

Withdrawn

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: CEQA Actions: New Projects and Fees for Expedited Review

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Amend Rules 3.2200, 3.2220, 3.2221, 3.2223, 3.2240, 8.700, 8.702, 8.703, and 8.705

Committee or other entity submitting the proposal:
 Appellate Advisory Committee and Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, 415-865-7694, christy.simons@jud.ca.gov, and James Barolo, 415-865-8928, james.barolo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
 Annual agenda approved by Rules Committee on (date): November 2, 2021, amended January 5, 2022
 Project description from annual agenda: This is a joint project with Civil and Small Claims Advisory Committee. This year, new statutes require streamlined CEQA review for Environmental Leadership projects and Environmental Leadership Transit projects (Senate Bill 7, Senate Bill 44). In recent years, the Legislature added Old Town Center Redevelopment in the City of San Diego, additional State Capitol Building Annex projects, the "Oakland Sports and Mixed-Use Projects" related to a new baseball stadium, and projects in Ingleside related to a new NBA arena to the list of projects to be provided with expedited CEQA review, requiring amendments to the rules of court, including rules 3.2200 et seq. for the trial court and rules 8.700–8.705 for the appellate courts. (Public Resources Code sections 21168.6.7, 21168.6.8, 21168.6.9, 21178, 21189.50, 21189.70.) The statutes for the Environmental Leadership, Environmental Leadership Transit, Oakland ballpark, and Inglewood arena projects also require the council to adopt rules regarding costs that must be paid by a project applicant/developer to the court for expedited handling of the case. This project is legislatively mandated.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

This is part 2 of the CEQA rules project. Part 1 was approved by the council at its March 11, 2022, meeting, to be effective immediately. The proposed rule amendments in part 2 would have an effective date of January 1, 2023.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)
 This proposal:
 - includes forms that have been translated.
 - includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
 - includes forms that staff will request be translated.
- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR22-01

Title

CEQA Actions: New Projects and Fees for Expedited Review

Action Requested

Review and submit comments by May 13, 2022

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 3.2200, 3.2220, 3.2221, 3.2223, 3.2240, 8.700, 8.702, 8.703, and 8.705

Proposed Effective Date

January 1, 2023

Contact

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Proposed by

Appellate Advisory Committee

Hon. Louis R. Mauro, Chair

Civil and Small Claims Advisory Committee

Hon. Tamara L. Wood, Chair

Executive Summary and Origin

As mandated by the Legislature, the Judicial Council previously adopted rules and established procedures that implemented a statutory scheme for the expedited resolution of actions and proceedings brought under the California Environmental Quality Act (CEQA) challenging certain projects that qualified for such streamlined procedures. This proposal will implement additional legislation requiring that the Judicial Council amend these rules to include additional projects for streamlined review. The proposal will also implement new and reenacted statutory provisions requiring that, in cases under two of the statutes, the council, by rule of court, establish fees to be paid by those project applicants to the trial court and Court of Appeal for the costs of streamlined CEQA review.

Background

Since 2011 the Legislature has enacted numerous bills providing expedited judicial review for legal challenges brought under the California Environmental Quality Act (CEQA) for specified projects. Initially, the Legislature enacted the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, which provided that CEQA challenges to so-called environmental leadership projects would be brought directly to the Court of Appeal and that project applicants would pay the costs of adjudicating the case. (See Assem. Bill 900; Stats. 2011, ch. 354.) To implement the required appellate court fees in AB 900, the council adopted the predecessor to rule 8.705.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

In 2013, the Legislature required the Judicial Council to adopt rules¹ requiring that actions or proceedings, including any appeals, be resolved within 270 days of certification of the record of proceedings. (See Sen. Bill 743; Stats. 2013, ch. 386.) SB 743 also provided that CEQA challenges to an additional project (the Sacramento basketball arena) would receive expedited judicial review. To implement SB 743, the council adopted rules 3.2220–3.2231 and 8.700–8.705, which in addition to providing expedited review for the specified projects also set out certain pleading and service requirements and incentives to help streamline judicial review.

In 2016, Senate Bill 836 (Stats. 2016, ch. 31) added another set of projects to receive expedited CEQA review, “capitol building annex projects.” Thereafter, the council amended the trial court and appellate rules governing expedited CEQA review to include such projects.

In 2018 and 2020, the Legislature enacted four bills relating to CEQA review. Each of those bills added additional projects to receive expedited CEQA review: Assembly Bill 734 (Stats. 2018, ch. 959) (Oakland ballpark projects); Assembly Bill 987 (Stats. 2018, ch. 961) (Inglewood arena projects); Assembly Bill 1826 (Stats. 2018, ch. 40) (expanded capitol building annex projects); and Assembly Bill 2731 (Stats. 2020, ch. 291) (San Diego Old Town Center projects). AB 734 and AB 987 also provided that the person or entity that applied for certification of an Oakland ballpark or an Inglewood arena project must pay for “any additional costs incurred by the courts in hearing and deciding any [CEQA] case.” (Pub. Resources Code, §§ 21168.6.7(d)(6), 21168.6.8(b)(6).) Accordingly, earlier this year the council amended rules governing expedited CEQA review to (1) include the four new projects to receive expedited CEQA review, (2) require applicants of Oakland ballpark and Inglewood arena projects to pay trial and appellate court fees based on “additional” court costs, and (3) make other conforming changes.²

The Proposal

This proposal seeks to implement two additional bills enacted by the Legislature related to expedited CEQA review. Senate Bill 7 (Stats. 2021, ch. 19)³ reenacts with certain changes the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (initially enacted by AB 900), which was repealed by its own terms January 1, 2021. Both the prior and reenacted law provide for certification and expedited CEQA review of certain large projects that replace old facilities, reduce pollution, and generate jobs. (See Pub. Resources Code, § 21178 et seq.) Such projects are referred to as “environmental leadership development projects.” Senate Bill 44 (Stats. 2021, ch. 633)⁴ adds sustainable public transit projects in Los Angeles in preparation for the 2028 Summer Olympic and Paralympic Games to the list of projects to receive expedited CEQA review. (See Pub. Resources Code, § 21168.6.9.) These projects are referred to as “environmental leadership

¹ All rules references are to the California Rules of Court.

² Judicial Council of Cal., Advisory Com. Rep., *CEQA Actions: New Projects and Fees for Expedited Review* (Mar. 2, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=10565631&GUID=6D8B30CC-D416-44C2-A4F0-D857024D2730>.

³ Available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB7.

⁴ Available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB44.

transit projects.” Both bills require project applicants to pay trial and appellate court costs for adjudication of CEQA challenges.

Accordingly, the proposed rule amendments would conform the rules to recent legislative changes adding environmental leadership transit projects as a type of project that receives expedited judicial review and setting trial and appellate court fees for both types of projects.

Amendments to add environmental leadership transit projects

Several of the proposed rule amendments simply add statutory citations or add “environmental leadership transit project” to an existing rule to implement SB 44’s provision that such projects receive expedited CEQA review. (See, e.g., proposed rules 3.2200, 3.2220, 8.700.) No amendments are needed to include environmental leadership development projects (SB 7) in the type of projects that receive expedited CEQA review. Such projects were added to the rules in 2012 to implement the original environmental leadership act, AB 900.

New fees for trial and appellate courts

Existing rule 8.705(1) requires the person or entity that applied for certification of a project as an environmental leadership development project to pay a fee to the Court of Appeal. The rule is based on previous Public Resources Code section 21183(e) (in effect until December 31, 2020), which provided that such persons or entities agree to “pay the costs of the Court of Appeal in hearing and deciding any [CEQA] case” and did not provide any such fee for trial courts.

Amended Public Resources Code section 21183(f) now provides that the person or entity that applied for certification of a project as an environmental leadership development must “pay the costs of the *trial court and the court of appeal* in hearing and deciding any case challenging” the project under CEQA (italics added). Similarly, newly added section 21168.6.9 provides an identical requirement for environmental leadership transit project applicants.

Accordingly, the proposal amends rule 8.705 to require environmental leadership transit project applicants to pay a fee to the Court of Appeal. This proposal also amends rule 3.2240 to require the payment of a fee to the trial court by the person or entity that applied for certification of a project as an environmental leadership development project and to require the payment of a fee to the trial court by the project applicant of an environmental leadership transit project.

New and amended fee amounts

Existing fee amounts

To implement former Public Resources Code section 21183(e), which required a person or entity that applied for certification of the project as an environmental leadership project “to pay the costs of the Court of Appeal,” rule 8.705(1) requires payment of a fee of \$100,000 to the Court of Appeal for

streamlined review of a CEQA case.⁵ The \$100,000 amount was set in 2012 and was based on an estimate that the amount of time to adjudicate a CEQA case at the Court of Appeal would be 108 hours by the justice assigned to prepare a draft decision, 10 hours by each of the other two justices on the panel, 230 hours by research attorneys, and 31 hours by judicial assistants. In addition to those hours, estimates for other staff time, benefits, and overhead were included in calculating the total fee.⁶

The fees in current rules 3.2240(1) and 8.705(2) for Oakland ballpark and Inglewood arena projects were adopted by the council this year and require payments of \$120,000 to the trial court and \$140,000 to the Court of Appeal.⁷ The statutes for both such projects require the person or entity that applied for certification to pay a fee for the “additional costs” to the courts providing expedited review. “Additional costs,” as opposed to “costs,” were determined based on the cost to the courts of taking these cases out of normal processing and devoting one full-time judicial officer and one research attorney in each court to reach disposition within the statutorily prescribed time. The council did not include other staff time, other judicial officer time, benefits, or overhead when it used the hours estimate to determine the applicable fees. In setting those amounts, the council considered the 2012 report that adopted the current fee in rule 8.705(1), a report to the Legislature on the amount of time to adjudicate a CEQA challenge to the Warriors’ Mission Bay project,⁸ and anecdotal evidence from a CEQA challenge to the Sunset Boulevard project in Los Angeles.⁹ As described in the March 2022 report to the council, the 2012 estimate of time to adjudicate a CEQA case in the Court of Appeal fell far short of reality. Rather, the data collected regarding the time required to complete expedited review of CEQA challenges to the Warriors’ Mission Bay and Sunset Boulevard projects suggest that a more accurate estimate of the required time for adjudication in both trial court and the Court of Appeals is 91 full-time working days for each of the following positions: trial court judge, trial court research attorney, appellate justice, and appellate court research attorney.¹⁰ The \$120,000 and \$140,000 fee amounts are based on these time estimates.

⁵ Rule 8.705 also requires that the person or entity that applied for certification of a project as an environmental leadership development, an Oakland ballpark, or an Inglewood arena project to pay the costs of any special master or contract personnel retained to work on the case.

⁶ See Judicial Council of Cal., Advisory Com. Rep., *Appellate Procedure: Review of California Environmental Quality Act Cases Under Public Resources Code Sections 21178–21189.3* (Apr. 11, 2012), p. 8, <http://www.courts.ca.gov/documents/jc-20120424-itemA1.pdf>.

⁷ Similar to rule 8.705, rule 3.2240 also requires the payment of the costs of any special master or contract personnel retained to work on the case.

⁸ Judicial Council of Cal., *Jobs and Economic Improvement Through Environmental Leadership Act: Report to the Legislature Under Assembly Bill 900, Public Resources Code Section 21189.2* (Dec. 1, 2016), p. 6, <https://www.courts.ca.gov/documents/lr-2016-jobs-and-economic-improvement.pdf>.

⁹ *L.A. Conservancy v. City of L.A.; Fix the City, Inc. v. City of Los Angeles* (Mar. 23, 2018, B284093) [nonpub. opn.].

¹⁰ Judicial Council of Cal., Advisory Com. Rep., *CEQA Actions: New Projects and Fees for Expedited Review* (Mar. 2, 2022), pp. 7–10, <https://jcc.legistar.com/View.ashx?M=F&ID=10565631&GUID=6D8B30CC-D416-44C2-A4F0-D857024D2730>.

Proposed fees amounts

New Public Resources Code sections 21183(f) and 21168.6.9(b)(3) require the person or entity that applied for certification of an environmental leadership development project and environmental leadership transit project applicants, respectively, to pay the costs of the trial court *and* the Court of Appeal in “a form and manner specified by the Judicial Council, as provided in the California Rules of Court.” To implement these statutory requirements, the committees propose a new fee for trial court costs and an updated fee for appellate court costs.

The committees used the time estimates in the March 2022 council report as the basis for the new and updated fee amounts in this proposal. Specifically, the proposed fee amounts are derived from the estimate that the amount of time to adjudicate expedited CEQA cases is 91 full-time working days of a judicial officer and a research attorney in each of the courts. Additionally, since Public Resources Code sections 21168.6.9(b)(3) and 21183(f) require project applicants to pay the cost to the courts without any limitation of such costs to “additional costs,” estimates for benefits, overhead, clerical time, and the time of other appellate justices assigned to the panel (none of which were included in the fees set for Oakland ballpark and Inglewood arena projects) were included in determining the proposed court fees.

The estimated cost to trial courts for expedited review of a CEQA case is \$180,000, which was calculated with the following components:

- The estimated cost of salary and benefits for 91 full-time working days for a trial court judge;
- The estimated cost of salary and benefits for 91 full-time working days for a trial court research attorney; and
- An estimate for overhead and clerical time in the trial court.

The estimated costs to the Court of Appeal for expedited review of a CEQA case is \$215,000, which was calculated with the following components:

- The estimated cost of salary and benefits for 91 full-time working days for the appellate justice primarily assigned to the case;
- The estimated cost of salary and benefits for 20 hours¹¹ for each of the other two appellate justices assigned to the case;
- The estimated cost of salary and benefits for 91 full-time working days for an appellate court research attorney; and
- An estimate for overhead and clerical time in the Court of Appeal.

The committees thus propose that the above amounts be charged for the expedited review by the trial court and the Court of Appeal, respectively. (See proposed rules 3.2240 and 8.705.) As permitted by the statutes, the proposed rules also allow for costs for any special master required for the matter to

¹¹ The fee set in 2012 included an estimate of 10 hours of time for each of the other two justices on the panel. The committees concluded that, in cases of this size and complexity, a more realistic estimate would be 20 hours by each of the non-authoring justices.

be charged directly to the project developer, as is currently provided in the environmental leadership development cases as well as those concerning Oakland ballpark or Inglewood arena projects.

Alternatives Considered

Because the new rules and fees are mandated by the Legislature, the committees did not consider the alternative of no rules.

Fiscal and Operational Impacts

Implementing the new legislation requiring expedited review of CEQA challenges to new project types may generate costs and operational impacts for both the trial court and the Court of Appeal in which the proceedings governed by these statutes are filed. This is a policy decision made by the Legislature, not the result of the proposed rule amendments. The committees do not anticipate that this rule proposal will result in any additional costs to other 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?

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 3 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. Cal. Rules of Court, rules 3.2200, 3.2220, 3.2221, 3.2223, 3.2240, 8.700, 8.702, 8.703, and 8.705, at pages 7–15
2. Link A: Senate Bill 7,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB7
3. Link B: Senate Bill 44,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB44

Rules 3.2200, 3.2220, 3.2221, 3.2223, 3.2240, 8.700, 8.702, 8.703, and 8.705 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 3.2200. Application**

2
3 Except as otherwise provided in chapter 2 of the rules in this division, which govern
4 actions under Public Resources Code sections 21168.6.6–21168.6.89, 21178–21189.3,
5 21189.50–21189.57, and 21189.70–21189.70.10, the rules in this chapter apply to all
6 actions brought under the California Environmental Quality Act (CEQA) as stated in
7 division 13 of the Public Resources Code.
8
9

10 **Chapter 2. California Environmental Quality Act Proceedings Involving**
11 **Streamlined CEQA Projects**

12
13 **Article 1. General Provisions**

14
15 **Rule 3.2220. Definitions and application**

16
17 **(a) Definitions**

18
19 As used in this chapter:

- 20
21 (1) A “streamlined CEQA project” means any project within the definitions
22 stated in (2) through ~~(7)~~(8).
23
24 (2) An “environmental leadership development project” or “leadership project”
25 means a project certified by the Governor under Public Resources Code
26 sections 21182–21184.
27
28 (3) The “Sacramento entertainment and sports center project” or “Sacramento
29 arena project” means an entertainment and sports center project as defined by
30 Public Resources Code section 21168.6.6, for which the proponent provided
31 notice of election to proceed under that statute described in section
32 21168.6.6(j)(1).
33
34 (4) An “Oakland sports and mixed-use project” or “Oakland ballpark project”
35 means a project as defined in Public Resources Code section 21168.6.7 and
36 certified by the Governor under that section.
37
38 (5) An “Inglewood arena project” means a project as defined in Public Resources
39 Code section 21168.6.8 and certified by the Governor under that section.
40
41 (6) An “expanded capitol building annex project” means a state capitol building
42 annex project, annex project–related work, or state office building project as
43 defined by Public Resources Code section 21189.50.

