examined by the court as provided in  
12 Section 635.

13  
14 **658.**

15 (a) Except as provided in subdivision (b), upon the filing of the petition, the clerk of the juvenile  
16 court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall  
17 cause the same to be served upon the minor, if the minor is eight or more years of age, and upon  
18 each of the persons described in subdivision (e) of Section 656 whose residence addresses are set  
19 forth in the petition and thereafter before the hearing upon all persons whose residence addresses  
20 become known to the clerk. If the court has ordered the care, custody, and control of the minor to  
21 be under the supervision of the probation officer for foster care placement pursuant to  
22 subdivision (a) of Section 727, the clerk shall also issue a copy of that notice to any foster  
23 parents, preadoptive parents, legal guardians or relatives providing care to the minor. The clerk  
24 shall issue a copy of the petition, to the minor's attorney and to the district attorney, if the district  
25 attorney has notified the clerk of the court that he or she wishes to receive the petition,  
26 containing the time, date, and place of the hearing. Service under this subdivision may be  
27 electronic service pursuant to Section 212.5 except that electronic service is not authorized if the  
28 minor is detained and those persons entitled to notice are not present at the initial detention  
29 hearing.

30 (b) Upon the filing of a supplemental petition where the minor has been declared a ward of the  
31 court or a probationer under Section 602 in the original matter, the clerk of the juvenile court  
32 shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause  
33 the notice to be served upon the minor, if the minor is eight or more years of age, and upon each  
34 of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth  
35 in the supplemental petition and thereafter known to the clerk. The clerk shall issue a copy of the  
36 supplemental petition to the minor's attorney, and to the district attorney if the probation officer  
37 is the petitioner, or, to the probation officer if the district attorney is the petitioner, containing the  
38 time, date, and place of the hearing. If the court has ordered the care, custody, and control of the  
39 minor to be under the supervision of the probation officer for foster care placement pursuant to  
40 subdivision (a) of Section 727, the clerk shall also issue a copy of that notice to any foster  
41 parents, preadoptive parents, legal guardians, or relatives providing care to the minor. Service  
42 under this subdivision may be electronic service pursuant to Section 212.5.

1  
2 **660.**

3 (a) Except as provided in subdivision (b), if the minor is detained, the clerk of the juvenile court  
4 shall cause the notice and copy of the petition to be served on all persons required to receive that  
5 notice and copy of the petition pursuant to subdivision (e) of Section 656 and Section 658, either  
6 personally or by certified mail with request for return receipt, as soon as possible after filing of  
7 the petition and at least five days prior to the time set for hearing, unless the hearing is set less  
8 than five days from the filing of the petition, in which case, the notice and copy of the petition  
9 shall be served at least 24 hours prior to the time set for hearing. Service under this subdivision  
10 shall not be made electronically.

11 (b) If the minor is detained, and all persons entitled to notice pursuant to subdivision (e) of  
12 Section 656 and Section 658 were present at the detention hearing, the clerk of the juvenile court  
13 shall cause the notice and copy of the petition to be served on all persons required to receive the  
14 notice and copy of the petition, ~~either personally by personal service, or~~ by first-class mail, or by  
15 electronic service pursuant to Section 212.5, as soon as possible after the filing of the petition  
16 and at least five days prior to the time set for hearing, unless the hearing is set less than five days  
17 from the filing of the petition, in which case the notice and copy of the petition shall be served at  
18 least 24 hours prior to the time set for the hearing. Service under this subdivision may be  
19 electronic service pursuant to Section 212.5 except that electronic service is not authorized if the  
20 minor is detained and those persons entitled to notice are not present at the detention hearing.

21 (c) If the minor is not detained, the clerk of the juvenile court shall cause the notice and copy of  
22 the petition to be served on all persons required to receive the notice and copy of the  
23 petition, ~~either personally by personal service, or~~ by first-class mail, or by electronic service  
24 pursuant to Section 212.5, at least 10 days prior to the time set for hearing. If that person is  
25 known to reside outside of the county, the clerk of the juvenile court shall ~~mail-serve~~ the notice  
26 and copy of the petition, by first-class mail or by electronic service pursuant to Section 212.5, to  
27 that person, as soon as possible after the filing of the petition and at least 10 days before the time  
28 set for hearing. Failure to respond to the notice shall in no way result in arrest or detention. In the  
29 instance of failure to appear after notice by first-class mail or electronic service, the court shall  
30 direct that the notice and copy of the petition is to be personally served on all persons required to  
31 receive the notice and a copy of the petition. However, if the whereabouts of the minor are  
32 unknown, personal service of the notice and a copy of the petition is not required and a warrant  
33 for the arrest of the minor may be issued pursuant to Section 663. Personal service of the notice  
34 and copy of the petition outside of the county at least 10 days before the time set for hearing is  
35 equivalent to service by first-class mail or electronic service. Service may be waived by any  
36 person by a voluntary appearance entered in the minutes of the court or by a written waiver of  
37 service filed with the clerk of the court at or prior to the hearing.

38 (d) For purposes of this section, service on the minor's attorney shall constitute service on the  
39 minor's parent or legal guardian.  
40

41 **661.**

42 In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its  
43 citation directing any parent, guardian, or foster parent of the person concerning whom a petition

1 has been filed to appear at the time and place set for any hearing or financial evaluation under the  
2 provisions of this chapter, including a hearing under the provisions of Section 257, and directing  
3 any person having custody or control of the minor concerning whom the petition has been filed  
4 to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or  
5 foster parent may be required to participate in a counseling or education program with the minor  
6 concerning whom the petition has been filed. If the proceeding is one alleging that the minor  
7 comes within the provisions of Section 601, the notice shall in addition contain notice to the  
8 parent, guardian, or other person having control or charge of the minor that failure to comply  
9 with the compulsory school attendance laws is an infraction, which may be charged and  
10 prosecuted before the juvenile court judge sitting as a superior court judge. In those cases, the  
11 notice shall also include notice that the parent, guardian, or other person having control or charge  
12 of the minor has the right to a hearing on the infraction before a judge different than the judge  
13 who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the  
14 provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall  
15 be made at least 24 hours before the time stated therein for the appearance. Service under this  
16 section may be electronic service only in addition to other forms of service required by law.

17  
18 **727.4.**

19 (a)(1) Notice of any hearing pursuant to Section 727, 727.2, or 727.3 shall be ~~mailed~~ served by  
20 the probation officer to the minor, the minor's parent or guardian, any adult provider of care to  
21 the minor including, but not limited to, foster parents, relative caregivers, preadoptive parents,  
22 community care facility, or foster family agency, and to the counsel of record if the counsel of  
23 record was not present at the time that the hearing was set by the court, by first-class  
24 mail addressed to the last known address of the person to be notified, ~~or shall be personally~~  
25 served by personal service on those persons, or by electronic service pursuant to Section 212.5,  
26 not earlier than 30 days nor later than 15 days preceding the date of the hearing. The notice shall  
27 contain a statement regarding the nature of the status review or permanency planning hearing and  
28 any change in the custody or status of the minor being recommended by the probation  
29 department. The notice shall also include a statement informing the foster parents, relative  
30 caregivers, or preadoptive parents that he or she may attend all hearings or may submit any  
31 information he or she deems relevant to the court in writing. The foster parents, relative  
32 caregiver, and preadoptive parents are entitled to notice and opportunity to be heard but need not  
33 be made parties to the proceedings. Proof of notice shall be filed with the court.

34 (2) If the court or probation officer knows or has reason to know that the minor is or may be an  
35 Indian child, any notice sent under this section shall comply with the requirements of Section  
36 224.2.

37 (b) At least 10 calendar days prior to each status review and permanency planning hearing, after  
38 the hearing during which the court orders that the care, custody and control of the minor to be  
39 under the supervision of the probation officer for placement pursuant to subdivision (a) of  
40 Section 727, the probation officer shall file a social study report with the court, pursuant to the  
41 requirements listed in Section 706.5.



1 (c) The probation department shall inform the minor, the minor’s parent or guardian, and all  
2 counsel of record that a copy of the social study prepared for the hearing will be available 10  
3 days prior to the hearing and may be obtained from the probation officer.

4 (d) As used in Article 15 (commencing with Section 625) to Article 18 (commencing with  
5 Section 725), inclusive:

6 (1) “Foster care” means residential care provided in any of the settings described in Section  
7 11402.

8 (2) “At risk of entering foster care” means that conditions within a minor’s family may  
9 necessitate his or her entry into foster care unless those conditions are resolved.

10 (3) “Preadoptive parent” means a licensed foster parent who has been approved for adoption by  
11 the State Department of Social Services when it is acting as an adoption agency or by a licensed  
12 adoption agency.

13 (4) “Date of entry into foster care” means the date that is 60 days after the date on which the  
14 minor was removed from his or her home, unless one of the exceptions below applies:

15 (A) If the minor is detained pending foster care placement, and remains detained for more than  
16 60 days, then the date of entry into foster care means the date the court adjudges the minor a  
17 ward and orders the minor placed in foster care under the supervision of the probation officer.

18 (B) If, before the minor is placed in foster care, the minor is committed to a ranch, camp, school,  
19 or other institution pending placement, and remains in that facility for more than 60 days, then  
20 the “date of entry into foster care” is the date the minor is physically placed in foster care.