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(7) An “Old Town Center transit and transportation facilities project” or “Old Town Center project” means a project as defined in Public Resources Code section 21189.70.

(8) An “environmental leadership transit project” means a project as defined in Public Resources Code section 21168.6.9.

(b) Proceedings governed

The rules in this chapter govern actions or proceedings brought to attack, review, set aside, void, or annul the certification of the environmental impact report or the grant of any project approvals for a streamlined CEQA project. Except as otherwise provided in Public Resources Code sections 21168.6.6–21168.6.89, 21178–21189.3, 21189.50–21189.57, and 21189.70–21189.70.10 and these rules, the provisions of the Public Resources Code and the CEQA Guidelines adopted by the Natural Resources Agency (Cal. Code Regs., tit. 14, § 15000 et seq.) governing judicial actions or proceedings to attack, review, set aside, void, or annul acts or decisions of a public agency on the grounds of noncompliance with the California Environmental Quality Act and the rules of court generally apply in proceedings governed by this rule.

(c) Complex case rules

* * *

Rule 3.2221. Time

(a) Extensions of time

* * *

(b) Extensions of time by parties

If the parties stipulate to extend the time for performing any acts in actions governed by these rules, they are deemed to have agreed that the statutorily prescribed time for resolving the action may be extended by the stipulated number of days ~~by which the performance of the act has been stipulated to be extended~~ of the extension, and to that extent to have waived any objection to noncompliance with the deadlines for completing review stated in Public Resources Code sections 21168.6.6–21168.6.89, 21185, 21189.51, and 21189.70.3. Any such stipulation must be approved by the court.

1 (c) **Sanctions for failure to comply with rules**

2
3 If a party fails to comply with any time requirements provided in these rules or
4 ordered by the court, the court may issue an order to show cause as to why one of
5 the following sanctions should not be imposed:

6
7 (1)–(2) * * *

8
9 (3) If the failure to comply is by respondent or a real party in interest, removal of
10 the action from the expedited procedures provided under Public Resources
11 Code sections 21168.6.6–21168.6.89, 21185, 21189.51, and 21189.70.3, and
12 these rules; or

13
14 (4) * * *

15
16 **Rule 3.2223. Petition**

17
18 In addition to any other applicable requirements, the petition must:

19
20 (1) On the first page, directly below the case number, indicate that the matter is a
21 “Streamlined CEQA Project”;

22
23 (2) State one of the following:

24
25 (A) The proponent of the project at issue provided notice to the lead agency
26 that it was proceeding under Public Resources Code section 21168.6.6,
27 21168.6.7, ~~or~~ 21168.6.8, or 21168.6.9 (whichever is applicable) and is
28 subject to this rule; or

29
30 (B) The project at issue was certified by the Governor as an environmental
31 leadership development project under Public Resources Code sections
32 21182–21184 and is subject to this rule; or

33
34 (C) The project at issue is an expanded capitol building annex project as
35 defined by Public Resources Code section 21189.50 and is subject to
36 this rule; or

37
38 (D) The project at issue is an Old Town Center project as defined by Public
39 Resources Code section 21189.70 and is subject to this rule;

40
41 (3) If an environmental leadership development, Oakland ballpark, or Inglewood
42 arena project, provide notice that the person or entity that applied for
43 certification of the project as such a leadership project must make the

1 payments required by rule 3.2240 and, if the matter goes to the Court of
2 Appeal, make the payments required by rule 8.705;

3
4 (4) ~~If an Oakland ballpark or Inglewood arena project~~ environmental leadership
5 transit project, provide notice that the person or entity that applied for
6 certification of the project as an Oakland ballpark or Inglewood arena project
7 applicant must make the payments required by rule 3.2240 and, if the matter
8 goes to the Court of Appeal, the payments required by rule 8.705; and

9
10 (5) * * *

11
12 **Rule 3.2240. Trial court costs in Oakland Ballpark and Inglewood Arena certain**
13 **streamlined CEQA projects**

14
15 In fulfillment of the provisions in Public Resources Code sections 21168.6.7, and
16 21168.6.8, 21168.6.9, and 21183 regarding payment of trial court costs with respect to
17 cases concerning certain streamlined CEQA environmental leadership development,
18 environmental leadership transit, Oakland ballpark, and Inglewood arena projects:

19
20 (1) Within 10 days after service of the petition or complaint in a case concerning an
21 environmental leadership development project, the person or entity that applied for
22 certification of the project as an environmental leadership development project
23 must pay a fee of \$180,000 to the court.

24
25 (2) Within 10 days after service of the petition or complaint in a case concerning an
26 environmental leadership transit project, the project applicant must pay a fee of
27 \$180,000 to the court.

28
29 ~~(1)~~(3) Within 10 days after service of the petition or complaint in a case concerning an
30 Oakland ballpark project or an Inglewood arena project, the person or entity that
31 applied for certification of the project as a streamlined CEQA project must pay a
32 fee of \$120,000 to the court.

33
34 ~~(2)~~(4) If the court incurs the costs of any special master appointed by the court in the case
35 or of any contract personnel retained by the court to work on the case, the person or
36 entity that applied for certification of the project or the project applicant must also
37 pay, within 10 days of being ordered by the court, those incurred or estimated costs.

38
39 ~~(3)~~(5) If the party fails to timely pay the fee or costs specified in this rule, the court may
40 impose sanctions that the court finds appropriate after notifying the party and
41 providing the party with an opportunity to pay the required fee or costs.

42
43 ~~(4)~~(6) Any fee or cost paid under this rule is not recoverable.

1
2
3 **Chapter 1. Review of California Environmental Quality Act Cases Involving**
4 **Streamlined CEQA Projects**
5

6 **Rule 8.700. Definitions and application**
7

8 **(a) Definitions**
9

10 As used in this chapter:

- 11
- 12 (1) A “streamlined CEQA project” means any project within the definitions
13 stated in (2) through ~~(7)~~(8).
14
- 15 (2) An “environmental leadership development project” or “leadership project”
16 means a project certified by the Governor under Public Resources Code
17 sections 21182–21184.
18
- 19 (3) The “Sacramento entertainment and sports center project” or “Sacramento
20 arena project” means an entertainment and sports center project as defined by
21 Public Resources Code section 21168.6.6, for which the proponent provided
22 notice of election to proceed under that statute described in section
23 21168.6.6(j)(1).
24
- 25 (4) An “Oakland sports and mixed-use project” or “Oakland ballpark project”
26 means a project as defined in Public Resources Code section 21168.6.7 and
27 certified by the Governor under that section.
28
- 29 (5) An “Inglewood arena project” means a project as defined in Public Resources
30 Code section 21168.6.8 and certified by the Governor under that section.
31
- 32 (6) An “expanded capitol building annex project” means a state capitol building
33 annex project, annex project–related work, or state office building project as
34 defined by Public Resources Code section 21189.50.
35
- 36 (7) An “Old Town Center transit and transportation facilities project” or “Old
37 Town Center project” means a project as defined in Public Resources Code
38 section 21189.70.
39
- 40 (8) An “environmental leadership transit project” means a project as defined in
41 Public Resources Code section 21168.6.9.
42

1 (b) * * *

2
3 **Rule 8.702. Appeals**

4
5 (a) * * *

6
7 (b) **Notice of appeal**

8
9 (1) * * *

10
11 (2) *Contents of notice of appeal*

12
13 The notice of appeal must:

- 14
15 (A) State that the superior court judgment or order being appealed is
16 governed by the rules in this chapter;
17
18 (B) Indicate whether the judgment or order pertains to a streamlined CEQA
19 project; ~~and~~
20
21 (C) If the judgment or order being appealed pertains to an environmental
22 leadership development project, an Oakland ballpark project, or an
23 Inglewood arena project, provide notice that the person or entity that
24 applied for certification or approval of the project as such a project
25 must make the payments required by rule 8.705-; and
26
27 (D) If the judgment or order being appealed pertains to an environmental
28 leadership transit project, provide notice that the project applicant must
29 make the payments required by rule 8.705.

30
31 (c)–(e) * * *

32
33 (f) **Briefing**

34
35 (1)–(3) * * *

36
37 (4) *Extensions of time to file briefs*

38
39 If the parties stipulate to extend the time to file a brief under rule 8.212(b),
40 they are deemed to have agreed that the statutorily prescribed time for
41 resolving the action may be extended by the stipulated number of days ~~by~~
42 ~~which the parties stipulated to extend the time of the extension~~ for filing the
43 brief and, to that extent, to have waived any objection to noncompliance with

1 the deadlines for completing review stated in Public Resources Code sections
2 21168.6.6–21168.6.89, 21185, 21189.51, and 21189.70.3 for the duration of
3 the stipulated extension.
4

5 (5) * * *

6
7 (g) * * *

8
9 **Advisory Committee Comment**

10
11 **Subdivision (b).** It is very important to note that the time period to file a notice of appeal under
12 this rule is the same time period for filing most postjudgment motions in a case regarding the
13 Sacramento arena project, and in a case regarding any other streamlined CEQA project, the
14 deadline for filing a notice of appeal may be earlier than the deadline for filing a motion for a new
15 trial, a motion for reconsideration, or a motion to vacate the judgment.
16

17 **Rule 8.703. Writ proceedings**

18
19 (a) * * *

20
21 (b) **Petition**

22
23 (1) * * *

24
25 (2) *Contents of petition*

26
27 In addition to any other applicable requirements, the petition must:

- 28
29 (A) State that the superior court judgment or order being challenged is
30 governed by the rules in this chapter;
31
32 (B) Indicate whether the judgment or order pertains to a streamlined CEQA
33 project; ~~and~~
34
35 (C) If the judgment or order pertains to an environmental leadership
36 development project, an Oakland ballpark project, or an Inglewood
37 arena project, provide notice that the person or entity that applied for
38 certification of the project as such a project must make the payments
39 required by rule 8.705; and
40
41 (D) If the judgment or order pertains to an environmental leadership transit
42 project, provide notice that the project applicant must make the
43 payments required by rule 8.705.

1
2 **Rule 8.705. Court of Appeal costs in certain streamlined CEQA projects**

3
4 In fulfillment of the provisions in Public Resources Code sections 21168.6.7, 21168.6.8,
5 21168.6.9, and 21183 regarding payment of the Court of Appeal's costs with respect to
6 cases concerning environmental leadership development, environmental leadership
7 transit, Oakland ballpark, and Inglewood arena projects:
8

9 (1) Within 10 days after service of the notice of appeal or petition in a case concerning
10 an environmental leadership development project, the person or entity that applied
11 for certification of the project as an environmental leadership development project
12 must pay a fee of \$215,000 to the Court of Appeal.
13

14 (2) Within 10 days after service of the notice of appeal or petition in a case concerning
15 an environmental leadership transit project, the project applicant must pay a fee of
16 \$215,000 to the Court of Appeal.
17

18 ~~(2)~~(3) Within 10 days after service of the notice of appeal or petition in a case concerning
19 an Oakland ballpark project or Inglewood arena project, the person or entity that
20 applied for certification of the project as an Oakland ballpark project or Inglewood
21 arena project must pay a fee of \$140,000 to the Court of Appeal.
22

23 ~~(3)~~(4) If the Court of Appeal incurs the costs of any special master appointed by the Court
24 of Appeal in the case or of any contract personnel retained by the Court of Appeal
25 to work on the case, the person or entity that applied for certification of the project
26 or the project applicant as a leadership project, an Oakland ballpark project, or an
27 Inglewood arena project must also pay, within 10 days of being ordered by the
28 court, those incurred or estimated costs.
29

30 ~~(4)~~(5) If the party fails to timely pay the fee or costs specified in this rule, the court may
31 impose sanctions that the court finds appropriate after notifying the party and
32 providing the party with an opportunity to pay the required fee or costs.
33

34 ~~(5)~~(6) Any fee or cost paid under this rule is not a recoverable cost.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Update Language Referring to Persons with Disabilities

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rules 8.482, 8.483, and 8.631; revise form APP-060

Committee or other entity submitting the proposal:
Appellate Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, 415-865-7694, christy.simons@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): Approved 11/2/2021; amended 1/5/2022
Project description from annual agenda: Amend rule 8.483 (the record in civil commitment appeals) and revise form APP-060 (notice of appeal—civil commitment) to use preferred terminology under the Americans with Disabilities Act.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

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INVITATION TO COMMENT

SPR22-02

Title	Action Requested
Rules and Forms: Update Language Referring to Persons with Disabilities	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 8.482, 8.483, and 8.631; revise form APP-060	January 1, 2023
Proposed by	Contact
Appellate Advisory Committee Hon. Louis R. Mauro, Chair	Christy Simons, 415-865-7694 christy.simons@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes updating language in several rules and a form to reflect guidelines for referring to persons with disabilities and terminology changes in California statutes. The proposal is based on a suggestion from a county bar association.

Background

In 1990, the federal government passed the Americans with Disabilities Act (ADA),¹ which prohibits discrimination against individuals with disabilities in all areas of public life. The ADA National Network (ADANN) consists of 10 regional centers that provide information, guidance, and training on implementing the ADA.² The ADANN has published *Guidelines for Writing About People With Disabilities* (Guidelines),³ which encourages the use of language consistent with the principles of the ADA, including “portraying individuals with disabilities in a respectful and balanced way by using language that is accurate, neutral and objective.”⁴

According to the Guidelines, generally, the person should be referred to first and the disability second: “People with disabilities are, first and foremost, people. Labeling a person equates the

¹ 42 U.S.C. § 12101 et seq.

² See ADA National Network, <https://adata.org/national-network>.

³ The Guidelines may be accessed at <https://adata.org/factsheet/ADANN-writing>.

⁴ Guidelines.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

person with a condition and can be disrespectful and dehumanizing. A person isn't a disability, condition or diagnosis; a person *has* a disability, condition or diagnosis. This is called Person-First Language.”⁵ For example, instead of writing that a person is “mentally ill,” write that a person “has a mental health condition”; instead of “[t]he disabled,” write “[p]eople with disabilities.”⁶

Over time, the California Legislature has updated the state’s codes to remove “offensive or stigmatizing language referring to mental health disorders.”⁷ In 2019, the Legislature replaced terms used in the Penal Code to describe mental health conditions and individuals with mental health conditions.⁸ Specifically, references to a person as a “mentally disordered offender”⁹ were changed to “offender with a mental health disorder.”¹⁰ Also, the phrase “a person who is incompetent as a result of a mental disorder, but is also developmentally disabled,” was changed to “a person who is incompetent as a result of a mental disorder, but also has a developmental disability.”¹¹ In 2012, references to “a mentally retarded person” were replaced with “a person with an intellectual disability.”¹²

Rule 8.482, Appeal from judgment authorizing conservator to consent to sterilization of conservatee, was adopted in 2005 as rule 39.1. It was amended and renumbered as rule 8.482 in 2007. It was amended again effective January 1, 2016, as part of a rules modernization project. The amendments have no bearing on this proposal.

Rule 8.483, Appeal from an order of civil commitment, was adopted, and form APP-060, *Notice of Appeal—Civil Commitment/Mental Health Proceedings*, was approved for optional use, effective January 1, 2020, to assist litigants and the courts in civil commitment appeals. The rule and form have not been modified since their effective date.

Rule 8.631, Applications to file overlength briefs in appeals from a judgment of death, was adopted in 2008. It has not previously been amended.

⁵ *Ibid.*

⁶ See Kathie Snow, *To Ensure Inclusion, Freedom, and Respect for All, It's Time to Embrace People First Language* (2009), p. 4, http://www.inclusioncollaborative.org/docs/Person-First-Language-Article_Kathie_Snow.pdf.

⁷ Assem. Jud. Com., Analysis of Assem. Bill No. 46 (2019–2020 Reg. Sess.) as amended Mar. 21, 2019, p. 1.

⁸ See Sen. Rules Com., Off. of Sen. Floor Analyses, Analysis of Assem. Bill No. 46 (2019–2020 Reg. Sess.) as amended Apr. 24, 2019, p. 1.

⁹ See former Pen. Code, § 2960 et seq.

¹⁰ Pen. Code, § 2962(d)(3), eff. Jan. 1, 2020 (Stats. 2019, ch. 9, § 7).

¹¹ Pen. Code, § 1367(b), eff. Jan. 1, 2020 (Stats. 2019, ch. 9, § 4).

¹² Pen. Code, § 2962(a)(2) (Stats. 2012, ch. 448, § 43); Welf. & Inst. Code, § 6513 (Stats. 2012, ch. 457, § 55).

The Proposal

The proposal would remove outdated and disfavored terms in several rules and a form and replace them with more respectful terms that reflect the Guidelines and recent statutory amendments. Improving the language of these rules and the form is also consistent with *The Strategic Plan for California's Judicial Branch*, specifically the goals of Access, Fairness, and Diversity (Goal I) and Quality of Justice and Service to the Public (Goal IV).¹³

Rule 8.482, which governs appeals from a judgment authorizing a conservator to consent to sterilization of a conservatee, contains the term “developmentally disabled adult conservatee.” This would be replaced with “adult conservatee with a developmental disability.”

Rule 8.483, regarding appeals from an order of civil commitment, contains the term “mentally disordered offenders.” This would be replaced with “offenders with mental health disorders.” The rule also refers to “developmentally disabled persons,” citing Welfare and Institutions Code section 6500. The committee proposes replacing this term with “dangerous persons with developmental disabilities” to update the language and track the statutory commitment criteria.¹⁴ The same changes would be made to form APP-060, *Notice of Appeal—Civil Commitment/Mental Health Proceedings*.

An advisory committee comment to rule 8.631, which addresses applications to file overlength briefs in appeals from a judgment of death, includes “whether the defendant is mentally retarded” as an example of unusual, factually intensive, or legally complex hearings. The committee proposes replacing this language with “whether the defendant has an intellectual disability.”¹⁵

In addition, the committee proposes correcting several subdivision headings in the advisory committee comment to rule 8.631 that are labeled incorrectly:

- “Subdivision (c)(1)(A)” would be corrected to “Subdivision (c)(1).”
- “Subdivision (c)(1)(E)” would be corrected to “Subdivision (c)(5).”
- “Subdivision (c)(1)(E)–(I)” would be corrected to “Subdivision (c)(5)–(8).”
- “Subdivision (c)(1)(I)” would be corrected to “Subdivision (c)(7).”

¹³ The strategic plan may be accessed at <https://www.courts.ca.gov/3045.htm>.

¹⁴ See Welf. & Inst. Code, § 6500(b)(1).

¹⁵ As noted above, “intellectual disability” replaced the outdated term “mental retardation.” (Stats. 2012, ch. 457, § 1 (2012).) This is distinguished from a developmental disability which is both broader, in that it includes other disabilities, such as autism spectrum disorders and epilepsy, and narrower, in that it must have begun before the person reached 18 years of age. (Welf. & Inst. Code, § 4512(a)(1).)

Alternatives Considered

The committee did not consider taking no action because the language in these rules and the form is outdated and inconsistent with the Guidelines, statutory language, and judicial branch goals.

The committee noted that the Legislature has not updated or revised the term “mentally disordered sex offender” and decided not to propose changing it because it is frequently used in the Penal Code and other laws.

Fiscal and Operational Impacts

Fiscal or operational impacts, if any, are expected to be minimal. The benefits of the proposal, including using respectful language in rules and forms, likely outweigh any potential cost.

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?
- Are there any other instances of language in the appellate rules or forms that should be similarly updated?

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

- 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 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 8.482, 8.483, and 8.631, at pages 5–7
2. Form APP-060, at page 8

Rules 8.482, 8.483, and 8.631 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 8.482. Appeal from judgment authorizing conservator to consent to**
2 **sterilization of conservatee**

3
4 **(a) Application**

5
6 Except as otherwise provided in this rule, rules 8.304–8.368 and 8.508 govern
7 appeals from judgments authorizing a conservator to consent to the sterilization of
8 ~~a developmentally disabled~~ an adult conservatee with a developmental disability.

9
10 **(b) When appeal is taken automatically**

11
12 An appeal from a judgment authorizing a conservator to consent to the sterilization
13 of ~~a developmentally disabled~~ an adult conservatee with a developmental disability
14 is taken automatically, without any action by the conservatee, when the judgment is
15 rendered.

16
17 **(c)–(i) * * ***

18
19 **Rule 8.483. Appeal from order of civil commitment**

20
21 **(a) Application and contents**

22
23 (1) Application

24
25 Except as otherwise provided in this rule, rules 8.300–8.368 and 8.508
26 govern appeals from civil commitment orders under Penal Code sections
27 1026 et seq. (not guilty by reason of insanity), 1370 et seq. (incompetent to
28 stand trial), 1600 et seq. (outpatient placement and revocation), and 2962 et
29 seq. (~~mentally disordered~~ offenders with mental health disorders); Welfare
30 and Institutions Code sections 1800 et seq. (extended detention of dangerous
31 persons), 6500 et seq. (~~developmentally disabled~~ dangerous persons with
32 developmental disabilities), and 6600 et seq. (sexually violent predators); and
33 former Welfare and Institutions Code section 6300 et seq. (mentally
34 disordered sex offenders).

35
36 (2) Contents

37
38 * * *

39
40 **(b)–(e) * * ***

41

1 **Rule 8.631. Applications to file overlength briefs in appeals from a judgment of**
2 **death**

3
4 **(a)–(b) * * ***

5
6 **(c) Factors considered**

7
8 The court will consider the following factors in determining whether good cause
9 exists to grant an application to file a brief that exceeds the limit set by rule 8.630:

10
11 (1) The unusual length of the record. A party relying on this factor must specify
12 the length of each of the following components of the record:

13
14 (A) The reporter’s transcript;

15
16 (B) The clerk’s transcript; and

17
18 (C) The portion of the clerk’s transcript that is made up of juror
19 questionnaires.

20
21 (2) The number of codefendants in the case and whether they were tried
22 separately from the appellant;

23
24 (3) The number of homicide victims in the case and whether the homicides
25 occurred in more than one incident;

26
27 (4) The number of other crimes in the case and whether they occurred in more
28 than one incident;

29
30 (5) The number of rulings by the trial court on unusual, factually intensive, or
31 legally complex motions that the party may assert are erroneous and
32 prejudicial. A party relying on this factor must briefly describe the nature of
33 these motions;

34
35 (6) The number of rulings on objections by the trial court that the party may
36 assert are erroneous and prejudicial;

37
38 (7) The number and nature of unusual, factually intensive, or legally complex
39 hearings held in the trial court that the party may assert raise issues on
40 appeal; and
41

1 (8) Any other factor that is likely to contribute to an unusually high number of
2 issues or unusually complex issues on appeal. A party relying on this factor
3 must briefly specify those issues.
4

5 (d) * * *

6
7 **Advisory Committee Comment**
8

9 **Subdivision (a).** * * *

10
11 **Subdivision (c)(1)(A).** As in guideline 8 of the Supreme Court’s Guidelines for Fixed Fee
12 Appointments, juror questionnaires generally will not be taken into account in considering
13 whether the length of the record is unusual unless these questionnaires are relevant to an issue on
14 appeal. A record of 10,000 pages or less, excluding juror questionnaires, is not considered a
15 record of unusual length; 70 percent of the records in capital appeals filed between 2001 and 2004
16 were 10,000 pages or less, excluding juror questionnaires.
17

18 **Subdivision ~~(e)(1)(E)~~(c)(5).** Examples of unusual, factually intensive, or legally complex
19 motions include motions to change venue, admit scientific evidence, or determine competency.
20

21 **Subdivisions ~~(e)(1)(E)~~ ~~(1)(c)(5)~~–(8).** Because an application must be filed before briefing is
22 completed, the issues identified in the application will be those that the party anticipates *may* be
23 raised on appeal. If the party does not ultimately raise all of these issues on appeal, the party is
24 expected to have reduced the length of the brief accordingly.
25

26 **Subdivision ~~(e)(1)(E)~~(c)(7).** Examples of unusual, factually intensive, or legally complex hearings
27 include jury composition proceedings and hearings to determine the defendant’s competency or
28 sanity, whether the defendant ~~is mentally retarded~~ has an intellectual disability, and whether the
29 defendant may ~~represent himself or herself~~ be self-represented.
30

31 **Subdivision (d)(1)(A)(ii).** To allow the deadline for an application to file an overlength brief to
32 be appropriately tied to the deadline for filing that brief, if counsel requests an extension of time
33 to file a brief, the court will specify in its order regarding the request to extend the time to file the
34 brief, when any application to file an overlength brief is due. Although the order will specify the
35 deadline by which an application must be filed, counsel are encouraged to file such applications
36 sooner, if possible.
37

38 **Subdivision (d)(3).** * * *

39

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 03/08/2022 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____	
CASE NAME: _____	
DEFENDANT/RESPONDENT: _____	
NOTICE OF APPEAL—CIVIL COMMITMENT/ MENTAL HEALTH PROCEEDINGS	CASE NUMBER: _____

NOTICE

You must file this form in the SUPERIOR COURT WITHIN 60 DAYS after the court rendered the judgment or made the order you are appealing.

1. Defendant/Respondent (the person subject to the civil commitment) appeals from a judgment rendered or an order of commitment or conservatorship made by the superior court.
 NAME of Defendant/Respondent: _____
 DATE of the order or judgment: _____

2. This appeal is (*check one*):
 - a. after a jury or court trial.
 - b. after a contested hearing.
 - c. after an admission, stipulation, or submission.
 - d. other (*specify*): _____

3. Defendant/Respondent is currently being held under:
 - Penal Code, § 1026 et seq. (not guilty by reason of insanity)
 - Penal Code, § 1370 et seq. (incompetent to stand trial)
 - Penal Code, § 1600 et seq. (return to confinement)
 - Penal Code, § 2962 et seq. (**offenders with mental health disorders**)
 - Welfare & Institutions Code, § 1800 et seq. (extended detention of dangerous persons)
 - Welfare & Institutions Code, § 5300 et seq. (LPS Act commitments)
 - Welfare & Institutions Code, § 5350 et seq. (LPS Act conservatorships)
 - Former Welfare & Institutions Code, § 6300 et seq. (MDSO)
 - Welfare & Institutions Code, § 6500 et seq. (**dangerous persons with developmental disabilities**)
 - Welfare & Institutions Code, § 6600 et seq. (sexually violent predators)
 - Other (*specify*): _____

4. Defendant/Respondent requests that the court appoint an attorney for this appeal. Defendant/Respondent: was was not represented by an appointed attorney in the superior court.

5. Defendant/Respondent's mailing address is same as in ATTORNEY OR PARTY WITHOUT ATTORNEY box above. as follows: _____

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF DEFENDANT/RESPONDENT OR ATTORNEY)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Court Records: Retention of Reporters' Transcripts in Felony Appeals

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 10.1028

Committee or other entity submitting the proposal:
Appellate Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, 415-865-7694, christy.simons@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): Approved 11/2/2021; amended 1/5/2022

Project description from annual agenda: Amend rule 10.1028 to extend the time for keeping reporters' transcripts in appeals affirming felony convictions. The rule currently requires that the original reporter's transcript be kept by the Court of Appeal for 20 years. However, this is not long enough to account for longer sentences and defendants' potential need for the reporter's transcript to avail themselves of changes in the law. Considerations will include the requirements of Code of Civil Procedure section 271, which will require all courts to accept electronic reporter's transcripts by January 1, 2023, thereby impacting transcript storage and storage costs. The AAC circulated a proposal in Spring 2019 but deferred the project in order to gather more information and revise the proposal. The project was deferred last year due to impacts on the judicial branch relating to the COVID-19 pandemic.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

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INVITATION TO COMMENT

SPR22-03

Title	Action Requested
Court Records: Retention of Reporters' Transcripts in Felony Appeals	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 10.1028	January 1, 2023
Proposed by	Contact
Appellate Advisory Committee Hon. Louis R. Mauro, Chair	Christy Simons, Attorney 415-865-7694 christy.simons@jud.ca.gov

Executive Summary and Origin

To better align the length of time reporters' transcripts must be kept with the length of time they may be needed and to conform to a recent statutory change, the Appellate Advisory Committee proposes amending the rule regarding retention of Court of Appeal records. This proposal would extend the time the Court of Appeal must keep the original or an electronic copy of the reporter's transcript in cases affirming a felony conviction from 20 years to 75 years. It would also amend the rule to reflect the statutory presumption that an original reporter's transcript is in electronic form, not paper form. This proposal originated with suggestions from a clerk/executive officer of a Court of Appeal and an attorney at the Supreme Court.

Background

Rule 10.1028 was originally adopted as rule 55 in 1975. It was renumbered as rule 70 effective January 1, 2005, and renumbered again as rule 10.1028 in 2007. Its provisions have been amended over the years, but none of those changes has bearing on this proposal. The 20-year retention time for reporters' transcripts in criminal cases has not changed since adoption.

Prior Circulation

The committee circulated for public comment a similar proposal in spring 2020 that would have extended the retention period for felony appeals from 20 to 100 years. The committee received eight comments on the proposal. Four commenters agreed with the proposal; three other commenters agreed with the proposal if modified. One commenter submitted positive feedback but did not state a position.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

In support of the proposed 100-year retention schedule, a bar association commented, “Given the need to review the underlying basis of previously affirmed felony convictions brought on by changes in the law or other circumstances years later, the current 20-year period is clearly insufficient. The increased proposed mandated retention period of 100 years should accommodate any foreseeable need for review of such transcripts.” An appellate criminal defense organization stated, “One hundred years ensures new laws can be fairly applied to anyone affected.” Regarding cost, a superior court noted that keeping electronic versions of reporters’ transcripts rather than hard copies would save the cost of physical storage space.

In suggesting that the proposal be modified, a Court of Appeal expressed concerns about the practicality and cost of extending the retention time to 100 years for all felonies. The court noted that it is a minority of cases in which the reporter’s transcript may be needed beyond 20 years and recommended that the committee reconsider the alternative of a tiered retention schedule in which the length of retention would be based on the length of the sentence. The court’s cost concerns were based on the additional costs of storing paper transcripts for 80 more years.

A court reporters association suggested modifying the text of the rule to reflect court reporters’ current practice of marking electronic reporters’ transcripts “certified” rather than “original” and “copy.” This invitation to comment includes a question regarding this suggestion. Two other commenters expressed concern that, if paper versions of reporters’ transcripts are converted to electronic format before storage, there be safeguards in place to ensure that the electronic versions are correct, complete, and accessible before hard copies are destroyed.

In light of concerns about the cost and duration of the proposed retention, the committee withdrew the proposal to further consider these issues.

The Proposal

This revised proposal is intended to achieve two main goals: improving access to justice for defendants who may need to obtain the reporter’s transcript in their case more than 20 years after the conviction was upheld, and conforming the rule to Code of Civil Procedure section 271(a),¹ which no longer requires that the original transcript be in paper form.

Time to keep reporters’ transcripts

Rule 10.1028 governs the preservation and destruction of Court of Appeal records. Under subdivision (c), the court must permanently keep the court’s minutes and a register of appeals and original proceedings. Under subdivision (d), all other records, with one exception, may be destroyed 10 years after the decision becomes final. The exception is for original reporters’ transcripts in cases affirming a criminal conviction; these must be kept for 20 years after the decision becomes final.

¹ All further statutory references are to the Code of Civil Procedure.