21 (C) If at the time the wardship petition was filed, the minor was a dependent of the juvenile court  
22 and in out-of-home placement, then the “date of entry into foster care” is the earlier of the date  
23 the juvenile court made a finding of abuse or neglect, or 60 days after the date on which the child  
24 was removed from his or her home.

25 (5) “Reasonable efforts” means:

26 (A) Efforts made to prevent or eliminate the need for removing the minor from the minor’s  
27 home.

28 (B) Efforts to make it possible for the minor to return home, including, but not limited to, case  
29 management, counseling, parenting training, mentoring programs, vocational training,  
30 educational services, substance abuse treatment, transportation, and therapeutic day services.

31 (C) Efforts to complete whatever steps are necessary to finalize a permanent plan for the minor.

32 (D) In child custody proceedings involving an Indian child, “reasonable efforts” shall also  
33 include “active efforts” as defined in Section 361.7.

34 (6) “Relative” means an adult who is related to the minor by blood, adoption, or affinity within  
35 the fifth degree of kinship including stepparents, stepsiblings, and all relatives whose status is  
36 preceded by the words “great,” “great-great,” “grand,” or the spouse of any of these persons even  
37 if the marriage was terminated by death or dissolution. “Relative” shall also include an  
38 “extended family member” as defined in the Indian Child Welfare Act (25 U.S.C. Sec. 1903(2)).

39 (7) “Hearing” means a noticed proceeding with findings and orders that are made on a case-by-  
40 case basis, heard by either of the following:

41 (A) A judicial officer, in a courtroom, recorded by a court reporter.

42 (B) An administrative panel, provided that the hearing is a status review hearing and that the  
43 administrative panel meets the following conditions:

- 1 (i) The administrative review shall be open to participation by the minor and parents or legal  
2 guardians and all those persons entitled to notice under subdivision (a).  
3 (ii) The minor and his or her parents or legal guardians receive proper notice as required in  
4 subdivision (a).  
5 (iii) The administrative review panel is composed of persons appointed by the presiding judge of  
6 the juvenile court, the membership of which shall include at least one person who is not  
7 responsible for the case management of, or delivery of services to, the minor or the parents who  
8 are the subjects of the review.  
9 (iv) The findings of the administrative review panel shall be submitted to the juvenile court for  
10 the court's approval and shall become part of the official court record.

11  
12 **777.**

13 An order changing or modifying a previous order by removing a minor from the physical  
14 custody of a parent, guardian, relative, or friend and directing placement in a foster home, or  
15 commitment to a private institution or commitment to a county institution, or an order changing  
16 or modifying a previous order by directing commitment to the Youth Authority shall be made  
17 only after a noticed hearing.

18 (a) The notice shall be made as follows:

19 (1) By the probation officer where a minor has been declared a ward of the court or a probationer  
20 under Section 601 in the original matter and shall contain a concise statement of facts sufficient  
21 to support the conclusion that the minor has violated an order of the court.

22 (2) By the probation officer or the prosecuting attorney if the minor is a court ward or  
23 probationer under Section 602 in the original matter and the notice alleges a violation of a  
24 condition of probation not amounting to a crime. The notice shall contain a concise statement of  
25 facts sufficient to support this conclusion.

26 (3) Where the probation officer is the petitioner pursuant to paragraph (2), prior to the attachment  
27 of jeopardy at the time of the jurisdictional hearing the prosecuting attorney may make a motion  
28 to dismiss the notice and may request that the matter be referred to the probation officer for  
29 whatever action the prosecuting or probation officer may deem appropriate.

30 (b) Upon the filing of such notice, the clerk of the juvenile court shall immediately set the same  
31 for hearing within 30 days, and the probation officer shall cause notice of it to be served upon the  
32 persons and in the manner prescribed by Sections 658 and 660. Service under this subdivision  
33 may be electronic service pursuant to Section 212.5.

34 (c) The facts alleged in the notice shall be established by a preponderance of the evidence at a  
35 hearing to change, modify, or set aside a previous order. The court may admit and consider  
36 reliable hearsay evidence at the hearing to the same extent that such evidence would be  
37 admissible in an adult probation revocation hearing, pursuant to the decision in *People v. Brown*,  
38 215 Cal.App.3d (1989) and any other relevant provision of law.

39 (d) An order for the detention of the minor pending adjudication of the alleged violation may be  
40 made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of

1 this chapter. Service under this subdivision may be electronic service only in addition to other  
2 forms of service required by law.

3  
4 **778.**

5 (a) (1) Any parent or other person having an interest in a child who is a ward of the juvenile  
6 court or the child himself or herself through a properly appointed guardian may, upon grounds of  
7 change of circumstance or new evidence, petition the court in the same action in which the child  
8 was found to be a ward of the juvenile court for a hearing to change, modify, or set aside any  
9 order of court previously made or to terminate the jurisdiction of the court. The petition shall be  
10 verified and, if made by a person other than the child, shall state the petitioner's relationship to  
11 or interest in the child and shall set forth in concise language any change of circumstance or new  
12 evidence which are alleged to require such change of order or termination of jurisdiction.

13 (2) If it appears that the best interests of the child may be promoted by the proposed change of  
14 order or termination of jurisdiction, the court shall order that a hearing be held and shall give  
15 prior notice, or cause prior notice to be given, to such persons and by such means as prescribed  
16 by Sections 776 and 779, by electronic service pursuant to Section 212.5, and, in such instances  
17 as the means of giving notice is not prescribed by such sections, then by such means as the court  
18 prescribes.

19 (b) (1) Any person, including a ward, a transition dependent, or a nonminor dependent of the  
20 juvenile court, may petition the court to assert a relationship as a sibling related by blood,  
21 adoption, or affinity through a common legal or biological parent to a child who is, or is the  
22 subject of a petition for adjudication as, a ward of the juvenile court, and may request visitation  
23 with the ward, placement with or near the ward, or consideration when determining or  
24 implementing a case plan or permanent plan for the ward.

25 (2) A ward, transition dependent, or nonminor dependent of the juvenile court may petition the  
26 court to assert a relationship as a sibling related by blood, adoption, or affinity through a  
27 common legal or biological parent to a child who is in the physical custody of a common legal or  
28 biological parent, and may request visitation with the nondependent sibling in parental custody.

29 (3) Pursuant to subdivision (b) of Section 16002, a request for sibling visitation may be granted  
30 unless it is determined by the court that sibling visitation is contrary to the safety and well-being  
31 of any of the siblings.

32 (4) The court may appoint a guardian ad litem to file the petition for a ward asserting a sibling  
33 relationship pursuant to this subdivision if the court determines that the appointment is necessary  
34 for the best interests of the ward. The petition shall be verified and shall set forth the following:

35 (A) Through which parent he or she is related to the sibling.

36 (B) Whether he or she is related to the sibling by blood, adoption, or affinity.

37 (C) The request or order that the petitioner is seeking.

38 (D) Why that request or order is in the best interest of the ward.

39  
40 **779.**

1 The court committing a ward to the Youth Authority may thereafter change, modify, or set aside  
2 the order of commitment. Ten days' notice of the hearing of the application therefor shall be  
3 served ~~by United States mail~~ upon the Director of the Youth Authority. In changing, modifying,  
4 or setting aside the order of commitment, the court shall give due consideration to the effect  
5 thereof upon the discipline and parole system of the Youth Authority or of the correctional  
6 school in which the ward may have been placed by the Youth Authority. Except as provided in  
7 this section, nothing in this chapter shall be deemed to interfere with the system of parole and  
8 discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole  
9 and discharge of wards of the juvenile court committed to the Youth Authority, or with the  
10 management of any school, institution, or facility under the jurisdiction of the Youth Authority.  
11 Except as provided in this section, this chapter does not interfere with the system of transfer  
12 between institutions and facilities under the jurisdiction of the Youth Authority. This section  
13 does not limit the authority of the court to change, modify, or set aside an order of commitment  
14 after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to,  
15 or failing to, provide treatment consistent with Section 734.

16 However, before any inmate of a correctional school may be transferred to a state hospital, he or  
17 she shall first be returned to a court of competent jurisdiction and, after hearing, may be  
18 committed to a state hospital for the insane in accordance with law.

19  
20 **785.**

21 (a) Where a minor is a ward of the juvenile court, the wardship did not result in the minor's  
22 commitment to the Youth Authority, and the minor is found not to be a fit and proper subject to  
23 be dealt with under the juvenile court law with respect to a subsequent allegation of criminal  
24 conduct, any parent or other person having an interest in the minor, or the minor, through a  
25 properly appointed guardian, the prosecuting attorney, or probation officer, may petition the  
26 court in the same action in which the minor was found to be a ward of the juvenile court for a  
27 hearing for an order to terminate or modify the jurisdiction of the juvenile court. The court shall  
28 order that a hearing be held and shall give prior notice, or cause prior notice to be given, to those  
29 persons and by the means prescribed by Sections 776 and 779, by electronic service pursuant to  
30 Section 212.5, or where the means of giving notice is not prescribed by those sections, then by  
31 such means as the court prescribes.