This rule's current 20-year retention period is insufficient because it does not account for longer sentences or changes in felony sentencing laws. Sentences for the most serious felony convictions often exceed 20 years, as does the actual time served under these sentences. Certain writ proceedings may be filed at any time during service of a prison sentence, and reporter's transcripts may be important to the issues raised. In addition, changes in felony sentencing laws, such as Senate Bill 1437,² which changed the law of felony murder and allows for resentencing, and Proposition 47,³ which reduced penalties for certain offenses and allows for resentencing, warrant keeping reporters' transcripts in cases affirming felony convictions longer than 20 years so defendants can access opportunities for resentencing or other relief. This is not a theoretical problem. The committee understands from the California Department of Justice, which has a longer retention schedule for reporter's transcripts, that litigants frequently request copies of reporters' transcripts in cases in which a criminal conviction was affirmed more than 20 years ago.

Having considered the issues raised in previous comments, the committee proposes adding a provision to rule 10.1028(d) to extend the time for keeping the reporter's transcript in cases affirming a felony conviction from 20 years to 75 years. New paragraph (d)(3) would state: "In a felony case in which the court affirms a judgment of conviction, the clerk/executive officer must keep the original reporter's transcript or, if the original is in paper, either the original or a true and correct electronic copy, for 75 years after the decision becomes final."⁴

This single retention time of 75 years would make transcripts available for the lifetime of most felony defendants and reduce the costs of the original 100-year proposal. The cost of storage, particularly of paper records, is still an area of concern, but the committee understands from the courts that electronic records have become much more common in the last couple of years and that this trend is expected to continue. In addition, courts have expressed interest in converting paper records to electronic format to reduce the amount of off-site storage space that is needed.

Finally, the committee would like feedback regarding the proposed language in subdivision (d)(3), "in which the court affirms a judgment of conviction." This new subdivision is modeled on subdivision (d)(2), which has included the language, "[i]n a criminal case in which the court affirms a judgment of conviction," since the rule was adopted. The new language in (d)(3) narrows "criminal case" to "felony case."

² Stats. 2018, ch. 1015.

³ Voters passed Prop. 47, "The Safe Neighborhoods and Schools Act," on November 14, 2014; it went into effect the next day.

⁴ This invitation to comment also includes a question regarding the language, "in which a court affirms a judgment of conviction." Subdivision (d)(2) has included the language, "[i]n a criminal case in which the court affirms a judgment of conviction," since the rule was adopted. New subdivision (d)(3) narrows "criminal case" to "felony case." In light of the variation in dispositional orders and language, the question seeks comments on whether this language should be modified.

Statutory change

Prior to 2018, rule 10.1028 required the court to keep an original reporter's transcript, which, under the version of section 271 in effect at the time, had to be in paper form.⁵ Effective January 1, 2018, rule 10.1028(d) was amended to allow the Court of Appeal to keep an electronic copy of the reporter's transcript in lieu of keeping the original. An advisory committee comment was added to explain that, "[a]lthough subdivision (a) allows the Court of Appeal to maintain its records in any format that satisfies the otherwise applicable standards for maintenance of court records, including electronic formats, the original of a reporter's transcript is required to be on paper under Code of Civil Procedure section 271(a). Subdivision (d) therefore specifies that an electronic copy may be kept, to clarify that the paper original need not be kept by the court."

Legislation repealing and replacing section 271 also took effect January 1, 2018. Among other changes, new section 271 requires that the reporter's transcript be delivered in electronic form unless any of the specified exceptions apply and provides that an electronic transcript is deemed to be an original for all purposes unless a paper transcript is delivered under any of the exceptions. In light of the statutory change, rule 10.1028 should be revised to reflect the presumption that an original reporter's transcript is in electronic form and, if a statutory exception applies and the original transcript is on paper, to provide that the court may continue to keep either the paper original or a true and correct electronic copy.

Alternatives Considered

The committee considered a number of alternatives. As in 2020, it rejected the option of taking no action because portions of the rule are based on a former version of section 271, and it is undisputed that a 20-year retention period is insufficient.

Originally, the committee considered proposing a retention time of 50 years rather than 100. The committee declined this option because 50 years might not be long enough in all cases. Upon reconsideration, the committee again concluded that 50 years was not enough time to ensure that all defendants who might need the reporter's transcript in their case would be able to access it.

The committee considered whether to propose extending the time for keeping the reporter's transcript only in cases involving certain sentences, such as a sentence of life or life without the possibility of parole. The committee rejected this option because it is too narrow and would not include many cases in which a reporter's transcript might be needed more than 20 years after a felony conviction is affirmed.

Also in 2020, the committee considered a graduated retention schedule, such as the retention schedule adopted by the California Department of Justice, in which documents are retained for different time periods depending on the type of document or the circumstances. In addition, the committee considered other possible amendments, including whether any reporters' transcripts

⁵ Former section 271 authorized courts and parties to receive, on request, copies of reporters' transcripts in "computer-readable form."

should be retained permanently and whether the rule should provide that the reporter's transcript must be kept for a certain number of years (such as 10) following the death of the defendant. The committee rejected these options in favor of a rule that would be simple and straightforward for the courts to implement but welcomed comments on these and other options.

Upon reconsideration of a graduated or tiered retention schedule for this proposal, including obtaining input from the courts, the committee again concluded that a single retention period for reporter's transcripts in all cases affirming a felony conviction would be preferable. A defendant's future need for a reporter's transcript does not necessarily align with the crime committed or the sentence imposed. Administering the retention and destruction of records, particularly paper transcripts, based on such a retention schedule would be complex and might not yield significant savings. The committee also took into account the courts' interest in digitizing paper records to reduce storage costs.

Finally, the committee would like feedback regarding the proposed language in subdivision (d)(3), "in which the court affirms a judgment of conviction." This new subdivision is modeled on subdivision (d)(2), which has included the language, "[i]n a criminal case in which the court affirms a judgment of conviction," since the rule was adopted. The new language in (d)(3) narrows "criminal case" to "felony case." To account for various possible dispositional orders and situations in which the appellate court does not "affirm" a conviction but the defendant may need that reporter's transcript in the future, the committee is requesting comments on whether this language should be deleted, modified in some way (e.g., to state "in which the court affirms a judgment of conviction, in whole or in part"), or retained as-is.

Fiscal and Operational Impacts

This proposal would require the Courts of Appeal to change their record retention policies and procedures for reporters' transcripts in the identified cases. Education and training of staff would also be required. As of January 1, 2023, all reporter's transcripts are required by Code of Civil Procedure section 271 to be in electronic form unless a party requests paper, and courts report that electronic filing has become much more prevalent in recent years. The cost of storage of electronic records is a fraction of the cost of storing paper, and courts are looking into converting existing paper records to electronic form to reduce storage costs going forward. Despite the fiscal impacts, the committee believes that the benefits of the proposal—safeguarding defendants' rights to avail themselves of changes in the law or other remedies, and thereby improving access to justice—outweigh its potential cost to the courts.

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 reporters' transcripts in particular types of cases (e.g., conviction of first-degree murder or sentence of life without the possibility of parole) be retained permanently?
- Should the text of the rule reflect the current practice of court reporters to mark electronic reporters' transcripts "certified" rather than "original" and "copy"?
- Should the subdivision (d)(3) language, "in which the court affirms a judgment of conviction," be deleted or modified (e.g., to state "in which the court affirms a judgment of conviction, in whole or in part")? Should the same language in subdivision (d)(2) be modified?

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 3 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. Cal. Rules of Court, rule 10.1028, at pages 7–8

Rule 10.1028 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 10.1028. Preservation and destruction of Court of Appeal records**

2
3 **(a) Form or forms in which records may be preserved**

4
5 (1) Court of Appeal records may be created, maintained, and preserved in any
6 form or forms of communication or representation, including paper or
7 optical, electronic, magnetic, micrographic, or photographic media or other
8 technology, if the form or forms of representation or communication satisfy
9 the standards or guidelines for the creation, maintenance, reproduction, and
10 preservation of court records established under rule 10.854.

11
12 (2) If records are preserved in a medium other than paper, the following
13 provisions of Government Code section 68150 apply: subdivisions (c)–(l),
14 excluding subdivision (i)(1).

15
16 **(b) Methods for signing, subscribing, or verifying documents**

17
18 Any notice, order, ruling, decision, opinion, memorandum, certificate of service, or
19 similar document issued by an appellate court or by a judicial officer of an
20 appellate court may be signed, subscribed, or verified using a computer or other
21 technology in accordance with procedures, standards, and guidelines established by
22 the Judicial Council. Notwithstanding any other provision of law, all notices,
23 orders, rulings, decisions, opinions, memoranda, certificates of service, or similar
24 documents that are signed, subscribed, or verified by computer or other
25 technological means under this subdivision shall have the same validity, and the
26 same legal force and effect, as paper documents signed, subscribed, or verified by
27 an appellate court or a judicial officer of the court.

28
29 **(c) Permanent records**

30
31 The clerk/executive officer of the Court of Appeal must permanently keep the
32 court’s minutes and a register of appeals and original proceedings.

33
34 **(d) Time to keep other records**

35
36 (1) Except as provided in (2) and (3), the clerk/executive officer may destroy all
37 other records in a case 10 years after the decision becomes final, as ordered
38 by the administrative presiding justice or, in a court with only one division,
39 by the presiding justice.

1 (2) Except as provided in (3), in a criminal case in which the court affirms a
2 judgment of conviction, the clerk/executive officer must keep the original
3 reporter’s transcript or, if the original is in paper, either the original or a true
4 and correct electronic copy of the transcript, for 20 years after the decision
5 becomes final.

6
7 (3) In a felony case in which the court affirms a judgment of conviction, the
8 clerk/executive officer must keep the original reporter’s transcript or, if the
9 original is in paper, either the original or a true and correct electronic copy of
10 the transcript, for 75 years after the decision becomes final.

11
12 **Advisory Committee Comment**

13
14 **Subdivision (d).** Subdivision (d) permits the Court of Appeal to keep an electronic copy of the
15 reporter’s transcript in lieu of keeping the original if the original transcript is in paper. Although
16 subdivision (a) allows the Court of Appeal to maintain its records in any ~~format form~~ that satisfies
17 the otherwise applicable standards for maintenance of court records, including electronic ~~formats~~
18 forms, ~~the original of a reporter’s transcript is required to be on paper under Code of Civil~~
19 ~~Procedure section 271(a).~~ Code of Civil Procedure section 271 provides that an original reporter’s
20 transcript must be in electronic form unless a specified exception allows for an original paper
21 transcript. Subdivision (d) therefore specifies that an electronic copy may be kept if the original
22 transcript is in paper, to clarify that the paper original need not be kept by the court.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Name and Gender Change Forms to Implement AB 218

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt forms NC-311, NC-312, NC-325, NC-520G, and NC-530; approve form NC-300-INFO; revise forms NC-100, NC-100-INFO, NC-110, NC-120, NC-300, NC-330, NC-500, NC-500 INFO, NC-510G, NC-520, and NC-530; renumber from NC-125/225 to form NC-125; and revoke forms NC-200, NC-225, NC-230, and NC-530G

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Anne M. Ronan, 415-865-8933, anne.ronan@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended November 16, 2021

Project description from annual agenda: 2. Name and Gender Change Forms: conforming forms to law. Develop form recommendations as appropriate.

- AB 218 and AB 1578 establish new procedures and orders relating to petitions seeking a name change order or a judgment recognizing their change of gender to female, male, or nonbinary, allowing for orders to change birth certificates of petitioner or of petitioner's child, and marriage certificates. Several current forms relating to such petitions must be revised to conform to the new law and requirements, and new forms will need to be developed to implement the law.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-04

Title	Action Requested
Rules and Forms: Name and Gender Change Forms to Implement Assembly Bill 218	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt forms NC-311, NC-312, NC-325, NC-520G, and NC-530; approve form NC-300-INFO; revise forms NC-100, NC-100-INFO, NC-110, NC-120, NC-150, NC-300, NC-330, NC-500, NC-500-INFO, NC-510G, NC-520, and NC-530; renumber form NC-125/NC-225 as form NC-125; and revoke forms NC-200, NC-225, NC-230, and NC-530G	January 1, 2023
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Tamara Wood, Chair	Anne M. Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee is proposing revisions and additions to the Judicial Council forms that individuals use to request name changes and orders recognizing a change of gender, to implement new laws going into effect January 1, 2023. Assembly Bill 218 (Stats. 2021, ch. 577) authorizes that petitions for recognition of a change of gender (and now sex identifier as well) and issuance of a new birth certificate may now be joined with requests to have other administrative records issued anew to reflect the person's changed gender and sex identifier. In addition, the bill authorizes non-California residents to request name changes if they want to change their name on certain administrative records issued in California. Finally, AB 218 has also made significant changes to requirements for petitions for recognition of gender change for minors and has added a new category of petitioners who may make such petitions on behalf of minors. All the statutory changes will be reflected in the proposed forms, along with other minor non-substantive changes to make the forms clearer.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Summary of New Law

AB 218 incorporates the provisions in [Assembly Bill 1578](#) (Stats. 2021, ch. 401) that clarify that Code of Civil Procedure section 1276(e) allows court-appointed guardians ad litem of minors and nonminors in the juvenile dependency system (appointed under Welfare and Institutions Code section 326.5) to petition for name changes for the minors, and provides that counsel for minors in the juvenile justice system (under Welfare and Institutions Code sections 601 and 602) may do so as well. A petition for name change brought by either is exempt from the requirement that the court issue an order to show cause.¹

In addition to incorporating those provisions, AB 218 primarily does three things. First, it provides that individuals who do not reside in this state may obtain a name change decree from a California court if they want to change their name on certain administrative records that were issued in California (i.e., their birth certificate, their child’s birth certificate, or their marriage license or certificate).² Any required publication of orders to show cause in such actions is to take place in the county or area in which the individuals reside.³

Second, the new law expands the types of requests that may be made in conjunction with a petition to recognize a change in gender⁴. Currently, such petitions may also include a request that the court order issuance of a new birth certificate reflecting this change of petitioner’s gender and a decree changing petitioner’s name.⁵ The new law provides that the petition may also include additional requests as well: to change petitioner’s designation as bride, groom, or neither, on a confidential or nonconfidential marriage license and certificate issued in California;⁶ or to change their gender on a birth certificate their child if born in California.⁷ Each of those requests (for change to marriage certificate or to child’s birth certificate) may be brought in conjunction with a request for change of name on that certificate, and all may be brought as a single petition.⁸

Third, the new law changes provisions relating to petitions for orders recognizing gender changes (and new birth certificates reflecting such changes) for minors. AB 218 has eliminated

¹ New Code Civ. Proc., § 1277(c). (“New,” as used in citations hereafter, refers to provisions enacted in AB 218, all of which are effective now, but some of which will not become *operative* until January 1, 2023; “current” or “currently,” as used hereafter, refers to the law that is still operative.)

² New Code Civ. Proc., § 1276(g).

³ New Code Civ. Proc., § 1277(a)(2)(B).

⁴ The new law also expands what may be recognized by the court to “change of gender and sex identifier,” as is reflected in the titles of the proposed forms. Health & Saf. Code, § 103425(a). All references herein to “change of gender” should be read to encompass both gender and sex identifier.

⁵ Health & Saf. Code, § 103425(b).

⁶ New Health & Saf. Code, § 103425(c)&(e).

⁷ New Health & Saf. Code, § 103425(d)&(e).

⁸ New Health & Saf. Code, § 103435(a).

provisions currently operative providing that if the petition does not include the signatures of both living parents, any non-signing living parent must be served with a copy of the petition and an order to show cause with a date and time for a hearing.⁹ At the same time as eliminating the provision for serving any living, non-signing parents, the new provisions have now *added* a requirement for serving the minor’s grandparents, although this requirement is triggered only if either or both of the parents are deceased or unable to be located, and the petition was signed by either a guardian or an attorney guardian ad litem for a juvenile dependent.¹⁰ The other new service requirement in AB 218 relating to minors is for issuance and service of an order to show cause if a petition for a minor’s change of gender does not include a signature required in new subdivision (b)(1),¹¹ that is, a signature by at least one parent, a guardian, a juvenile attorney, or—if both parents are deceased—a near relative or friend.¹²

The Proposal

Forms for name change

To reflect the new laws, the proposal includes revisions to several forms used to request name changes, which are summarized below.

- *Petition for Change of Name* (form NC-100). Item 1 has been revised to reflect that California residency is no longer the sole basis for the court’s jurisdiction or venue for name-change petitions. In item 5, a new category has been added for petitioners who are guardians ad litem or attorneys appointed for juvenile defendants.
- *Instructions for Filing a Petition for Change of Name* (form NC-100-INFO). The new basis for jurisdiction and venue are described in paragraph 1, and paragraph 7 has been revised (and reorganized) to include the exemption from publication that will apply when the name change is for a minor or nonminor dependent under the jurisdiction of a juvenile court.
- *Attachment to Petition for Change of Name (Name and Information About the Person Whose Name Is to Be Changed)* (form NC-110). A cross-reference to form NC-300 (the petition for recognition of change of gender) has been added because this form may be attached to that one under the new organization of the gender-change forms. A category

⁹ Compare new Health and Safety Code section 103430(b)(1) and current subdivision (e)(1)(A) and (B).

¹⁰ New Health & Saf. Code, § 103435(c)(2).

¹¹ New Health & Saf. Code, § 103435(e)(1).

¹² As discussed in Alternatives Considered, the committee finds it difficult to envision when such an order to show cause would be issued, however, because if the petition does not include a signature required in new subdivision (b)(1), it would not be a valid petition to begin with, since the statute provides that the petition must be signed by an individual from one of the categories listed in (b)(1). By the words of the statute, subdivision (b)(1) only requires one adult signature: the categories are alternative, not cumulative. In light of the ambiguity as to when such an OSC would be issued, the committee requests comments on whether the council should approve a form or leave it up to individual parties and courts to craft one that would comply with law and meet the particular circumstances of an action.

for guardians ad litem and attorneys appointed by a juvenile court has been added in item 7d.

- *Order to Show Cause—Change of Name* (form NC-120). This form provides notice of the hearing date and of the opportunity for and time to make objections. Most petitioners must publish the order to show cause (OSC) in a local newspaper of general circulation and the order form currently indicates the specific paper to be used. Because some petitions will now be brought by individuals who reside outside California, an alternative order is provided in item 3, which does not specify the paper in which the OSC is to be published. At the same time, the space for making other orders for publishing the OSC has been expanded, and the note for petitioners seeking to change the name of minors has been moved to the next page because of space constraints. There was also a minor change to the title, replacing the word “for” with an em dash to clarify that the order was not to show cause “for” a change of name.
- *Order to Show Cause—Change of Name to Conform to Gender Identity* (form NC-125). The only revision to this form, currently numbered jointly as form NC-125/NC-225, is to remove NC-225 (for the reasons set out below). As with form NC-120, there was also a minor change to the title, replacing the word “for” with an em dash to clarify that the order was not to show cause “for” a change of name.
- *Notice of Hearing on Petition* (form NC-150). This is a form for courts to use to set a hearing that is required if someone has filed timely objection to an OSC for change of name to conform to gender identity, or to a petition for recognition of change of gender. The proposal revised the form to allow it to be used for objections raised to a petitioner’s seeking a changed designation on a marriage license and certificate or on their child’s birth certificate.

Forms for recognition of change of gender

The proposal also includes revisions to several forms used to request recognition of gender change, along with the revocation of three forms and the addition of six others.

NC-200 forms series

Currently, because the law provides that an adult may petition the court for recognition of gender change (which does not require that an OSC be issued) or may, in a single petition, combine that request with a request for a name change (for which an OSC must be issued, and must sometimes be served),¹³ the council has adopted two sets of forms for petitions by adults: one set for petitions seeking only recognition of gender change (the NC-300 forms series) and another for those seeking both recognition of gender change and a name change at the same time (the NC-200 forms series).¹⁴ Because under AB 218 the combined petitions are not limited to just

¹³ Health & Saf. Code, § 103435.

¹⁴ The NC-500 forms series is for petitions on behalf of minors seeking recognition of change of gender, either alone or with a name change.

gender and name change but must also allow for additional types of requests, each with different requirements, the committee has concluded that it no longer makes sense to try to have a discrete set of forms for each type, or combination of types, of requests, but instead to have a single petition that includes all the possible options.

For this reason, this proposal includes revoking and renumbering the forms in the NC-200 series, which is comprised of the following forms:

- *Petition for Change of Name, Recognition of Change of Gender, and Issuance of New Birth Certificate* (form NC-200) (revoke);
- *Order to Show Cause for Change of Name to Conform to Gender Identity* (form NC-125/NC-225) (renumber as form NC-125);¹⁵ and
- *Decree Changing Name and Order Recognizing Change of Gender and for Issuance of New Birth Certificate* (form NC-230) (revoke).

NC-300 form series

In order to implement the new provisions of AB 218, under which a petition for recognition of change of gender may be combined with a request for change of name, changes to petitioner’s children’s birth certificates (which, if for an adult child, requires the agreement of that child), and changes to designation on marriage licenses and certificates (for which, if a spouse has not provided signed agreement, an OSC may be necessary), the proposal revises the current petition form to allow it to serve as a combined petition form. Attachments may be completed as needed for requests that go beyond asking a court to recognize the change of gender. New and revised order forms to reflect these changes—and a new information sheet—are also being proposed. A summary of the proposed form revisions and new forms follows.

- *Petition for Recognition of Change of Gender and Sex Identifier, Name Change, and Issuance of New Certificates* (form NC-300)¹⁶ (formerly *Petition for Recognition of Change of Gender and for Issuance of New Birth Certificate*). This proposed revised form may be used as a stand-alone form to ask the court to recognize an adult petitioner’s change in gender and sex identifier¹⁷ and to order issuance of a new birth certificate reflecting that change, just as the current form NC-300 may. It includes the only support required for such a petition: a declaration that the request is to conform to petitioner’s gender identity and is not for any fraudulent purpose.

¹⁵ As noted above, this form has the same content as form NC-125, which would not be revoked but remain in effect. The form will be renumbered to include only a single number in place of the current double-numbered NC-125/NC-225.

¹⁶ The revisions to proposed form NC-300 have not been highlighted on the attached form because they are so extensive that the form would be almost entirely yellow.

¹⁷ As noted above, this phrase has been added to “gender” in the new statute. (New Health & Saf. Code, § 103425.)

The proposed form also includes optional items by which a petitioner may include requests for a change of name (in which case form NC-110 must be attached¹⁸); for a new birth certificate for petitioner's child with petitioner's gender changed (in which case new form NC-311 must be attached); and for a new marriage license and certificate with petitioner's designation as bride, groom, or neither changed (in which case new form NC-312 must be attached). For each such certificate, petitioners may also request their name be changed.

Because of the added complexity resulting from the law mandating that several different petitions, each with different requirements, can be brought as a single petition, the committee is recommending that this form be mandatory for all petitions requesting recognition of change of gender or sex identifier.

The revised form would continue to start with a referral to instructions, and the information that the requests do not have to be made to the courts at all but can be made via administrative process instead.

- *Birth Certificate for Child of Petitioner—Attachment* (form NC-311). This new form would provide the necessary information for a request to change the petitioner's gender on their child's birth certificate that was issued in California. A separate attachment form is needed for each child. If the petitioner wants their own name changed on the child's birth certificate as well, that can be indicated (and form NC-110 will have to be attached as well, or a decree in which petitioner's name has already been changed). If the birth certificate is for an adult child—and the individual is alive and not incapacitated—that individual must agree to the change.¹⁹ The form provides space for a signature of the adult child, or for petitioner to explain why there is not one.
- *Marriage License and Certificate—Attachment* (form NC-312). This new form would provide the necessary information for a request to change the petitioner's designation on a marriage license and certificate that was issued in California and is maintained either by the county where the marriage occurred (for a confidential marriage license) or by the State Registrar (for a nonconfidential marriage license). Petitioner's new designation can be bride, groom, or neither. As with the form above, if the petitioner wants their name changed on the marriage license and certificate, that can be indicated as well (and form NC-110 attached or a decree in which petitioner's name has already been changed).

The new law provides that the spouse who shares the marriage license and certificate must sign the petition as well, if alive and not incapacitated,²⁰ so proposed form NC-312

¹⁸ Requests for name changes made with these petitions must meet the same requirements of any other petitions for requests for name changes to conform to gender. (Health & Saf. Code, § 103435(a)(1); Code Civ. Proc., § 1277.5.)

¹⁹ New Health & Saf. Code, § 103430(b)(3).

²⁰ New Health & Saf. Code, § 103430(b)(2).

includes a space for that signature or for petitioner to explain that the spouse is deceased or incapacitated. However, another provision of the new law implies that the other spouse's signature is not actually required and that a petition may be filed without it, by mandating that if the "required" signature is not on the petition, then the court is to issue (and the petitioner to serve) an order directing the non-signing spouse to make known any objections in writing within a certain period of time after issuance of the order.²¹ For that reason, the form also includes an item whereby the petitioner may request that such an order be issued. The advisory committee asks for comments on whether this is appropriate in light of the conflicting provisions.

- *Order to Show Cause—Issuance of New Marriage License and Certificate* (form NC-325) is the new order to be issued and served if a living and capable spouse does not sign form NC-312.
- *Order Recognizing Change of Gender and Sex Identifier, Name Change, and Issuance of New Certificates* (form NC-330).²² The current form is an order addressing only change of gender and issuance of a new birth certificate. This revised form—which has been substantially reorganized—would also address the other orders potentially requested by an adult petitioner under Health and Safety Code section 103430. It includes the findings required for a name change (that the petitioner is not required to register as a sex offender under Penal Code section 290); for changing the birth certificate of an adult child of petitioner (that the adult child signed as well, or is incapacitated or deceased); and for changing a marriage license and certificate (that the spouse sharing the documents signed as well, is incapacitated or deceased, or was served with an OSC allowing objections). In item 8, an expanded "Other findings" box has been added should a court make findings to deny the petition or any part of it. And finally, the form includes items for orders by which a court may grant each request and an "Other Orders" item in which any or all may be denied.
- *Instructions for Filing Petition for Recognition of Gender Change and Sex Identifier, Name Change, and Issuance of New Certificate* (form NC-300-INFO). The instructions have been removed from page two of current form NC-300 and relocated to this new stand-alone instructions form. The information has been expanded to cover how to petition the court in this area, with potentially multiple requests. It includes the new venue and jurisdiction requirements. A list of the necessary forms is included, for a petition simply for recognition of a change of gender, as well as for petitions that also include requests for a name change, a new birth certificate for a child, or a new marriage license. Information is included as to when an OSC may have to be served regarding a new marriage license, and when the petition may need to be served on governmental

²¹ New Health & Saf. Code, § 103430(e)(2) & (f).

²² As with form NC-300, the revisions on this form have not been highlighted because they are so extensive that the form would be almost entirely yellow..

agencies (i.e., when it includes a name change request by an individual under the jurisdiction of the Department of Corrections and Rehabilitation). Information as to how to obtain new certificates if the petition is granted is also included.

NC-500 forms series

As noted above, the NC-500 forms series is for petitions to recognize a minor's change of gender, potentially combined with a name change. The proposed forms have been revised, and a new form proposed, as follows.

- *Petition for Recognition of Minor's Change of Gender and Sex Identifier and Issuance of New Birth Certificate and Change of Name* (form NC-500) (formerly *Petition for Recognition of Minor's Change of Gender and Issuance of New Birth Certificate and Change of Name*). Because, as noted above, as of January 1, 2023, the law will no longer require that the petitioner either be signed by both parents of the minor, if living, or that the non-signing parent be served with a copy of the petition and an OSC, the item seeking information about non-signing parents has been removed from the change of gender section of the petition and moved to item 7 relating to name-change requests. In its place in the gender-change section is a new item asking the court to issue an OSC (under Health and Safety Code section 103420(e)(1)) if the petition does not include the signature from a petitioner in one of the categories listed in item 1 of the forms, that is, by a category of petitioner required under Health and Safety Code section 103420(b)(1). This section of the petition also includes an item whereby a guardian or guardian ad litem appointed for a dependent juvenile may ask, as required if either or both parents is deceased or cannot be located, that a hearing be set and an OSC with notice of that hearing be issued for all grandparents known to the petitioner.

In item 7, in which a petitioner may request that a name change for the minor be granted along with recognition of a change of gender, the proposed revised form now includes an item regarding the minor's parents, inquiring whether non-signing parents are living or deceased, similar to what previously had been in the prior section of the form, because that information is still relevant for the name-change request.²³ The committee has revised this item to allow a petitioner to assert that they do not know if a non-signing parent is alive. Item 8 regarding the jurisdiction and venue of the proceeding has also been revised, to reflect the new provisions allowing non-California residents to request name changes in certain circumstances. Item 9 has been added for petitioners who want

²³ An OSC must be issued on any petition for name change to conform to gender and, if for a minor, it must be served, along with a copy of the petition, on any living parent who has not signed the name-change petition. Code Civ. Proc. § 1277.5; and see Health & Saf. Code, § 103435 and new Health & Saf. Code, § 103435(a) (a name-change petition included with a gender-change petition must comply with the Code of Civil Procedure provision regarding name change, except that the order to show cause shall not include the petition for recognition of change of gender). *Order to Show Cause—Change of Name to Conform to Gender Identity* (form NC-125) will continue to be used for this purpose.

the new birth certificates, but have already obtained a court-ordered name change, to request that.

- *Declaration of Guardian or Juvenile Attorney* (form NC-510G) (formerly *Declaration of Guardian or Dependency Attorney*) has been revised to reflect that attorneys acting for juveniles in the juvenile justice system (under Welfare and Institutions Code section 601 or 602) are now among those who may petition for minors, and must complete this form. Item 4 has also been revised to use nongendered terms for grandparents.
- *Order to Show Cause—Recognition of Minor’s Change of Gender and Sex Identifier* (form NC-520) (formerly *Order to Show Cause for Recognition of Minor’s Change of Gender and Issuance of New Birth Certificate*) has been substantially revised, with almost entirely new content. This form is intended to meet the requirements of new Health and Safety Code section 103430(e)(1), which requires that the court issue an order when a petition is filed that does not include the signatures required under section 103430(b)(1). The order is no longer addressed to non-signing parents (because under the new law they do not need to be served with any notice) and no longer contains notice of a hearing (because a hearing is to be set in only limited instances in which a guardian or guardian ad litem has signed the petition).²⁴ Because it is unlikely that this order will be issued, it did not make sense to continue to include the OSC for name change on the same form. (Form NC-125 will continue to be used for such orders.)

As noted above, the committee was unable to identify when this order would be issued, because the petition has to be signed by an adult in one of the categories listed in (b)(1) to be valid in the first place. Should the court be required to issue this order, the next questions would be to whom the OSC would be directed, and on whom it should be served. In an attempt to clarify this latter issue, the proposed form includes an item in which signing petitioner can list any other individuals who the petitioner is asserting were required to sign and did not. In addition, instructions have been added at the top of the form.

- *Order to Show Cause—Petition by Guardian or Guardian ad Litem* (form NC-520G). This is a new form for a court to use to set a hearing date when a petition for gender change for a minor is brought by a guardian or guardian ad litem and one or both parents of the minor are deceased or cannot be located.²⁵ In those circumstances, the petitioner is required to serve all grandparents of the minor known to petitioner with a notice or OSC that includes the time and date of a hearing. (There is no separate provision mandating the court set such a hearing, and no timeline for one, but the committee concluded that

²⁴ In such an action, this OSC would not be issued because the petition would include a signature required by Health and Safety Code section 103430(b)(1).

²⁵ New Health & Saf. Code, § 103430(c)(2).

such a requirement is implicit in the requirement that the petitioner serve notice of a hearing.)