32 (b) The petition shall be verified and shall state why jurisdiction should be terminated or  
33 modified in concise language.

34 (c) In determining whether or not the wardship shall terminate or be modified, the court shall be  
35 guided by the policies set forth in Section 202.

36 (d) In addition to its authority under this chapter, the Judicial Council shall adopt rules providing  
37 criteria for the consideration of the juvenile court in determining whether or not to terminate or  
38 modify jurisdiction pursuant to this section.

39  
40 **903.45.**

41 (a) The board of supervisors may designate a county financial evaluation officer pursuant to  
42 Section 27750 of the Government Code to make financial evaluations of liability for

1 reimbursement pursuant to Sections 207.2, 903, 903.1, 903.2, 903.25, 903.3, and 903.5, and  
2 other reimbursable costs allowed by law, as set forth in this section.

3 (b) In a county where a board of supervisors has designated a county financial evaluation officer,  
4 the juvenile court shall, at the close of the disposition hearing, order any person liable for the  
5 cost of support, pursuant to Section 903, the cost of legal services as provided for in Section  
6 903.1, probation costs as provided for in Section 903.2, or any other reimbursable costs allowed  
7 under this code, to appear before the county financial evaluation officer for a financial evaluation  
8 of his or her ability to pay those costs. If the responsible person is not present at the disposition  
9 hearing, the court shall cite him or her to appear for a financial evaluation. In the case of a  
10 parent, guardian, or other person assessed for the costs of transport, food, shelter, or care of a  
11 minor under Section 207.2 or 903.25, the juvenile court shall, upon request of the county  
12 probation department, order the appearance of the parent, guardian, or other person before the  
13 county financial evaluation officer for a financial evaluation of his or her ability to pay the costs  
14 assessed.

15 If the county financial evaluation officer determines that a person so responsible has the ability  
16 to pay all or part of the costs, the county financial evaluation officer shall petition the court for  
17 an order requiring the person to pay that sum to the county or court, depending on which entity  
18 incurred the expense. If the parent or guardian is liable for costs for legal services pursuant to  
19 Section 903.1, the parent or guardian has been reunified with the child pursuant to a court order,  
20 and the county financial evaluation officer determines that repayment of the costs would harm  
21 the ability of the parent or guardian to support the child, then the county financial evaluation  
22 officer shall not petition the court for an order of repayment, and the court shall not make that  
23 order. In addition, if the parent or guardian is currently receiving reunification services, and the  
24 court finds, or the county financial officer determines, that repayment by the parent or guardian  
25 will pose a barrier to reunification with the child because it will limit the ability of the parent or  
26 guardian to comply with the requirements of the reunification plan or compromise the parent's or  
27 guardian's current or future ability to meet the financial needs of the child, or in any case in  
28 which the court finds that the repayment would be unjust under the circumstances of the case,  
29 then the county financial evaluation officer shall not petition the court for an order of repayment,  
30 and the court shall not order repayment by the parent or guardian. In evaluating a person's ability  
31 to pay under this section, the county financial evaluation officer and the court shall take into  
32 consideration the family's income, the necessary obligations of the family, and the number of  
33 persons dependent upon this income. A person appearing for a financial evaluation has the right  
34 to dispute the county financial evaluation officer's determination, in which case he or she is  
35 entitled to a hearing before the juvenile court. The county financial evaluation officer, at the time  
36 of the financial evaluation, shall advise the person of his or her right to a hearing and of his or  
37 her rights pursuant to subdivision (c).

38 At the hearing, a person responsible for costs is entitled to have, but shall not be limited to, the  
39 opportunity to be heard in person, to present witnesses and other documentary evidence, to  
40 confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her,  
41 and to receive a written statement of the findings of the court. The person has the right to be  
42 represented by counsel, and, if the person is unable to afford counsel, the right to appointed  
43 counsel. If the court determines that the person has the ability to pay all or part of the costs,

1 including the costs of any counsel appointed to represent the person at the hearing, the court shall  
2 set the amount to be reimbursed and order him or her to pay that sum to the county or court,  
3 depending on which entity incurred the expense, in a manner in which the court believes  
4 reasonable and compatible with the person's financial ability.

5 If the person, after having been ordered to appear before the county financial evaluation officer,  
6 has been given proper notice and fails to appear as ordered, the county financial evaluation  
7 officer shall recommend to the court that the person be ordered to pay the full amount of the  
8 costs. Proper notice to the person shall contain all of the following:

9 (1) That the person has a right to a statement of the costs as soon as it is available.  
10 (2) The person's procedural rights under Section 27755 of the Government Code.  
11 (3) The time limit within which the person's appearance is required.  
12 (4) A warning that if the person fails to appear before the county financial evaluation officer, the  
13 officer will recommend that the court order the person to pay the costs in full.

14 If the county financial evaluation officer determines that the person has the ability to pay all or a  
15 portion of these costs, with or without terms, and the person concurs in this determination and  
16 agrees to the terms of payment, the county financial evaluation officer, upon his or her written  
17 evaluation and the person's written agreement, shall petition the court for an order requiring the  
18 person to pay that sum to the county or the court in a manner that is reasonable and compatible  
19 with the person's financial ability. This order may be granted without further notice to the  
20 person, provided a copy of the order is served on the person by mail or by electronic means  
21 pursuant to section 212.5.

22 However, if the county financial evaluation officer cannot reach an agreement with the person  
23 with respect to either the liability for the costs, the amount of the costs, the person's ability to  
24 pay the costs, or the terms of payment, the matter shall be deemed in dispute and referred by the  
25 county financial evaluation officer back to the court for a hearing.

26 (c) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person  
27 against whom the judgment was entered may petition the rendering court to modify or vacate the  
28 judgment on the basis of a change in circumstances relating to his or her ability to pay the  
29 judgment.

30 (d) Execution may be issued on the order in the same manner as on a judgment in a civil action,  
31 including any balance remaining unpaid at the termination of the court's jurisdiction over the  
32 minor.

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

SPR16-\_\_

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Title	Action Requested
Criminal Procedure: Application of Code of Civil Procedure section 1010.6(a) and (b) to Criminal Actions	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Add Penal Code section ____	January 1, 2018
Proposed by	Contact
Criminal Law Advisory Committee	Kimberly DaSilva, (415) 865-4534
Hon. Tricia Ann Bigelow, Chair	kimberly.dasilva@jud.ca.gov
Information Technology Advisory Committee	Tara Lundstrom, (415) 865-7650
Hon. Terence L. Bruiniers, Chair	tara.lundstrom@jud.ca.gov

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### Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) is leading a modernization project to amend the statutes and California Rules of Court to facilitate electronic filing and service and to foster modern e-business practices. This proposal, developed jointly by ITAC and the Criminal Law Advisory Committee, would provide express authority for permissive electronic filing and service in criminal proceedings by adding a statute to the Penal Code applying the electronic filing and service provisions of Code of Civil Procedure section 1010.6 to criminal actions.

### Background

The project is progressing in two phases. Phase one occurred during 2015 and involved developing and amending the Rules of Court effective January 1, 2016. Phase two is taking place during 2016, for rules effective January 1, 2017 and statutes effective January 1, 2018.

Phase one focused on technical changes to the Rules of Court. In most cases these changes accounted for digital copies, e-mailing, and electronic filing where those practices were already authorized by statute but where the rules had not yet been revised to acknowledge existing practices. In the absence of express legislation authorizing electronic filing and service in criminal proceedings, the committees did not recommend similar proposed amendments to the Criminal Rules of Court.

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

Phase two includes the present legislative proposal to add a Penal Code section authorizing permissive electronic filing and service in criminal proceedings. It will also focus on more substantive changes to the Rules of Court and concurrent legislative proposals.

### **The Proposal**

Code of Civil Procedure section 1010.6 authorizes electronic filing and service of documents in civil proceedings. There is no corresponding authority in the Penal Code to authorize electronic filing and service of documents in criminal cases.

Section 1010.6 authorizes electronic filing and service of documents in civil proceedings as follows:

- (a) A document may be served electronically in an action filed with the court as provided in this section . . .
- (b) A trial court may adopt local rules permitting electronic filing of documents . . .

(Code Civ. Proc., § 1010.6(a), (b).)

However, because some county justice partners may not have the resources to undertake electronic filing and service in criminal cases, this proposal only incorporates the permissive provisions of section 1010.6 into the Penal Code. Under this proposal, courts would not be authorized to require mandatory electronic filing and service in criminal actions. Rather, for those courts with the resources to implement electronic filing and service in criminal matters, this proposal would provide them with express authority to do so, provided the parties consent to electronic filing and service.

This proposal would add section \_\_\_ to Part 2, Title 5, Chapter \_\_\_, of the Penal Code, applying section 1010.6 to criminal proceedings.

### **Alternatives Considered**

The committees considered whether proposing amendments to the Criminal Rules of Court authorizing electronic filing and service absent express statutory authority was appropriate. It concluded that express statutory authority would be clearer.