- *Order Recognizing Change of Gender and Sex Identifier and for Issuance of New Birth Certificate* (form NC-530). This is a new proposed order form. Currently, for an order recognizing only a change of gender for a minor, the order form for such petitions by adults (form NC-330) is used; for an order for both change of gender and change of name for a minor, form NC-230 is used; except that when either is brought by a guardian, form NC-530G is used.²⁶ The new proposed form would take the place of all three of those forms when a petition is for a minor. The form includes the findings needed for making orders on both gender-change and name-change petitions, whether unopposed or after objections (including the different findings required if objection is by a parent). It also includes the finding needed for a petition made by a guardian (that the minor will not likely be returning to a parent's custody) or by a friend or relative (that the parents are deceased and no guardian appointed).
- *Instructions for Filing Petition for Recognition of Minor's Change of Gender and Sex Identifier* (form NC-500-INFO). The information sheet has been substantially revised to reflect the changes in the law and forms described above.

Alternatives Considered

The committee did not consider the alternative of taking no action. The forms for name-change petitions are mandatory and would be incorrect if not changed to comply with law. Similarly, some of the current forms for the gender-change petitions are also mandatory and, particularly with the changes of law in this area, the petitions and accompanying orders are so complex that failure to have up-to-date forms would be burdensome for courts as well as parties.

The committee considered not proposing any form order for courts to issue under Health and Safety Code section 103430(e)(1), which requires that the court issue an order when a petition is filed that does not include a signature required under subdivision (b)(1) of that section. The committee finds it difficult to envision when such an OSC would be issued, because the petition may only be filed if it is signed by an adult from one of the categories listed in (b)(1). The provisions of that subdivision require only one adult signature: the categories are alternative, not cumulative. The committee considered leaving it to individual parties and courts to craft an order that would comply with subdivision (e)(1) and also meet the circumstances of a particular action. However, the committee developed and tentatively proposes the revised *Order to Show Cause—Petition by Guardian or Guardian ad Litem* (form NC-520) as a means of complying with subdivision (e)(1). The committee asks for specific comments on whether such a form is appropriate.

²⁶ The committee proposes that the current *Order Recognizing Minor's Change of Gender and for Issuance of New Birth Certificate* (form NC-530G) be revoked.

Fiscal and Operational Impacts

The statutory changes will require education of court staff and judicial officers. The new forms are intended to facilitate the courts' and parties' implementation of the changes in statute and will also require education, and may require some changes to computerized cases management systems as well.

Request for Specific Comments

In addition to comments on the proposal as a whole, and on any of the individual proposed forms, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the council adopt a form for an OSC under Health and Safety Code section 103430(e)(1) (proposed form NC-520; and see item 4 on form NC-500 requesting the order) given that subdivision (e)(1) requires that the order be issued only when a petition is filed that does not include a signature that subdivision (b)(1) mandates be on the petition to begin with?
 - If yes, should form NC-520 require the petitioner to identify for the court to whom the order under section 103430 be directed, as proposed here? Is there any other information or content that should be included on the form?
- Should the council adopt a form for an OSC under Health and Safety Code section 103430(e)(2) (such as proposed form NC-325; and see item 3d on form NC-312 requesting the order) subdivision(e)(2), requiring that the order be issued only when a petition is filed that does not include a signature (of a spouse sharing a marriage license and certificate) that subdivision (b)(2) mandates be on the petition to begin with?
- In form NC-500, at item 7a, relating to name-change requests, the committee is proposing, as an alternative to stating whether any non-signing parents are living, an option to state that minor and petitioner do not know. The committee seeks comments on the content of this item and whether it may be helpful to courts.

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 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Forms NC-100, NC-100-INFO, NC-110, NC-120, NC-125/NC-225, NC-150, NC-200, NC-230, NC-300, NC-300-INFO, NC-311, NC-312, NC-325, NC-330, NC-500, NC-510G, NC-520, NC-520G, NC-530, and NC-530G, at pages 12—
2. Link B: Assembly Bill 218,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB218

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">03/22/22</h3> <h2 style="margin: 0;">Not approved by Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of each petitioner):	
CASE NUMBER:	

Before you complete this petition, read the *Instructions for Filing a Petition for Change of Name* (form NC-100-INFO). (To change your name as part of a petition to recognize a change of gender, and obtain a new California birth certificate for yourself or your child, or a marriage certificate reflecting those changes, use form NC-300.)

1. Petitioner (present name): (check a or b)
- a. resides in this county.
- b. does not live in California and (check 1 or 2)
- (1) wants a name change on a marriage license, and was married in this county.
- (2) wants a name change on their or their child's birth certificate, which was issued in this county.
- Petitioner requests that the court decree the following name changes (list every name that you are seeking to change):
- | <u>Present name</u> | | <u>Proposed name</u> |
|---------------------|------------|----------------------|
| a. | changed to | |
| b. | changed to | |
| c. | changed to | |
- Continued (If you are seeking to change additional names, you must prepare a list and attach it to this petition as Attachment 2.)

The number of persons under 18 years of age whose names are to be changed is (specify):

5. If this petition requests the change of name of any person or persons under 18 years, this request is being made by
- a. two parents.
- b. one parent.
- c. near relative (name and relationship):
- d. guardian (name):
- e. attorney for an individual under the jurisdiction of the juvenile court (name):
- f. other (specify):
- This petition seeks to change name of (check one) petitioner (name):
to conform to that person's gender identity.

For each person whose name is to be changed, petitioner provides the following information (you must attach Name and Information About the Person Whose Name Is to Be Changed (form NC-110) for each person identified in item 2):

- a. The number of attachments included in this petition is (specify number):
- b.-f. (These are the items on the attached page or pages of form NC-110.)

INSTRUCTIONS FOR FILING A PETITION FOR CHANGE OF NAME

NC-100-INFO

**DRAFT: 03/22/2022 Not approved by
the Judicial Council**

1. Where to File

- a. **California residents:** The petition for change of name must be filed in the superior court of the county where the person whose name is to be changed is a resident.
- b. **Non-California residents:** If the person whose name is to be changed is also requesting an order for the issuance of a new California marriage license and certificate, a new California birth certificate for the person whose name is to be changed, or a new California birth certificate for a minor or adult child of the person whose name is to be changed, the petition for change of name must be filed in the superior court of the county where the marriage took place, or where the birth certificate was issued.

2. Whose Name May Be Changed

The petition may be used to change your own name and, under certain circumstances, the names of others (e.g., children under 18 years of age).

3. Confidentiality of Certain Names

If you are a participant in the Secretary of State's address confidentiality program (Safe at Home), your current and proposed names may be kept confidential. (Code Civ. Proc., § 1277(b).) See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO) for additional instructions.

4. What Forms Are Required

Prepare an original and two copies of each of the following documents:

- a. *Petition for Change of Name* (form NC-100)
- b. *Name and Information About the Person Whose Name Is to Be Changed (Attachment to Petition for Change of Name)* (form NC-110) (attach as many copies as necessary)
- c. *Order to Show Cause—Change of Name* (form NC-120) or, if applicable, *Order to Show Cause—Change of Name to Conform to Gender Identity* (form NC-125)
- d. *Decree Changing Name* (form NC-130 or, for guardians, form NC-130G)
- e. *Civil Case Cover Sheet* (form CM-010)

In addition, a guardian must prepare and attach a *Declaration of Guardian (Supplemental Attachment to Petition for Change of Name)* (form NC-110G) for each child whose name is to be changed.

5. Filing and Filing Fee

Prepare an original *Civil Case Cover Sheet* (form CM-010). File the original petition and *Civil Case Cover Sheet* with the clerk of the court and obtain two filed-endorsed copies of the petition. A filing fee will be charged unless you qualify for a fee waiver. (If you want to apply for a fee waiver, see *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO). There is no filing fee for minors in the State's address confidentiality program (Safe at Home).

6. Requesting a Court Hearing Date and Obtaining the Order to Show Cause

You should request a date for the hearing on the *Order to Show Cause—Change of Name* (form NC-120) at least six weeks in the future. Take the completed form to the clerk's office. The clerk will provide the hearing date and location, obtain the judicial officer's signature, file the original, and give you a copy.

If you are changing your name to conform to gender identity, you need not request a hearing date. Instead, complete the *Order to Show Cause—Change of Name to Conform to Gender Identity* (form NC-125) and take the completed form to the clerk's office. The clerk will obtain the judicial officer's signature, file the original, and give you a copy.

7. Publishing the Order to Show Cause

In most cases, a copy of the *Order to Show Cause* must be published in a local newspaper of general circulation once a week for **at least four consecutive weeks** before the date of the hearing. You must select the newspaper from among those newspapers legally qualified to publish orders and notices. The newspaper used must file a Proof of Publication with the superior court before the hearing. If no newspaper of general circulation is published in the county, the court may order the *Order to Show Cause* to be posted by the clerk.

But you **do not have to publish** the order if the following applies:

- You are seeking to change a name to conform to your gender identity;
- You are an participant in the State Witness Program;
- You are a participant in the address confidentiality program, and the petition alleges that you are petitioning to (a) avoid domestic violence, (b) avoid stalking, (c) avoid sexual assault, or (d) avoid human trafficking; or
- The name change is for a minor or nonminor dependent under the jurisdiction of the juvenile court.

Page 1 of 2

8. Name Change for Children

- a. If you are a petitioning parent requesting the name change for a child under 18 years of age, and one of the parents, if living, does not join in consenting to the name change, the petitioning parent must have a copy of the *Order to Show Cause* or notice of the time and place of the hearing served on the nonconsenting parent. Service must be made **at least 30 days prior to the hearing**, under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40.
- b. If you are a petitioning parent or any other adult requesting the name change for a child **to conform to that child's gender identity** and a living parent does not join in the petition for the name change, you must have a copy of the petition and the *Order to Show Cause* served on the nonconsenting parent. Service must be made **within 30 days of the date the order is made by the court**, under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40.
- c. If the nonconsenting parent resides in California, the order or notice must be personally served on the nonconsenting parent. You cannot personally serve this document.
- d. If the nonconsenting parent resides outside California, that parent may be served by sending a copy of the order or notice by first-class mail, postage prepaid, return receipt requested.
- e. If you are the guardian of a minor and filing a petition to change the name of that minor, you must (1) provide notice of the hearing to any living parent of the child by personal service at least 30 days before the hearing (or as in b above), or (2) if either or both parents are deceased or cannot be located, serve notice of the hearing on the child's grandparents, if living, not less than 30 days before the hearing, under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40. *(If the minor's name is being changed to conform to gender identity, these notices and orders for grandparents need not be completed or served.)*

If you have served a parent or grandparent, file a copy of the completed *Proof of Service of Order to Show Cause* (form NC-121) with the court before the hearing.

9. Name Change for Person in Jail or Prison or on Parole

If you are a person in county jail, or under the jurisdiction of the Department of Corrections and Rehabilitation (in state prison, or on parole) you may file a petition to change your name, but must serve the petition on a government agency.

- If in county jail, you must provide a copy of the petition to the county sheriff's department. Check with the department as to how that should be done.
- If in state prison, you must provide a copy of the petition to the warden. Check with the warden's office as to how that should be done.
- If on parole, you must provide a copy of the petition to the regional parole administrator. Check with the administrator's office as to how that should be done.

After you have provided a copy to the sheriff, warden, or regional parole administrator, file a copy of the completed *Proof of Service By Mail* (form POS-030) with the court.

Note that the declaration on form NC-110 as to whether the petitioner is in jail or under jurisdiction of the California Department of Corrections and Rehabilitation is only for purposes of determining if service of the petition is required.

10. Court Hearing

If no written objection is filed at least two court days before the scheduled hearing, the court may grant the petition and sign the decree without a hearing. Check with the court to find out if a hearing will be held. If there is a hearing, bring copies of all documents to the hearing. If the judge grants the petition, the judge will sign the original decree.

If you filed a petition for name change to conform to gender identity, and timely objections were filed, the court may set a hearing date after receiving the objections. If it does, you will be sent a notice of the hearing date. Check with the court after the deadline for filing objections to see if a hearing date has been set. If there are no objections, the court will grant the petition and sign the decree without a hearing.

11. If you were born in California and want to amend a birth certificate to show the name change, you should contact the following office:

California Department of Public Health
Vital Records - MS 5103
P.O. Box 997410
Sacramento, CA 95899-7410

Phone: 916-445-2684
website: www.cdph.ca.gov

Local courts may supplement these instructions. Check with the court to determine whether supplemental information is available. For instance, the court may provide you with additional written information identifying the department that handles name change petitions, the times when petitions are heard, and the newspapers that may be used to publish the *Order to Show Cause*.

PETITION OF (Name of petitioner or petitioners):	CASE NUMBER:
FOR CHANGE OF NAME	

**NAME AND INFORMATION ABOUT THE PERSON
WHOSE NAME IS TO BE CHANGED**

Attachment of

Attachment to Petition (form NC-100, form NC-300, or form NC-500)

(You must use a **separate** attachment for each person whose name is to be changed. If petitioner is a guardian of a minor, a supplemental attachment, Declaration of Guardian (form NC-110G), must also be completed and attached for each minor whose name is to be changed.)

7. (Continued) Petitioner applies for a decree to change the name of the following person:

- b. Self Other
- (1) Present name (specify):
- (2) Proposed name (specify):
- (3) Born on (date of birth):
and presently under 18 years of age 18 years of age or older
- (4) Born at (place of birth):
- (5) Sex (as stated on original birth certificate): Male Female
- (6) Current residence address (street, city, county, state, and zip code):

**DRAFT
03/22/22**

**Not approved
by Judicial
Council**

c. Reason for name change (explain):

d. Relationship of the petitioner to the person whose name will be changed:

- (1) Self (4) Guardian ad litem or attorney for minor appointed by juvenile court
- (2) Parent (5) Near relative (indicate relationship):
- (3) Guardian (6) Other (specify):

e. If the person whose name will be changed is under 18 years of age, provide the names and addresses, if known, of the following persons:

- (1) Parent (name): (address):
- (2) Parent (name): (address):
- (3) (Only if neither parent is living) Near relatives (names, relationships, and addresses):

f. If the person whose name will be changed is 18 years of age or older, that person must sign the following declaration:

DECLARATION	
I declare under penalty of perjury under the laws of the State of California that (check one) <input type="checkbox"/> I am not <input type="checkbox"/> I am under the jurisdiction of the California Department of Corrections and Rehabilitation (in state prison or on parole) or in county jail and (check one) <input type="checkbox"/> I am not <input type="checkbox"/> I am required to register as a sex offender under Penal Code section 290.	
Date:	
_____	_____
(TYPE OR PRINT NAME OF PERSON WHOSE NAME IS TO BE CHANGED)	(SIGNATURE OF PERSON WHOSE NAME IS TO BE CHANGED)

(If petitioner is represented by an attorney, the attorney's signature follows):

Date:	
_____	_____
(TYPE OR PRINT NAME)	(SIGNATURE OF ATTORNEY)

(Each petitioner must sign this petition in the space provided below or, if additional pages are attached, at the end of the last attachment.) I declare under penalty of perjury under the laws of the State of California that the information in the foregoing petition is true and correct.

Date:	
_____	_____
(TYPE OR PRINT NAME)	(SIGNATURE OF PETITIONER)

Date:	
_____	_____
(TYPE OR PRINT NAME)	(SIGNATURE OF PETITIONER)

ADD ADDITIONAL SIGNATURE LINES FOR ADDITIONAL PETITIONERS SIGNATURE OF PETITIONERS FOLLOWS LAST ATTACHMENT Page 1 of 1

PETITIONER OR ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 0;">03.22.2022</h2> <h3 style="margin: 0;">not approved by Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PETITION OF <i>(Name of each petitioner):</i> <div style="text-align: right;">FOR CHANGE OF NAME</div>	
ORDER TO SHOW CAUSE—CHANGE OF NAME	CASE NUMBER: _____

TO ALL INTERESTED PERSONS:

1. Petitioner *(name):* _____ filed a petition with this court
 for a decree changing names as follows:
- | <u>Present name</u> | to | <u>Proposed name</u> |
|---------------------|----|----------------------|
| a. _____ | to | _____ |
| b. _____ | to | _____ |
| c. _____ | to | _____ |
| d. _____ | to | _____ |
| e. _____ | to | _____ |

Continued on Attachment 1.

2. THE COURT ORDERS that all persons interested in this matter appear before this court at the hearing indicated below to show cause, if any, why the petition for change of name should not be granted. Any person objecting to the name changes described above must file a written objection that includes the reasons for the objection at least two court days before the matter is scheduled to be heard and must appear at the hearing to show cause why the petition should not be granted. If no written objection is timely filed, the court may grant the petition without a hearing.