### **Implementation Requirements, Costs, and Operational Impacts**

Because the proposal is permissive, rather than mandatory, county justice partners would not be required to electronically file and serve in criminal proceedings. Rather, the proposal would provide the option where the county justice partners are technologically capable of making the transition and where the court offers electronic filing and service. Because of this, no implementation costs or operational impacts would be forced upon courts or counties. It is anticipated that efficiencies and cost savings gained through implementing electronic filing and



service procedures in criminal proceedings would offset any significant costs or operational impacts on participating counties.

## **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 1 year from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachment**

1. Proposed new Penal Code section \_\_\_\_, at page 4

Section \_\_\_\_ of the Penal Code would be added, effective January 1, 2018, to read:

1 **Applicability of Code of Civil Procedure section 1010.6; exceptions**

2

3 (a) Subdivisions (a) and (b) of the Code of Civil Procedure section 1010.6 are applicable  
4 to criminal actions, except as otherwise provided in this Code.

5

6 (b) The Judicial Council shall adopt uniform rules for the electronic filing and service of  
7 documents in criminal cases in the trial courts of this state.

8

DRAFT

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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Title

Technology: Modernization of the Rules of Court to Facilitate E-Business, E-Filing, and E-Service (Phase II of the Rules Modernization Project)

Proposed Rules, Forms, Standards, or Statutes  
Amend rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392.

Proposed by

Information Technology Advisory Committee  
Hon. Terence L. Bruiniers, Chair

Civil and Small Claims Advisory Committee  
Hon. Raymond M. Cadei, Chair

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

Action Requested

Review and submit comments by June 14, 2016

Proposed Effective Date

January 1, 2017

Contact

Tara Lundstrom, 415-865-7650  
[tara.lundstrom@jud.ca.gov](mailto:tara.lundstrom@jud.ca.gov)

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### Executive Summary and Origin

The Information Technology Advisory Committee, the Civil and Small Claims Advisory Committee, and the Family and Juvenile Law Advisory Committee recommend amending various rules in titles 2, 3, and 5 of the California Rules of Court as part of phase II of the Rules Modernization Project. These proposed amendments are substantive changes to the rules that are intended to promote electronic filing, electronic service, and modern e-business practices.

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

## **Background**

The Information Technology Advisory Committee (ITAC) is leading the Rules Modernization Project, a multi-year effort to comprehensively review and modernize the California Rules of Court so that they will be consistent with and foster modern e-business practices. To ensure that each title is revised in view of any statutory requirements and policy concerns unique to that area of law, ITAC is coordinating with other advisory committees, including the Civil and Small Claims Advisory Committee (CSCAC) and the Family and Juvenile Law Advisory Committee (FJLAC), with relevant subject-matter expertise.

The Rules Modernization Project is being carried out in two phases. Last year, the advisory committees completed phase I—an initial round of technical rule amendments to address language in the rules that was incompatible with the current statutes and rules governing electronic filing and service and with e-business practices in general. This year, the committees are undertaking phase II, which involves a more in-depth examination of any statutes and rules that may hinder electronic filing, electronic service, and modern e-business practices.

## **The Proposal**

The proposal includes new formatting rules for electronic documents. It also includes proposed amendments to the various rules identified by the committees during phase I as requiring a substantive change, as well as technical amendments that were missed during phase I.

The proposed amendments to rules in titles 2 and 3 have been reviewed and recommended by ITAC and CSCAC; those in title 5 have been reviewed and recommended by ITAC and FJLAC.

### **Formatting of electronically filed documents**

Rule 2.256(b) states the formatting requirements for electronically filed documents. This proposal would add references to rule 2.256(b) in rules 2.100, 2.114, and 2.104 to clarify that the formatting requirements in rule 2.256(b) apply to electronically filed “papers,” exhibits, and forms.

***Text-searchable electronic “papers.”*** This proposal would amend rule 2.256(b) to provide that an electronically filed document must be text searchable unless it is an exhibit or Judicial Council form. This requirement would apply to “papers,” which are defined in rule 2.3(2) as “all documents except exhibits, copies of exhibits that are offered for filing in any case, but does not include Judicial Council and local court forms, records on appeal in limited civil cases, or briefs filed in appellate divisions.” This proposal is intended to discourage litigants from printing and scanning “papers” before electronically filing them, which creates documents that are not text searchable.

Because converting from a document created with word processing software to portable document format (“PDF”) may result in a slight reduction or enlargement of font size in the document, this proposal would amend rule 2.118 by adding a new subdivision (a)(3) to provide that a clerk may not reject papers for filing solely because “[t]he font size is not exactly the point

size required by rules 2.104 and 2.110(c) on papers submitted electronically in portable document format (PDF). Minimal variation in font size may result from converting a document created using word processing software to PDF format.”

***Electronic bookmarks for exhibits.*** This proposal would amend rule 3.1110(f) to require that electronic exhibits contain electronic bookmarks, unless they are submitted by a self-represented litigant. The electronic bookmarks must have (1) links to the first page of each exhibit and (2) titles that identify the exhibit number or letter and briefly describe the exhibit. This proposal would add an Advisory Committee Comment that would state that, under current technology, software programs that allow users to apply electronic bookmarks to electronic documents are available for free. In addition, this proposal would amend rule 3.1113(i) to require electronic bookmarking where authorities or cases are lodged in electronic form.

### **Page numbering**

This proposal would amend the rules governing pagination for “papers,” motion documents, and motion memoranda—rules 2.109, 3.1110(c), and 3.1113(h)—to provide that page numbering must begin with the first page and use only Arabic numerals (e.g., 1, 2, 3) and that the page number need not appear on the first page. These proposed amendments recognize that judicial officers find it easier to navigate electronic documents when the page number in the footer matches the page number of the electronic document. To provide for consistency, this method of page numbering would apply to both electronic and paper documents; and, as a result, the pages of tables of content in memoranda will no longer be paginated using lower-case Roman numerals.

To ensure that the proposed amendment to rule 3.1113(h) would not alter the number of pages allowed for memoranda, this proposal would also amend rule 3.1113(d) by providing that caption pages are not counted in determining whether a memorandum exceeds the page limit. Subdivision (d) already provides that exhibits, declarations, attachments, the table of contents, the table of authorities, and the proof of service are not counted.

### **Proof of electronic service**

This proposal would amend rule 2.251(i) to conform the requirements for proof of electronic service to the statutes and rules governing electronic service. It would also eliminate the requirement that the person filling out the proof of electronic service state the time of electronic service.

***Electronic service by a party.*** In stating the requirements for proof of electronic service, rule 2.251(i) incorporates the requirements for proof of mailing in Code of Civil Procedure section 1013a, subject to several exceptions. Rule 2.251(i) does not currently provide an exception to the requirement in Code of Civil Procedure section 1013a that proof of service by mail be made by affidavit or certificate showing that the “the person making the service” is “not a party to the cause.” This requirement contradicts the statute and rules governing electronic service, which expressly allow for electronic service by a party. (See Code Civ. Proc., § 1010.6(a)(1)(A); Cal.

Rules of Court, rule 2.251(e).) This proposal would add another exception to rule 2.251(i) to recognize that parties may electronically serve documents under the current statutes and rules governing electronic service.

***Time of electronic service.*** This proposal would amend rule 2.251(1) to remove the requirement that the proof of electronic service state the time of electronic service. In practice, this requirement has proved unworkable: the person filling out the proof of electronic service will not know the precise time of electronic service until after the document is served. Because this requirement also appears in the proof of service for fax filing, this proposal would make the same change to rule 2.306(h)(1).

### **Paper courtesy copies**

At present, the rules are silent as to whether paper courtesy copies may be required when documents are filed electronically. This proposal would add a new subdivision (i) to 2.252 to provide that a judge may request that electronic filers submit paper courtesy copies of an electronically filed document.

### **“Return” of lodged records**

This proposal would amend the rules addressing lodged materials—rules 3.1302(b), 2.577(d)(4) and 3.1302(b)—to provide a new process for “returning” materials lodged in electronic form. The proposed amendment to rules 3.1302, 2.577(d)(4), and 3.1302(b) would instruct court staff to permanently delete the lodged record if in electronic form and to provide notice of the deletion to the submitting party.

During phase I of the Rules Modernization Project, the Judicial Council amended these rules to provide for the return of materials lodged in electronic form. The advisory committees and commentators raised concerns that distinct from paper materials, the return of electronic materials did not necessarily mean that the court would be required to delete the electronic record maintained in its document management system. At the same time, the advisory committees expressed concerns that deletion alone would not provide any notice to the submitting party that the court no longer retained the lodged materials. Based on these concerns, the committees decided to revisit these rules this year and provide for a new process that addresses these concerns.

### **Additional technical amendments to the rules**

Lastly, this rules proposal would make additional technical amendments to the rules that were not identified during phase I of the Rules Modernization Project. These technical changes include the following:

- Amending rule 2.104 to clarify that the font size must be not smaller than 12 points on papers if they are filed electronically or on paper;
- Amending rule 2.110 to refer to “font” instead of “type”;

- Amending rule 2.111(1) to delete the language “if available” in reference to fax and e-mail addresses on the first page of papers;
- Amending rule 2.551(b)(3)(B) to replace language related to paper documents with language that is inclusive of electronic documents;
- Amending rules 2.551(f) and 2.577(g) to provide that if sealed records are in electronic form, the court must establish appropriate access controls to ensure that only authorized persons may access them;
- Amending rule 3.250(b) to describe the process for retaining the originals of papers that are not filed where the originals are in electronic form;
- Amending rule 3.751 to recognize that a party may agree to electronic service, or a court may require electronic service by local rule or court order, under rule 2.251 in complex civil cases;
- Amending rule 3.823(d) to cross-reference Code of Civil Procedure sections 1013 and 1010.6;
- Amending rule 3.1306 to provide that a party who requests judicial notice of material in electronic form must make arrangements to have it electronically accessible to the court at the time of the hearing;
- Amending rule 3.1362 to recognize that an attorney requesting to be relieved as counsel may serve notice of the motion and motion, the declaration, and the proposed order by electronic means, subject to certain safeguards;
- Amending rule 5.66 to recognize that the proof of service of a response to a petition or complaint may be on *Proof of Electronic Service* (form POS-050/EFS-050);
- Amending rules 5.380(c), 5.390(e), 5.392(b), (d), and (f) to replace the term “mail” and “mailing” with “serve” and “serving”; and
- Amending rule 5.390(e) to recognize that a clerk may file a certificate of electronic service.

### **Alternatives Considered**

In proposing amendments to individual rules, the committees considered various alternatives and have requested comment on several of these alternatives. Specifically, they are asking for comments on (1) whether electronically filed exhibits should be text searchable to the extent feasible; (2) whether the proposal to allow for paper courtesy copies by request of a judge would hinder or promote efforts to move courts toward paperless case environments; and (3) whether concerns about metadata would discourage litigants from converting papers created with word processing software to PDF and instead encourage scanning them and applying Optical Character Recognition (“OCR”) software.

### **Implementation Requirements, Costs, and Operational Impacts**

The committees expect that the proposed amendments would result in efficiency gains and cost savings for the courts at minimal expense, if any, to litigants. Requiring that electronic papers be text searchable would assist judicial officers and research attorneys, while also saving courts the significant cost and delay of applying OCR software to electronically filed documents. At the same time, it is not expected to result in additional costs to litigants, who may readily convert

documents created using word processing software, including open source software, to PDF. The conversion process is faster and less expensive than printing and scanning papers.

Electronic bookmarks will facilitate and expedite the review of electronic exhibits by judicial officers and research attorneys. Adding electronic bookmarks to electronic exhibits would not result in any additional costs to litigants as open source software is available. Electronic bookmarks are also cheaper and less time intensive to apply compared to tabbing or separating paper exhibits. Because self-represented parties are exempt from the bookmarking requirement, it would not negatively impact them.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the rules require that electronic exhibits be text searchable to the extent feasible?
- Does the proposal to require that “papers” be text searchable encourage converting documents created using word processing documents to PDF? Would concerns about metadata associated with the PDF instead encourage scanning and applying OCR software? Or is this concern easily mitigated by Electronic Filing Service Providers or by applying data scrubbing software?
- Would the proposed rule on paper courtesy copies hinder or promote efforts to move courts toward paperless case environments?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Proposed amendments to titles 2, pages 7–16
2. Proposed amendments to title 3, pages 17–22
3. Proposed amendments to title 5, pages 23–24



The California Rules of Court, rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392 would be amended, effective January 1, 2017, to read as follows:

1 **Title 2. Trial Court Rules**

2  
3 **Rule 2.100. Form and format of papers presented for filing in the trial courts**

4  
5 (a) \* \* \*

6  
7 (b) \* \* \*

8  
9 (c) **Electronic format of papers**

10  
11 Papers that are submitted or filed electronically must meet the requirements in rule  
12 2.256(b).

13  
14 **Rule 2.103. Size, quality, and color of papers**

15  
16 All papers filed must be 8½ by 11 inches. All papers not filed electronically must be on  
17 opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound  
18 weight.

19  
20 **Rule 2.104. ~~Printing;~~ Font size; printing**

21  
22 Unless otherwise specified in these rules, all papers filed must be prepared using a font  
23 size not smaller than 12 points. All papers not filed electronically must be printed or  
24 typewritten or be prepared by a photocopying or other duplication process that will  
25 produce clear and permanent copies equally as legible as printing ~~in a font not smaller~~  
26 ~~than 12 points.~~

27  
28 **Rule 2.105. Font style**

29  
30 The font style must be essentially equivalent to Courier, Times New Roman, or Arial.

31  
32 **Rule 2.109. Page numbering**

33  
34 Each page must be numbered consecutively at the bottom unless a rule provides  
35 otherwise for a particular type of document. The page numbering must begin with the  
36 first page and use only Arabic numerals (e.g., 1, 2, 3). The page number need not appear  
37 on the first page.

1 **Rule 2.110. Footer**

2  
3 (a) \* \* \*

4  
5 (b) \* \* \*

6  
7 (c) **Type Font size**

8  
9 The title of the paper in the footer must be in at least 10-point type font.

10  
11 **Rule 2.111. Format of first page**

12  
13 The first page of each paper must be in the following form:

14  
15 (1) In the space commencing 1 inch from the top of the page with line 1, to the left of  
16 the center of the page, the name, office address or, if none, residence address or  
17 mailing address (if different), telephone number, fax number and e-mail address (~~if~~  
18 ~~available~~), and State Bar membership number of the attorney for the party in whose  
19 behalf the paper is presented, or of the party if he or she is appearing in person. The  
20 inclusion of a fax number or e-mail address on any document does not constitute  
21 consent to service by fax or e-mail unless otherwise provided by law.

22  
23 (2) \* \* \*

24  
25 (3) \* \* \*

26  
27 (4) \* \* \*

28  
29 (5) \* \* \*

30  
31 (6) \* \* \*

32  
33 (7) \* \* \*

34  
35 (8) \* \* \*

36  
37 (9) \* \* \*

38  
39 (10) \* \* \*

40  
41 (11) \* \* \*

1 **Rule 2.114. Exhibits**

2  
3 Exhibits submitted with papers not filed electronically may be fastened to pages of the  
4 specified size and, when prepared by a machine copying process, must be equal to  
5 computer-processed materials in legibility and permanency of image. Exhibits submitted  
6 with papers filed electronically must meet the requirements in rule 2.256(b), except for  
7 subdivision (b)(3).  
8

9 **Rule 2.118. Acceptance of papers for filing**

10  
11 **(a) Papers not in compliance**

12  
13 The clerk of the court must not accept for filing or file any papers that do not  
14 comply with the rules in this chapter, except the clerk must not reject a paper for  
15 filing solely on the ground that:

- 16  
17 (1) It is handwritten or hand-printed; ~~or~~  
18  
19 (2) The handwriting or hand printing on the paper is in a color other than  
20 black or blue-black; or  
21  
22 (3) The font size is not exactly the point size required by rules 2.104 and  
23 2.110(c) on papers submitted electronically in portable document  
24 format (PDF). Minimal variation in font size may result from  
25 converting a document created using word processing software to PDF  
26 format.  
27

28 **(b)** \* \* \*

29  
30 **(c)** \* \* \*

31  
32 **Rule 2.140. Judicial Council forms**

33  
34 Judicial Council forms are governed by the rules in this chapter and chapter 4 of title  
35 1. Electronic Judicial Council forms must meet the requirements in rule 2.256(b), except  
36 for subdivision (b)(3).  
37

38 **Rule 2.251. Electronic service**

39  
40 **(a)** \* \* \*

41  
42 **(b)** \* \* \*

1 (c) \* \* \*

2

3 (d) \* \* \*

4

5 (e) \* \* \*

6

7 (f) \* \* \*

8

9 (g) \* \* \*

10

11 (h) \* \* \*

12

13 (i) **Proof of service**

14

15 (1) Proof of electronic service may be by any of the methods provided in Code of  
16 Civil Procedure section 1013a, ~~except that~~ with the following exceptions:

17

18 (A) The proof of electronic service does not need to state that the person  
19 making the service is not a party to the case.

20

21 (B) The proof of electronic service must state:

22

23 (A~~1~~) The electronic service address of the person making the service,  
24 in addition to that person's residence or business address;

25

26 (B~~2~~) The date ~~and time~~ of the electronic service, instead of the date  
27 and place of deposit in the mail;

28

29 (C~~3~~) The name and electronic service address of the person served, in  
30 place of that person's name and address as shown on the  
31 envelope; and

32

33 (D~~4~~) That the document was served electronically, in place of the  
34 statement that the envelope was sealed and deposited in the mail  
35 with postage fully prepaid.

36

37 (2) \* \* \*

38

39 (3) Under rule 3.1300(c), proof of electronic service of the moving papers must  
40 be filed at least five court days before the hearing.

41

42 (4) \* \* \*

43

1 (j) \* \* \*

2

3 **Rule 2.252. General rules on electronic filing of documents**

4

5 (a) \* \* \*

6

7 (b) \* \* \*

8

9 (c) \* \* \*

10

11 (d) \* \* \*

12

13 (e) \* \* \*

14

15 (f) \* \* \*

16

17 (g) \* \* \*

18

19 (h) \* \* \*

20

21 (i) **Paper courtesy copies**

22

23 A judge may request that electronic filers submit paper courtesy copies of an  
24 electronically filed document.

25

26 **Rule 2.256. Responsibilities of electronic filer**

27

28 (a) \* \* \*

29

30

31 (b) **Format of documents to be filed electronically**

32

33 A document that is filed electronically with the court must be in a format specified  
34 by the court unless it cannot be created in that format. The format adopted by a  
35 court must meet the following requirements:

36

37 (1) The software for creating and reading documents must be in the public  
38 domain or generally available at a reasonable cost.