NOTICE OF HEARING

a. Date: _____ Time: _____ <input type="checkbox"/> Dept.: _____ <input type="checkbox"/> Room: _____

- b. The address of the court is same as noted above other *(specify):* _____

(To appear remotely, check in advance of the hearing for information about how to do so on the court's website. To find your court's website, go to <https://www.courts.ca.gov/find-my-court.htm>.)

3. a. A copy of this *Order to Show Cause* must be published at least once each week for four successive weeks prior to the date set for hearing on the petition in a newspaper of general circulation:
 (for resident of this county) printed in this county *(specify paper):* _____
 (for other petitioners) printed in the county in which petitioner resides, or if no county, in the local subdivision or territory where petitioner resides.
- b. Other *(specify):* _____

Date: _____

JUDGE OF THE SUPERIOR COURT

[If petitioner is requesting change of name of a minor, see Note Regarding Petition for Minors on page 2.]

NOTE REGARDING PETITIONS FOR MINORS

When a *Petition for Change of Name* has been filed for a child by one parent and the other parent, if living, does not join in consenting to the name change, the petitioner must have a notice of the time and place of the hearing or a copy of the *Order to Show Cause* served on the other parent not less than 30 days prior to the hearing under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40.

If a petition to change the name of a child has been filed by a guardian, the guardian must (1) provide notice of the hearing to any living parent of the child by personal service at least 30 days before the hearing, or (2) if either or both parents are deceased or cannot be located, serve notice of the hearing on the child's grandparents, if living, not less than 30 days before the hearing under Code of Civil Procedure section 413.10, 414.10, 415.10, or 415.40.

(This Note is included for the information of the petitioner and is not to be included in the Order to Show Cause published in the newspaper.)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	DRAFT 03.22.22 NOT APPROVED BY JC
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>Name of each petitioner</i>): <div style="text-align: right;">FOR CHANGE OF NAME</div>	
ORDER TO SHOW CAUSE—CHANGE OF NAME TO CONFORM TO GENDER IDENTITY	CASE NUMBER:

TO ALL INTERESTED PERSONS:

1. Petitioner (*name*): filed a petition with this court
 for a decree changing name as follows:

	<u>Present name</u>		<u>Proposed name</u>
a.		to	
b.		to	
c.		to	
d.		to	

2. THE COURT ORDERS that any person objecting to the name changes described above must file a written objection that includes the reasons for the objection within six weeks of the date this order is issued. If no written objection is timely filed, the court will grant the petition without a hearing.

3. A hearing date may be set only if an objection is timely filed and shows good cause for opposing the name change. Objections based solely on concerns that the proposed change is not the person's actual gender identity or gender assigned at birth do not constitute good cause. (See Code Civ. Proc., § 1277.5(c).)

NOTE: When a petition has been filed to change the name of a minor to conform to gender identity and the petition does not include the signatures of both living parents, the petition and this order to show cause must be served on the parent who did not sign the petition, under Code of Civil Procedure section 413.10, 414.10, or 415.40, within 30 days from the date on which the order is made by the court.

Date:

JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	FOR COURT USE ONLY DRAFT 03.22.2022 not approved by Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>name</i>):	
NOTICE OF HEARING ON PETITION	CASE NUMBER:

Objections having been filed to petitioner's request for (*check all that apply*):

- a decree changing name to conform to gender.
- an order for the issuance of a new birth certificate reflecting the change of petitioner's gender.
- an order for the issuance of a new marriage license and certificate reflecting the change in designation of the petitioner to bride, groom, or neither bride nor groom.
- an order for the issuance of a new birth certificate for petitioner's child reflecting the change of petitioner's gender.

A hearing will take place at the time and place below, at which time the court may consider the objections that have been filed.

(To be completed by clerk.)

a.	Date:	Time:	Dept.:	Room:
----	-------	-------	--------	-------

b. The address of the court is

- same as noted above.
- other

(specify):

(To appear remotely, check in advance of the hearing for information about how to do so on the court's website. To find your court's website, go to <https://www.courts.ca.gov/find-my-court.htm>.)

Date: _____ Clerk, by _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<p style="font-size: 1.2em; font-weight: bold;">DRAFT</p> <p style="font-size: 1.2em; font-weight: bold;">03/22/22</p> <p style="font-weight: bold;">Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name):	
PETITION FOR CHANGE OF NAME, RECOGNITION OF CHANGE OF GENDER, AND ISSUANCE OF NEW BIRTH CERTIFICATE	CASE NUMBER:

Before you complete this petition, you should read the *Instructions for Filing* on the next page. You must answer all questions and check all boxes that apply to you on this petition. You must file this petition in the superior court of the county where the person whose name is to be changed resides.

1. Petitioner (*present name*): _____ is 18 years old or older and a resident of this county.
2. Petitioner requests that the court decree that petitioner's name is changed, in order to conform to petitioner's gender identity, to (*proposed name*): _____
3. Petitioner requests a decree recognizing that the petitioner's gender is changed to:
 - a. female.
 - b. male.
 - c. nonbinary.
4. Petitioner requests that the court order that a new birth certificate be issued reflecting the gender and name changes sought by this petition.
5. Petitioner requests that the court issue an order directing any interested persons to file written objections to show cause why the petition for change of name should not be granted.
6. Petitioner provides the following information in support of this petition:
 - a. The declaration below.
 - b.-f. The information contained in the attachment (*attach a completed copy of the Name and Information About the Person Whose Name Is to Be Changed (form NC-110)*).

DECLARATION

I (*present name*): _____ declare under penalty of perjury under the laws of the State of California that the request for a change in gender to (*check one*) female male nonbinary is to conform my legal gender to my gender identity and is not for any fraudulent purpose.

Date: _____

(TYPE OR PRINT NAME OF PETITIONER)

(SIGNATURE OF PETITIONER)

(Instructions on next page)

INSTRUCTIONS FOR FILING A PETITION FOR CHANGE OF NAME AND GENDER

1. Where to File

The petition for change of name and gender must be filed in the superior court in the county where the petitioner is a resident.

2. Whose Name May Be Changed

The petition may be used to change your name and to obtain a court order recognizing a change of gender and for issuance of a new birth certificate, if you are 18 or older. (Minors must use form NC-500.) If you were born in California, you may file the order with the State Registrar and obtain a new birth certificate.

3. What Forms Are Required

You need an original and two copies of each of the following documents:

- a. *Petition for Change of Name, Recognition of Change of Gender, and Issuance of New Birth Certificate* (form NC-200)
- b. *Name and Information About the Person Whose Name Is to Be Changed (Attachment to Petition for Name Change)* (form NC-110)
- c. *Order to Show Cause—Change of Name to Conform to Gender Identity* (form NC-125)
- d. *Decree Changing Name and Order Recognizing Change of Gender Identity and for Issuance of New Birth Certificate* (form NC-230)
- e. *Civil Case Cover Sheet* (form CM-010)

4. Filing and Filing Fee

Prepare an original *Civil Case Cover Sheet* (form CM-010). File the original petition and *Civil Case Cover Sheet* with the clerk of the court and obtain two filed-endorsed copies of the petition. A filing fee will be charged unless you qualify for a fee waiver. (If you want to apply for a fee waiver, see *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001—INFO).)

5. Filing the Order to Show Cause

Ask the court clerk to obtain a judge's signature on the *Order to Show Cause*, then file the original order in the clerk's office and obtain filed-endorsed copies of the order.

6. Domestic Violence Confidentiality Program

In cases where the petitioner is a participant in the state address confidentiality program (Safe at Home), the petition, the order to show cause, and the decree should, instead of giving the proposed name, indicate that the name is confidential and on file with the Secretary of State. See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO).

7. Court Hearing

If no objections are filed, the court will grant the petition without a hearing. A hearing date will be set if timely objections have been filed. If there is a hearing, you will be sent a notice by the court. You may also check with the court after the deadline to see if a hearing date has been set. Bring copies of all documents to the hearing. If the judge grants the name and gender change petition, the judge will sign the original decree.

8. Birth Certificate

If you were born in California, to obtain a new birth certificate reflecting the change of gender, file a certified copy of the order within 30 days with the Secretary of State and the State Registrar and pay the applicable fees. You may write or contact the State Registrar at:

California Department of Public Health
Vital Records – MS 5103
P.O. Box 997410
Sacramento, CA 95899-7410
Phone: 916-445-2684
Website: www.cdph.ca.gov

Local courts may supplement these instructions. Check with the court to determine whether supplemental information is available. For instance, the court may provide you with additional written information identifying the department that handles name and gender change petitions, and the times when petitions are heard.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 03/22/22 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of petitioner): FOR CHANGE OF NAME AND GENDER	
DECREE CHANGING NAME AND ORDER RECOGNIZING CHANGE OF GENDER AND FOR ISSUANCE OF NEW BIRTH CERTIFICATE	CASE NUMBER:

1. The petition was duly considered:
- a. at the hearing on (date) _____ in Courtroom: _____ of the above-entitled court.
 - b. without hearing.

THE COURT FINDS

2. a. All notices required by law have been given.
- b. Each person whose name is to be changed identified in item 3 below
 is not is required to register as a sex offender under section 290 of the Penal Code.
 This determination was made by using CLETS/CJIS based on information provided to the clerk of the court
 by a local law enforcement agency.
- c. No objections to the proposed change of name were made.
- d. Objections to the proposed change of name were made by (name): _____
- e. It appears to the satisfaction of the court that all the allegations in the petition are true and sufficient and that the petition should be granted.
- f. Other findings (if any): _____

THE COURT ORDERS

3. The name of (present name): _____
 is changed to (new name): _____

THE COURT FURTHER ORDERS

4. The gender of (new name): _____
 is changed to:
- a. female.
 - b. male.
 - c. nonbinary.

THE COURT FURTHER ORDERS

5. A new birth certificate shall be issued reflecting the changes in name and gender.
6. If petitioner was born in California, a certified copy of this order shall be filed by petitioner within 30 days with the State Registrar. When the State Registrar receives a certified copy of this order and payment of the applicable fees, the State Registrar must establish for the petitioner a new birth certificate reflecting the new name and the gender of the petitioner as it has been altered.

Date: _____

_____ JUDGE OF THE SUPERIOR COURT
 SIGNATURE OF JUDGE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<p style="font-size: 1.2em; font-weight: bold;">DRAFT</p> <p style="font-size: 1.1em; font-weight: bold;">03/22/2022</p> <p style="font-size: 1.1em; font-weight: bold;">Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name):	
<p style="font-weight: bold;">PETITION FOR RECOGNITION OF CHANGE OF GENDER AND SEX IDENTIFIER</p> <p><input type="checkbox"/> AND CHANGE OF NAME</p> <p><input type="checkbox"/> AND ISSUANCE OF NEW CERTIFICATES</p>	CASE NUMBER:
Before you complete this petition, read <i>Instructions for Filing Petition for Recognition of Change of Gender and Sex Identifier</i> (form NC-300-INFO). Note: You do not need to file this petition or to obtain a court order in order to obtain a new California birth certificate for you or your child reflecting a change of your gender or a new California marriage license and certificate reflecting a change of gender. You may use an administrative process; see Health and Safety Code section 103426.	

1. Petitioner (*present name*): _____ is 18 years old or older and requests an order recognizing the change of petitioner's gender and sex identifier to

a. female. b. male. c. nonbinary.

2. Petitioner requests that the court decree that petitioner's name be changed, in order to conform to petitioner's gender identity, to (*proposed name*): _____

- a. This is the right court for the petition to change name, because petitioner (*check (1) or (2).*)
- (1) resides in this county.
- (2) does not reside in California and (*check one*)
- wants a name change on their or their child's birth certificate, which was issued in this county.
- wants a name change on a marriage license, and was married in this county.
- b. Petitioner requests that the court issue an order directing any interested persons to file written objections to show cause why the petition for change of name should not be granted.
- c. Form NC-110, *Name and Information About the Person Whose Name Is to Be Changed*, is attached to this form.

Note: If you have already obtained a decree of change of name and want new certificates issued to reflect your new name, attach a certified copy of the decree to this petition.

3. **Issuance of New Certificate**

- a. Petitioner requests an order for the issuance of a new birth certificate for petitioner reflecting the change of gender and change of name.
- b. Petitioner requests an order for the issuance of a new birth certificate for petitioner's child reflecting petitioner's change of gender and change of name.
(Attach *Birth Certificate for Minor or Adult Child of Petitioner—Attachment* (form NC-311).)
- c. Petitioner requests an order for the issuance of a new marriage license and certificate with a change of designation of the person as bride, groom, or having neither box checked and change of name.
(Attach *Marriage License or Certificate—Attachment* (form NC-312).)

4. I declare under penalty of perjury under the laws of the State of California that the request for a change in gender and sex identifier to (*check one*) female male nonbinary is to conform my legal gender and sex identifier to my gender identity and is not for any fraudulent purpose.

Date: _____

(TYPE OR PRINT NAME OF PETITIONER)

(SIGNATURE OF PETITIONER)

INSTRUCTIONS FOR FILING PETITION FOR RECOGNITION OF CHANGE OF GENDER AND SEX IDENTIFIER, NAME CHANGE, AND ISSUANCE OF NEW CERTIFICATES

Note that if you were born in California you do not need to file this petition or obtain a court order in order for the State Registrar to issue a new birth certificate reflecting a change of gender. See Health and Safety Code section 103426. You may make the request directly to the State Registrar at the California Department of Public Health. (See contact information on page 2.)

1. How to Make Request

A petition for recognition of change of gender and sex identifier, either on its own or combined with a request for a name change, a new birth certificate for petitioner, a new birth certificate for petitioner's child or children, and a new marriage license and certificate must be filed on form NC-300. This form may only be used by individuals 18 years old or older. (Minors must use form NC-500.)

2. Where to File

- a. California residents: If this petition includes a request for name change, it must be filed in the superior court of the county where the person whose name is to be changed is a resident. Otherwise, this petition may be filed in the superior court of any county in California.
- b. Non-California residents: If the petition includes a request for an order for the issuance of a new California marriage license and certificate, a new California birth certificate for the petitioner, or a new California birth certificate for a minor or adult child of the petitioner, the petition must be filed in the superior court of the county where the marriage took place, or where the birth certificate was issued.

3. What Forms Are Required

You will need to have an original and a copy of each of the following documents:

- a. *Petition for Recognition of Change of Gender and Sex Identifier, for Name Change, and Issuance of New Certificates* (form NC-300)
- b. *Order Recognizing Change of Gender and Sex Identifier, Name Change, and Issuance of New Certificates* (form NC-330)
- c. If requesting name change:
Name and Information About the Person Whose Name Is to Be Changed (form NC-110), and
Order to Show Cause—Change of Name to Conform to Gender Identity (form NC-125)
(Note: If you already have a decree of change of name, attach a certified copy of the decree to the petition instead of completing form NC-110 and form NC-125.)
- d. If requesting order for new birth certificate for child:
Birth Certificate for Minor or Adult Child of Petitioner—Attachment (form NC-311)
- e. If requesting order for new marriage license and certificate:
Marriage License and Certificate—Attachment (form NC-312) and, if form NC-312 is not signed by the other spouse, *Order to Show Cause—Issuance of New Marriage License and Certificate* (form NC-325)
- f. *Civil Case Cover Sheet* (form CM-010)

4. Filing with Court

Prepare an original *Civil Case Cover Sheet* (form CM-010). Take the complete petition, with any required attachments and the proposed orders with the *Civil Case Cover Sheet*, along with a copy of each document, to the clerk of the court. Obtain a filed-endorsed copy (stamped by the clerk) of the petition and ask that any required orders to show cause be issued.

A filing fee will be charged unless you qualify for a fee waiver. (If you want to apply for a fee waiver, see *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)

5. Service on Spouse

If seeking a change to your marriage license and certificate, and the spouse sharing that marriage license has not signed the form (and is alive and capable of signing it), you must serve the *Order to Show Cause—Issuance of New Marriage License and Certificate* (form NC-325) that has been issued by the court, along with a copy of the petition, on that spouse within 30 days from the date on which the order is made by the court. It must be served in person, or if out of state, by mail, in the manner described in Code of Civil Procedure sections 413.10, 414.10, or 415.40. Service must be made by someone other than you, but you must have the server complete a proof of service and file it with the court.