39

40 (2) The printing of documents must not result in the loss of document text,  
41 format, or appearance.

42

1           (3) The document must be text searchable, unless it is an exhibit or Judicial  
2           Council or local form.

3  
4           If a document is filed electronically under the rules in this chapter and cannot be  
5           formatted to be consistent with a formatting rule elsewhere in the California Rules  
6           of Court, the rules in this chapter prevail.

7  
8           **Rule 2.306. Service of papers by fax transmission**

9  
10          **(a)**   \* \* \*

11  
12          **(b)**   \* \* \*

13  
14          **(c)**   \* \* \*

15  
16          **(d)**   \* \* \*

17  
18          **(e)**   \* \* \*

19  
20          **(f)**   \* \* \*

21  
22          **(g)**   \* \* \*

23  
24          **(h) Proof of service by fax**

25  
26           Proof of service by fax may be made by any of the methods provided in Code of  
27           Civil Procedure section 1013(a), except that:

- 28  
29           (1) The ~~time~~, date, and sending fax machine telephone number must be used  
30           instead of the date and place of deposit in the mail;  
31  
32           (2) The name and fax machine telephone number of the person served must be  
33           used instead of the name and address of the person served as shown on the  
34           envelope;  
35  
36           (3) A statement that the document was sent by fax transmission and that the  
37           transmission was reported as complete and without error must be used instead  
38           of the statement that the envelope was sealed and deposited in the mail with  
39           the postage thereon fully prepaid;  
40  
41           (4) A copy of the transmission report must be attached to the proof of service and  
42           the proof of service must declare that the transmission report was properly  
43           issued by the sending fax machine; and

1 (5) Service of papers by fax is ineffective if the transmission does not fully  
2 conform to these provisions.  
3

4 **Rule 2.551. Procedures for filing records under seal**  
5

6 (a) \* \* \*

7  
8 (b) **Motion or application to seal a record**  
9

10 (1) \* \* \*

11  
12 (2) \* \* \*

13  
14 (3) *Procedure for party not intending to file motion or application*

15  
16 (A) \* \* \*

17  
18 (B) If the party that produced the documents and was served with the notice  
19 under (A)(iii) fails to file a motion or an application to seal the records  
20 within 10 days or to obtain a court order extending the time to file such  
21 a motion or an application, the clerk must promptly ~~remove~~ transfer all  
22 the documents in (A)(i) from the envelope, container, or secure  
23 electronic file ~~where they are located and place them in~~ to the public  
24 file. If the party files a motion or an application to seal within 10 days  
25 or such later time as the court has ordered, these documents are to  
26 remain conditionally under seal until the court rules on the motion or  
27 application and thereafter are to be filed as ordered by the court.  
28

29 (4) \* \* \*

30  
31 (5) \* \* \*

32  
33 (6) *Return of lodged record*  
34

35 If the court denies the motion or application to seal, the clerk must either (i)  
36 return the lodged record if in paper form to the submitting party and or (ii)  
37 permanently delete the lodged record if in electronic form and send notice of  
38 the deletion to the submitting party. The clerk must not place ~~it~~ the lodged  
39 record in the case file unless that party notifies the clerk in writing that the  
40 record is to be filed. Unless otherwise ordered by the court, the submitting  
41 party must notify the clerk within 10 days after the order denying the motion  
42 or application.  
43

1 (c) \* \* \*

2  
3 (d) \* \* \*

4  
5 (e) **Order**

6  
7 (1) If the court grants an order sealing a record and if the sealed record is in  
8 paper format, the clerk must substitute on the envelope or container for the  
9 label required by (d)(2) a label prominently stating “SEALED BY ORDER  
10 OF THE COURT ON (DATE),” and must replace the cover sheet required by  
11 (d)(3) with a filed-endorsed copy of the court’s order. If the sealed record is  
12 in an electronic format, the clerk must file the court’s order, ~~store~~ maintain  
13 the record ordered sealed in a secure manner, and clearly identify the record  
14 as sealed by court order on a specified date.

15  
16 (2) \* \* \*

17  
18 (3) \* \* \*

19  
20 (4) \* \* \*

21  
22 (f) **Custody of sealed records**

23  
24 Sealed records must be securely filed and kept separate from the public file in the  
25 case. If the sealed records are in electronic form, appropriate access controls must  
26 be established to ensure that only authorized persons may access the sealed records.

27  
28 (g) \* \* \*

29  
30 (h) \* \* \*

31  
32 **Rule 2.577. Procedures for filing confidential name change records under seal**

33  
34 (a) \* \* \*

35  
36 (b) **Application to file records in confidential name change proceedings under seal**

37  
38 An application by a confidential name change petitioner to file records under seal  
39 must be filed at the time the petition for name change is submitted to the court. The  
40 application must be made on the *Application to File Documents Under Seal in*  
41 *Name Change Proceeding Under Address Confidentiality Program (Safe at*  
42 *Home)* (form NC-410) and be accompanied by a *Declaration in Support of*  
43 *Application to File Documents Under Seal in Name Change Proceeding Under*



1            *Address Confidentiality Program (Safe at Home)* (form NC-420), containing facts  
2            sufficient to justify the sealing.

3  
4            (c) \* \* \*

5  
6            **(d) Procedure for lodging of petition for name change**

7  
8            (1) \* \* \*

9  
10           (2) \* \* \*

11  
12           (3) \* \* \*

13  
14           (4) If the court denies the application to seal, the clerk must either (i) return the  
15           lodged record if in paper form to the petitioner or (ii) permanently delete the  
16           lodged record if in electronic form and send notice of the deletion to the  
17           petitioner. The clerk ~~and~~ must not place ~~it~~ the lodged record in the case file  
18           unless the petitioner notifies the clerk in writing within 10 days after the  
19           order denying the application that the unsealed petition and related papers are  
20           to be filed.

21  
22           (e) \* \* \*

23  
24           **(f) Order**

25  
26           (1) \* \* \*

27  
28           (2) \* \* \*

29  
30           (3) For petitions transmitted in paper form, if the court grants an order sealing a  
31           record, the clerk must strike out the notation required by (d)(2) on the  
32           *Confidential Cover Sheet* that the matter is filed “CONDITIONALLY  
33           UNDER SEAL,” add a notation to that sheet prominently stating “SEALED  
34           BY ORDER OF THE COURT ON (DATE),” and file the documents under  
35           seal. For petitions transmitted electronically, the clerk must file the court’s  
36           order, ~~store~~ maintain the record ordered sealed in a secure manner, and  
37           clearly identify the record as sealed by court order on a specified date.

38  
39           (4) \* \* \*

40  
41           (5) \* \* \*

42

1 (g) **Custody of sealed records**

2

3 Sealed records must be securely filed and kept separate from the public file in the  
4 case. If the sealed records are in electronic form, appropriate access controls must  
5 be established to ensure that only authorized persons may access the sealed records.

6

7 (h) \* \* \*

8

9

DRAFT

1 Title 3. Civil Rules

2  
3 Rule 3.250. Limitations on the filing of papers

4  
5 (a) \* \* \*

6  
7 (b) Retaining originals of papers not filed

8  
9 (1) Unless the paper served is a response, the party who serves a paper listed in  
10 (a) must retain the original with the original proof of service affixed. If  
11 served electronically under rule 2.251, the proof of electronic service must  
12 meet the requirements in rule 2.251(i).

13  
14 (2) The original of a response must be served, and it must be retained by the  
15 person upon whom it is served.

16  
17 (3) An original must be retained under (1) or (2) in the paper or electronic form  
18 in which it was created or received.

19  
20 (4) All original papers must be retained until six months after final disposition of  
21 the case, unless the court on motion of any party and for good cause shown  
22 orders the original papers preserved for a longer period.

23  
24 (c) \* \* \*

25  
26 Rule 3.751. Electronic service

27  
28 Parties may consent to electronic service, or the court may require electronic  
29 service by local rule or court order, under rule 2.251. The court may provide in a  
30 case management order that documents filed electronically in a central electronic  
31 depository available to all parties are deemed served on all parties.  
32

33 Rule 3.823. Rules of evidence at arbitration hearing

34  
35 (a) \* \* \*

36  
37 (b) \* \* \*

38  
39 (c) \* \* \*

40  
41 (d) Delivery of documents

1 For purposes of this rule, “delivery” of a document or notice may be accomplished  
2 manually, by electronic means under Code of Civil Procedure section 1010.6 and  
3 rule 2.251, or ~~by mail~~ in the manner provided by Code of Civil Procedure section  
4 1013. If service is by electronic means, the times prescribed in this rule for delivery  
5 of documents, notices, and demands are increased as provided by Code of Civil  
6 Procedure section 1010.6. by two days. If service is in the manner provided by mail  
7 Code of Civil Procedure section 1013, the times prescribed in this rule are  
8 increased as provided by five days that section.  
9

10 **Rule 3.1110. General format**

11  
12 (a) \* \* \*

13  
14 (b) \* \* \*

15  
16 (c) **Pagination of documents**

17  
18 Documents ~~bound together~~ must be consecutively paginated. ~~If the document is~~  
19 ~~filed electronically,~~ the page numbering must begin with the first page and use  
20 only Arabic numerals (e.g., 1, 2, 3). The page number need not appear on the first  
21 page.  
22

23 (d) \* \* \*

24  
25 (e) \* \* \*

26  
27 (f) **Format of exhibits**

28  
29 (1) An index of exhibits must be provided. The index must briefly describe the  
30 exhibit and identify the exhibit number or letter and page number.

31  
32 (2) Pages from a single deposition must be designated as a single exhibit.

33  
34 (3) Each paper exhibit must be separated by a hard 8½ x 11 sheet with hard  
35 paper or plastic tabs extending below the bottom of the page, bearing the  
36 exhibit designation. ~~An index to exhibits must be provided. Pages from a~~  
37 ~~single deposition and associated exhibits must be designated as a single~~  
38 ~~exhibit.~~

39  
40 (4) Electronic exhibits must meet the requirements in rule 2.256(b), except for  
41 subdivision (b)(3). Unless they are submitted by a self-represented party,  
42 electronic exhibits must include electronic bookmarks with links to the first

1 page of each exhibit and with bookmark titles that identify the exhibit  
2 number or letter and briefly describe the exhibit.

3  
4 (g) \* \* \*

5  
6 **Advisory Committee Comment**

7  
8 **Subdivision (f)(4).** Under current technology, software programs that allow users to apply  
9 electronic bookmarks to electronic documents are available for free.

10  
11 **Rule 3.1113. Memorandum**

12  
13 (a) \* \* \*

14  
15 (b) \* \* \*

16  
17 (c) \* \* \*

18  
19 (d) **Length of memorandum**

20  
21 Except in a summary judgment or summary adjudication motion, no opening or  
22 responding memorandum may exceed 15 pages. In a summary judgment or summary  
23 adjudication motion, no opening or responding memorandum may exceed 20 pages. No  
24 reply or closing memorandum may exceed 10 pages. The page limit does not include the  
25 caption page, exhibits, declarations, attachments, the table of contents, the table of  
26 authorities, or the proof of service.

27  
28 (e) \* \* \*

29  
30 (f) \* \* \*

31  
32 (g) \* \* \*

33  
34  
35 (h) **Pagination of memorandum**

36  
37 (1) The pages of a memorandum must be numbered consecutively beginning with  
38 the first page and using only Arabic numerals (e.g., 1, 2, 3). The page number need  
39 not appear on the first page.

40  
41 ~~(2) Notwithstanding any other rule, a memorandum that includes a table of~~  
42 ~~contents and a table of authorities must be paginated as follows:~~

1           ~~(A) The caption page or pages must not be numbered;~~

2  
3           ~~(B) The pages of the tables must be numbered consecutively using lower-~~  
4           ~~case roman numerals starting on the first page of the tables; and~~

5  
6           ~~(C) The pages of the text must be numbered consecutively using Arabic~~  
7           ~~numerals starting on the first page of the text.~~

8  
9       **(i) Copies of authorities**

10  
11       (1) A judge may require that if any authority other than California cases, statutes,  
12       constitutional provisions, or state or local rules is cited, a copy of the  
13       authority must be lodged with the papers that cite the authority. and If in  
14       paper form, the authority must be tabbed or separated as required by rule  
15       3.1110(f)(3). If in electronic form, the authority must be electronically  
16       bookmarked as required by rule 3.1110(f)(4).

17  
18       (2) If a California case is cited before the time it is published in the advance  
19       sheets of the Official Reports, the party must include the title, case number,  
20       date of decision, and, if from the Court of Appeal, district of the Court of  
21       Appeal in which the case was decided. A judge may require that a copy of  
22       that case must be lodged, and If in paper form, the copy must be tabbed or  
23       separated as required by rule 3.1110(f)(3). If in electronic form, the copy  
24       must be electronically bookmarked as required by rule 3.1110(f)(4).

25  
26       (3) \* \* \*

27  
28       **(j)** \* \* \*

29  
30       **(k)** \* \* \*

31  
32       **(l)** \* \* \*

33  
34       **(m)** \* \* \*

35  
36       **Rule 3.1302. Place and manner of filing**

37  
38       **(a)** \* \* \*

39  
40       **(b) Requirements for lodged material**

41  
42       Material lodged physically with the clerk must be accompanied by an addressed  
43       envelope with sufficient postage for mailing the material. Material lodged

1 electronically must clearly specify the electronic address to which ~~the materials~~  
2 ~~may be returned~~ a notice of deletion may be sent. After determination of the matter,  
3 the clerk may mail or send the material if in paper form back to the party lodging it.  
4 If the lodged material is in electronic form, the clerk may permanently delete it.  
5 The clerk must send notice of the deletion to the party who lodged the material.  
6

7 **Rule 3.1306. Evidence at hearing**  
8

9 (a) \* \* \*

10  
11 (b) \* \* \*

12  
13 (c) **Judicial notice**  
14

15 A party requesting judicial notice of material under Evidence Code sections 452 or  
16 453 must provide the court and each party with a copy of the material. If the  
17 material is part of a file in the court in which the matter is being heard, the party  
18 must:

19  
20 (1) Specify in writing the part of the court file sought to be judicially noticed;  
21 and

22  
23 (2) Make arrangements with the clerk to have the file in the courtroom or  
24 electronically accessible to the court at the time of the hearing.  
25

26 **Rule 3.1362. Motion to be relieved as counsel**  
27

28 (a) \* \* \*

29  
30 (b) \* \* \*

31  
32 (c) \* \* \*

33  
34 (d) **Service**  
35

36 The notice of motion and motion, the declaration, and the proposed order must be  
37 served on the client and on all other parties who have appeared in the case. The  
38 notice may be by personal service, electronic service, or mail.

39  
40 (1) If the notice is served on the client by mail under Code of Civil Procedure  
41 section 1013, it must be accompanied by a declaration stating facts showing  
42 that either:  
43

1           (~~1~~A) The service address is the current residence or business address of the  
2           client; or

3  
4           (~~2~~B) The service address is the last known residence or business address of  
5           the client and the attorney has been unable to locate a more current  
6           address after making reasonable efforts to do so within 30 days before  
7           the filing of the motion to be relieved.  
8

9           (2) If the notice is served on the client by electronic service under Code of Civil  
10           Procedure section 1010.6 and rule 2.251, it must be accompanied by a  
11           declaration stating that the electronic service address is the client's current  
12           electronic service address.  
13

14           As used in this rule, “current” means that the address was confirmed within 30 days  
15           before the filing of the motion to be relieved. Merely demonstrating that the notice  
16           was sent to the client’s last known address and was not returned or no electronic  
17           delivery failure message was received is not, by itself, sufficient to demonstrate  
18           that the address is current. If the service is by mail, Code of Civil Procedure section  
19           1011(b) applies.  
20

21           (e) \* \* \*  
22  
23



1 Title 5. Family and Juvenile Rules

2  
3 Rule 5.66. Proof of service

4  
5 (a) Requirements to file proof of service

6  
7 Parties must file with the court a completed form to prove that the other party  
8 received the petition or complaint or response to petition or complaint.

9  
10 (b) Methods of proof of service

11  
12 (1) The proof of service of summons may be on a form approved by the Judicial  
13 Council or a document or pleading containing the same information required  
14 in *Proof of Service of Summons* (form FL-115).

15  
16 (2) The proof of service of response to petition or complaint may be on a form  
17 approved by the Judicial Council or a document or pleading containing the  
18 same information required in *Proof of Service by Mail* (form FL-335)-~~or~~,  
19 *Proof of Personal Service* (form FL-330), or *Proof of Electronic Service*  
20 (form POS-050/EFS-050).

21  
22 Rule 5.380. Agreement and judgment of parentage in Domestic Violence Prevention  
23 Act cases

24  
25 (a)–(b) \* \* \*

26  
27 (c) **Notice of Entry of Judgment**

28  
29 When an Agreement and Judgment of Parentage (form DV-180) is filed, the court  
30 must ~~mail~~ serve a *Notice of Entry of Judgment* (form FL-190) on the parties.

31  
32 Rule 5.390. Bifurcation of issues

33  
34 (a)–(d) \* \* \*

35  
36 (e) **Notice by clerk**

37  
38 Within 10 days after the order deciding the bifurcated issue and any statement of  
39 decision under rule 3.1591 have been filed, the clerk must ~~mail~~ serve copies to the  
40 parties and file a certificate of mailing or a certificate of electronic service.

41  
42 Rule 5.392. Interlocutory appeals

1 (a) \* \* \*

2  
3 (b) **Certificate of probable cause for appeal**

4  
5 (1) \* \* \*

6  
7 (2) If it was not in the order, within 10 days after the clerk ~~mails~~ serves the order  
8 deciding the bifurcated issue, a party may notice a motion asking the court to  
9 certify that there is probable cause for immediate appellate review of the  
10 order. The motion must be heard within 30 days after the order deciding the  
11 bifurcated issue is ~~mailed~~ served.

12  
13 (3) The clerk must promptly ~~mail~~ serve notice of the decision on the motion to  
14 the parties. If the motion is not determined within 40 days after ~~mailing of~~  
15 servicing the order on the bifurcated issue, it is deemed granted on the grounds  
16 stated in the motion.

17  
18 (c) \* \* \*

19  
20 (d) **Motion to appeal**

21  
22 (1) If the certificate is granted, a party may, within 15 days after the ~~mailing of~~  
23 court serves the notice of the order granting it, serve and file in the Court of  
24 Appeal a motion to appeal the decision on the bifurcated issue. On ex parte  
25 application served and filed within 15 days, the Court of Appeal or the trial  
26 court may extend the time for filing the motion to appeal by not more than an  
27 additional 20 days.

28  
29 (2)-(6) \* \* \*

30  
31 (e) \* \* \*

32  
33 (f) **Proceedings if motion to appeal is granted**

34  
35 (1) \* \* \*

36  
37 (2) The partial record filed with the motion will be considered the record for the  
38 appeal unless, within 10 days from the date notice of the grant of the motion  
39 is ~~mailed~~ served, a party notifies the Court of Appeal of additional portions of  
40 the record that are needed for the full consideration of the appeal.

41  
42 (3)-(4) \* \* \*

1 (g)-(h) \*\*\*  
2

DRAFT

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY  <h1 style="margin: 0;">DRAFT</h1>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b>  <b>vs.</b>  DEFENDANT:	
<b>ONLINE AGREEMENT TO PAY AND FORFEIT BAIL IN INSTALLMENTS</b> <b>(Vehicle Code, § 40510.5)</b>	

**Read carefully and, if you agree, complete and submit the form.**

TICKET NUMBER:
CASE NUMBER:

1. I am the defendant in this case and I have been charged with the following infraction violation of the Vehicle Code that does not require me to go into court:

a. § \_\_\_\_\_ b. § \_\_\_\_\_ c. § \_\_\_\_\_ d. § \_\_\_\_\_ e. § \_\_\_\_\_

2. My court appearance date has not passed [and I have provided proof of correction for correctable violations].

3. I want to pay and forfeit bail for the violation(s) listed above. I understand that the court does not have to allow me to make installment payments.

4. I understand that by completing this agreement each violation that is reportable to the Department of Motor Vehicles will be reported as a conviction.

**5. TERMS OF THE AGREEMENT:**

The total bail (including penalties and administrative fee of \$ \_\_\_\_\_) is \$ \_\_\_\_\_ Initial Payment (10% minimum): \$ \_\_\_\_\_  
 Remaining balance after first payment: \$ \_\_\_\_\_  
 Online transaction fee (if applicable): \$ \_\_\_\_\_  
 Total amount due today: \$ \_\_\_\_\_

I agree to pay the balance due in monthly installments of at least \$ \_\_\_\_\_ due each month, starting   /  /   and to have the balance paid in full on or before   /  /  .

I agree that: All payments must be made by the due date and there is no grace period.

If I do not make a payment on time, I may have to pay the rest of my unpaid bail immediately.

[If I do not make my payments by each due date, I will see the clerk on the next court day after the due date of the missed payment.]

I understand that if I do not complete my payment plan the Court may:

Charge me with a misdemeanor under Vehicle Code section 40508.

Charge a civil assessment of up to \$300 (Penal Code section 1214.1) or have a warrant issued for my arrest.

Report the failure to pay to the Department of Motor Vehicles, which may place a hold on my driver's license.

Assign the case to a collection agency or the State Franchise Tax Board for collection.

I understand that if I pay as agreed my bail forfeiture will be complete and at that time[, if proof of correction has been filed with the court as required,] the case will be closed.

I understand my rights explained in this agreement and attachment, which I now choose to give up, and I have read, understand, and agree to the terms and conditions. (See Attachment 1)

I understand that by electronically filing this document it will be deemed signed. (Code of Civ. Proc., § 1010.6(b)(2)(A) and Cal. Rules of Court, rule 2.257(b).)

(SIGNATURE OF DEFENDANT)	(NAME)	(DRIVER'S LICENSE/ID NUMBER)
(ADDRESS)	(CITY, STATE, ZIP CODE)	(TELEPHONE NUMBER)
(E-MAIL ADDRESS)	<input type="checkbox"/> <b>[I understand the terms and conditions of the Electronic Authorization and I authorize the court to send me electronic notices regarding payments due by me under this agreement. (See Attachment 2)] [Optional]</b>	

ACCEPTED (date): \_\_\_\_\_

BY: \_\_\_\_\_  
(CLERK OF THE SUPERIOR COURT)

By choosing to pay and forfeit bail in installments and not go into court, you will be giving up these rights:

- To appear in court without deposit of bail for formal arraignment, plea, and sentencing, including the opportunity to request community service or that the court consider your ability to pay in determining the fee for traffic violator school or the fine, penalties, and fees for the case;
- To request and have a court trial without deposit of bail, unless the court orders bail, and challenge the charges;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses under oath testifying against you; and
- To remain silent and not testify.

<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>                  STREET ADDRESS:                  MAILING ADDRESS:                  CITY AND ZIP CODE:                  BRANCH NAME:</p>	<p><i>FOR COURT USE ONLY</i></p>           <p><b>DRAFT</b></p>
<p><b>PEOPLE OF THE STATE OF CALIFORNIA</b>  <b>vs.</b>  DEFENDANT:</p>	
<p><b>ONLINE AGREEMENT TO PAY TRAFFIC VIOLATOR SCHOOL FEES IN INSTALLMENTS</b>                  (Vehicle Code, § 42007)</p>	

TICKET NUMBER: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

**Read carefully and, if you agree, complete and submit the form.**

1. I am the defendant in this case and I have been charged with the following infraction violation of the Vehicle Code that does not require me to go into court:

a. § \_\_\_\_\_ b. § \_\_\_\_\_ c. § \_\_\_\_\_ d. § \_\_\_\_\_ e. § \_\_\_\_\_

2. My court appearance date has not passed [and I have provided proof of correction for correctable violations].

3. I want to pay the traffic violator school fees for the violation(s) listed above. I understand that the court does not have to allow me to make installment payments.

4. I understand that by completing this agreement a violation that is reportable to the Department of Motor Vehicles will be reported as a confidential conviction.

**5. TERMS OF THE AGREEMENT:**

The total fee (including an administrative fee of \$ \_\_\_\_\_) is:      \$ \_\_\_\_\_ Initial Payment (10% minimum): \$ \_\_\_\_\_  
 Remaining balance after first payment: \$ \_\_\_\_\_  
 Online transaction fee (if applicable): \$ \_\_\_\_\_  
 Total amount due today: \$ \_\_\_\_\_

I agree to pay the balance due in monthly installments of at least \$ \_\_\_\_\_ due each month, starting \_\_/\_\_/ and to have the balance paid in full on or before \_\_/\_\_/.

I agree that: All payments must be made by the due date and there is no grace period.  
 If I do not make a payment on time, I may have to pay the rest of my unpaid fees immediately.  
 [If I do not make my payments by each due date, I will see the clerk on the next court day after the due date of the missed payment.]

I understand that if I do not complete my payment plan the Court may:  
 Charge me with a misdemeanor under Vehicle Code section 40508.  
 Charge a civil assessment of up to \$300 (Penal Code section 1214.1) or have a warrant issued for my arrest.  
 Report the failure to pay to the Department of Motor Vehicles, which may place a hold on my driver's license.  
 Assign the case to a collection agency or the State Franchise Tax Board for collection.

I understand that if I pay as agreed [and proof of correction has been filed with the court as required] the case will be closed.

I understand my rights explained in this agreement and attachment, which I now choose to give up, and that I have read, understand, and agree to the terms and conditions. (See Attachment 1)

I understand that by electronically filing this document it will be deemed signed. (Code of Civ. Proc., § 1010.6(b)(2)(A) and Cal. Rules of Court, rule 2.257(b).)

_____ (SIGNATURE OF DEFENDANT)	_____ (NAME)	_____ (DRIVER'S LICENSE/ID NUMBER)
_____ (ADDRESS)	_____ (CITY, STATE, ZIP CODE)	_____ (TELEPHONE NUMBER)
_____ (E-MAIL ADDRESS)	<input checked="" type="checkbox"/> [I understand the terms and conditions of the Electronic Authorization and I authorize the Court to send me electronic notices regarding payments due by me under this agreement. (See Attachment 2)] [Optional]	

ACCEPTED (date): \_\_\_\_\_

BY: \_\_\_\_\_ (CLERK OF THE SUPERIOR COURT)

By choosing to pay traffic violator school fees in installments and not go into court, you will be giving up these rights:

- To appear in court without deposit of bail for formal arraignment, plea, and sentencing, including the opportunity to request community service or that the court consider your ability to pay in determining the amount of the fee for traffic violator school, or the fine, penalties, and fees for the case;
- To request and have a court trial without deposit of bail, unless the court orders bail, and challenge the charges;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses under oath testifying against you; and
- To remain silent and not testify.