6. Service on Government Agency—Name Change for Person in Jail or Prison or on Parole

If you are a person in county jail, or under the jurisdiction of the California Department of Corrections and Rehabilitation (in state prison, or on parole) a petition to change your name—including one on form NC-300—must be served on a government agency.

- If in county jail, you must provide a copy of the petition to the county sheriff's department.
- If in state prison, you must provide a copy of the petition to the warden.
- If on parole, you must provide a copy of the petition to the regional parole administrator.

Check with each office as to how to serve it. After you have provided a copy to the sheriff, warden, or regional parole administrator, file a copy of the completed *Proof of Service By Mail* (form POS-030) with the court.

Note that the declaration on form NC-300 as to whether the petitioner is in jail or under jurisdiction of the California Department of Corrections and Rehabilitation is only for purposes of determining if service of the petition is required.

7. Court Hearings

A hearing date will only be set if timely objections have been filed. If there is a hearing, you will be sent a notice by the court. Bring copies of all documents to the hearing. If the judge grants the petition, the judge will sign the *Order Recognizing Change of Gender and Sex Identifier, Name Change, and for Issuance of New Certificates* (form NC-330).

If there are no timely objections filed, the court will grant the petition and sign the order without a hearing.

8. Issuance of New Birth Certificate

If you were born in California, or if your children were, to obtain a new birth certificate for you or them reflecting your change of gender, file a certified copy of the order within 30 days with the State Registrar and pay the applicable fees. You may write or contact the State Registrar at:

California Department of Public Health
Vital Records – MS 5103
P.O. Box 997410
Sacramento, CA 95899-7410

Phone: 916-445-2684
Website: www.cdph.ca.gov

9. Issuance of New Marriage License and Certificate

If you were married in California, to obtain a new marriage license and certificate reflecting your change of gender with a change in your designation to bride, groom, or neither, file a certified copy of the order within 30 days, and pay the applicable fees, as follows:

- If the original marriage license and certificate was **confidential**, then file with the county clerk in the county where the confidential marriage license and certificate was issued.
- If the original marriage license and certificate was **not** confidential, then file with the State Registrar, whose contact information is given in item 8 above.

Local courts may supplement these instructions. Check with the court to determine whether supplemental information is available. For instance, the court may provide you with additional written information identifying the department that handles these petitions, the times when petitions are heard if hearings are required, and whether remote appearances by video or telephone are available.

DRAFT 03.22.21

PETITION OF (Name of petitioner):

CASE NUMBER:

Not approved by Judicial Council

BIRTH CERTIFICATE FOR CHILD OF PETITIONER—ATTACHMENT
Attachment to Petition for Recognition of Change of Gender and Sex Identifier (form NC-300)

Petitioner must complete and attach this form to form NC-300 if asking the court to order issuance of a new birth certificate of a minor or adult child that reflects petitioner's change in gender, or change in both gender and name. A separate form is required for each child.

1. This is an attachment to a request for an order for the issuance of a new birth certificate for a minor or adult child to reflect petitioner's (check all that apply):

- a. Recognition of change of gender and sex identifier.
- b. Change of name
 - (1) Petitioner is seeking a decree changing their name as part of this petition, and form NC-110 is also attached.
 - (2) Petitioner has already obtained a decree for change of name; a certified copy of the decree to the petition for recognition of change of gender and sex identifier is attached.

2. Information about petitioner's minor or adult child

- a. Name of child:
- b. Date of birth:
- c. City and county of birth:
- d. Petitioner's child is: a minor (under 18 years of age) an adult (18 years of age or older)

3. Child whose birth certificate will be changed is an adult.

If petitioner's child is 18 years of age or older, this request must be signed by the adult child whose birth certificate would be changed by granting this petition, unless the adult child is deceased or incapable of providing a signature. (Check applicable item below.)

a. Petitioner's adult child agrees to the issuance of a new birth certificate and provides a signature below.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER'S ADULT CHILD)

b. Petitioner's adult child is deceased. Date of death:

c. Petitioner's adult child is incapable of providing a signature for the following reason:

Explain: _____

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER)

PETITION OF (Name of petitioner):

CASE NUMBER:

Not approved by Judicial Council

MARRIAGE LICENSE AND CERTIFICATE—ATTACHMENT
Attachment to Petition for Recognition of Change of Gender and Sex Identifier (form NC-300)

Petitioner must complete and attach this form to form NC-300 if asking the court to order issuance of a new marriage license and certificate or a new confidential marriage license and certificate that reflects petitioner's change in gender, or change in both gender and name.

1. This is an attachment to a request for an order for the issuance of a new marriage license and certificate or new confidential marriage license and certificate to reflect (check all that apply):

a. [] Recognition of petitioner's change of gender and sex identifier by changing petitioner's designation to:

[] bride. [] groom. [] neither bride nor groom.

b. [] Change of name:

(1) [] Petitioner is seeking a decree changing their name as part of this petition, and form NC-110 is also attached.

(2) [] Petitioner has already obtained a decree for change of name; a certified copy of the decree to the petition for recognition of change of gender and sex identifier is attached.

2. Information about marriage license and certificate to be reissued

a. Marriage license and certificate are: [] nonconfidential [] confidential

b. Date of issuance:

c. County of issuance:

d. Petitioner name on marriage license and certificate to be reissued:

e. Petitioner date of birth:

f. Name of spouse on marriage license and certificate to be reissued:

g. Spouse date of birth:

3. Spouse who shares petitioner's marriage license and certificate

To be granted without further notice required, this request must be signed by the spouse sharing the marriage license and certificate to be reissued, unless that person is deceased or incapable of providing a signature. (One item below must be checked.)

a. [] The spouse who shares petitioner's marriage license and certificate agrees to the issuance of a new marriage license and certificate with petitioner's new designation. (Sign below.)

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF SPOUSE LISTED ON THE MARRIAGE LICENSE AND CERTIFICATE TO BE REISSUED)

b. [] The spouse is deceased. Date of death:

c. [] The spouse is incapable of providing a signature for the following reason (explain):

(Blank lines for explanation)

d. [] (Check this item if spouse is living and capable of signing but has not.) Petitioner requests that the court issue an order directing the spouse who shares petitioner's marriage license and certificate to file written objections to show cause why the requested changes should not be made.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	<p style="font-size: 24pt; margin: 0;">DRAFT</p> <p style="font-size: 24pt; margin: 10px 0 0 0;">03/22/22</p> <p style="font-size: 24pt; margin: 20px 0 0 0;">not approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>Name of each petitioner</i>): <p style="text-align: right;">FOR CHANGE OF NAME</p>	
ORDER TO SHOW CAUSE—ISSUANCE OF NEW MARRIAGE LICENSE AND CERTIFICATE	CASE NUMBER:

TO ALL INTERESTED PERSONS:

1. Petitioner (*name*): _____ filed a petition with this court for an order that a new marriage license and certificate confidential marriage license and certificate be prepared

a. changing petitioner's designation on the license and certificate to (*check one*):

bride

groom

neither bride nor groom

b. and changing name to (*proposed name*): _____

2. THE COURT ORDERS that any person objecting to issuance of a new marriage license and certificate with the changes described above must file a written objection that includes any reasons why the requested changes would be fraudulent, within six weeks of the date this order is issued. If no written objection showing good cause to oppose the changes to the marriage license and certificate is timely filed, the court will enter the order that the gender and sex identifier recognition is granted without a hearing.
3. A hearing date may be set only if an objection is timely filed and shows good cause for opposing the petition. Objections based solely on concerns that the proposed change is not the person's actual gender identity or gender assigned at birth do not constitute good cause. (See Code Civ. Proc., § 1277.5(c) and Health & Saf. Code, § 103430(h).)

Date:

JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 03/22/2022 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name):	
ORDER RECOGNIZING CHANGE OF GENDER AND SEX IDENTIFIER <input type="checkbox"/> AND FOR NAME CHANGE <input type="checkbox"/> AND FOR ISSUANCE OF NEW CERTIFICATES	CASE NUMBER:

1. The petition was duly considered:
- a. at the hearing on (date): _____ in Department: _____ of the above-entitled court.
- b. without hearing.

The Court finds:

2. a. All notices required by law have been given.
 b. No objections to the petition were made.
 c. Objections to the petition were made by (name): _____
3. The petition included a **request for change of name** for the person described in item 10 below.
- a. The person whose name is to be changed:
 is not is required to register as a sex offender under Penal Code section 290.
 This determination was made by using CLETS/CJIS based on information provided to the clerk of the court by a local law enforcement agency.
- b. A certified copy of a decree from another state changing petitioner's name was attached to the petition.
4. The petition included a **request to order the issuance of a new birth certificate for one or more minor children of petitioner.**
5. The petition included a **request to order the issuance of a new birth certificate for one or more adult children of petitioner** and (check one)
- a. each request for a new birth certificate for an adult child on form NC-311 contains the signature of the adult child agreeing to the reissuance of their birth certificate.
- b. the court was satisfied that the following adult child or children who did not sign form NC-311 are either deceased or incapable of providing a signature:
 Full Name: _____ Date of birth: _____
 Full Name: _____ Date of birth: _____
6. The petition included a **request for an order for the issuance of a new marriage certificate**, for a marriage on (date) _____, with a change of designation of the petitioner as bride, groom, or having neither box checked and (check one):
- a. The spouse who shares the marriage certificate with the petitioner has agreed to the issuance of a new marriage license and certificate OR the court is satisfied that the spouse is deceased or incapable of providing a signature.
- b. The petition did not include the agreement of the spouse who shares the marriage license and certificate with the petitioner. An order directing the spouse to make known any objection to the changes requested on the marriage license and certificate or confidential marriage license and certificate by filing a written objection, which includes any reasons why the requested changes would be fraudulent, was issued and served.

PETITION OF (<i>name</i>):	CASE NUMBER:
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7. It appears to the satisfaction of the court that all the allegations in the petition are true and sufficient and that the petition should be granted.
8. Other findings (*if any*):

THE COURT ORDERS

9. The gender and sex identifier of petitioner has been changed to:
- a. female. b. male. c. nonbinary.

THE COURT FURTHER ORDERS

10. The name of (*present name*):
is changed to (*new name*):

11. A new birth certificate shall be issued reflecting the change of gender and sex identifier described in item 9
 and change of name described in item 10.

If petitioner was born in California, a certified copy of this order shall be filed by the petitioner within 30 days with the State Registrar. When the State Registrar receives a certified copy of this order and payment of the applicable fees, the State Registrar shall establish for the petitioner a new birth certificate reflecting the gender of the petitioner as it has been altered.

12. A new birth certificate for the following child or children of the petitioner shall be issued reflecting petitioner's change of gender and sex identifier described in item 9
 and change of name described in item 10.

Full Name: _____	Date of birth: _____
Full Name: _____	Date of birth: _____
Full Name: _____	Date of birth: _____
Full Name: _____	Date of birth: _____

If petitioner's child or children were born in California, a certified copy of this order shall be filed by the petitioner within 30 days with the State Registrar. When the State Registrar receives a certified copy of this order and payment of the applicable fees, the State Registrar shall establish for each child a new birth certificate reflecting the gender of the petitioner as it has been altered.

13. The marriage license and certificate for petitioner and (*name of spouse*): _____
issued on (*date*): _____ in the following county: _____ shall be reissued
with a change of designation of the petitioner to: bride groom neither bride nor groom
 and change of name as described in item 10.

If the original marriage license and certificate was **confidential** and issued within this state, a certified copy of this order shall be filed by the petitioner within 30 days with the county clerk in the county where the confidential marriage license and certificate was issued. When the county clerk receives a certified copy of this order with an application and payment of applicable fees, the county clerk shall issue a confidential marriage license and certificate for the petitioner.

If the original marriage license and certificate was **not** confidential and issued within this state, a certified copy of this order shall be filed by the petitioner within 30 days with the State Registrar. When the State Registrar receives a certified copy of this order with an application and payment of applicable fees, the State Registrar shall issue a marriage license and certificate for the petitioner.

12. Other Orders:

Date:

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<h1 style="margin:0;">DRAFT</h1> <h2 style="margin:0;">03.22.2022</h2> <h3 style="margin:0;">not approved by Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of each petitioner):	
PETITION FOR RECOGNITION OF MINOR'S CHANGE OF GENDER AND SEX IDENTIFIER AND FOR ISSUANCE OF NEW BIRTH CERTIFICATE <input type="checkbox"/> AND CHANGE OF NAME	CASE NUMBER:
Use this form only for a petition relating to a minor. (Petitioners 18 years or older must use form NC-300.) Before you complete this petition, read the <i>Instructions for Filing Petition for Recognition of Minor's Change of Gender and Sex identifier</i> (form NC-500-INFO). <ul style="list-style-type: none"> Complete items 1 through 6 if applicable, and the declaration on page 2. If you are seeking a name change in addition to recognition of gender change, you must also complete items 7 and 8, and form NC-110. If the petition is being brought by a guardian, an attorney appointed as guardian ad litem for a dependent minor (Welf. & Inst. Code, § 326.5), or an attorney for a minor under the jurisdiction of the juvenile court (Welf. & Inst. Code, § 601 or 602), you must also complete form NC-510G. 	

1. This request is being made by (minor's present name): _____ and (check one of the following)
 - a. two parents (names):
 - b. one parent (name):
 - c. guardian (name):
 - d. attorney for minor under jurisdiction of juvenile court (name):
 - e. near relative or friend (check only if both parents of minor are deceased and no guardian has been appointed)
Name and relationship to minor: _____

2. Petitioners request a decree recognizing that minor's gender and sex identifier is changed to:
 - a. female.
 - b. male.
 - c. nonbinary.

3. Petitioners request the court to order that a new birth certificate be issued reflecting the gender change sought by this petition.

4. (Check if petition does not include a signature by one of the individuals listed in item 1 above (as required by Health and Safety Code section 103430(b)(1)).)
 Petitioners request that the court **issue an order** on form NC-520 directing any person who is required to sign this petition under Health and Safety Code section 103430(b)(1) to file written objections to show cause why the petition for recognition of gender change and sex identifier should not be granted.

5. (Check if petition is filed by a guardian or guardian ad litem for minor, and either parent is deceased or cannot be located.)
 Petitioners request that the court **set a hearing and issue an order** on form NC-520G providing that any living grandparent may appear to show cause why the petition for recognition of gender change and sex identifier should not be granted.

6. (Check if petition is filed by a guardian or attorney appointed for minor under jurisdiction of juvenile court.)
 This petition is supported by the information contained in attached *Declaration of Guardian or Juvenile Attorney (Supplemental Attachment to Form NC-500)* (form NC-510G).

(If no name change is requested, skip items 7, 8, and 9, and go to Declaration on page 2.)

PETITION OF <i>(name of each petitioner)</i> :	CASE NUMBER:
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7. Petitioners request that the court decree that the minor's name is changed to conform to minor's gender identity to *(proposed name)*:
- a. Check one item below *(this relates to required service of form NC-125)*:
- (1) The minor has no living parent.
 - (2) The minor has no living parent other than the parent or parents who have signed this petition.
 - (3) Neither the minor nor the adult petitioner has any information about whether any non-signing parent is living.
 - (4) The minor has one or more living parents who have not signed the petition. Petitioners will serve the following people with the court order on form NC-125 providing that written objections may be filed to show cause why the petition for change of name should not be granted.
Living parents of petitioning minor who did not sign this petition are *(specify names and addresses)*:
- b. Petitioners provide the additional required information in support of this request for name change on the attached *Name and Information About the Person Whose Name Is to Be Changed* (form NC-110).
8. The minor named in item 1: *(You must check one if a name change is requested.)*
- a. is a resident of this county.
 - b. has a birth certificate that was issued in this county.
9. A decree of change of name for the minor has already been obtained and a certified copy of the decree is attached. Petitioner requests that the court order that the changed name be included on the minor's new birth certificate.

DECLARATION

I *(minor's present name)*: _____ declare under penalty of perjury under the laws of the State of California that the request for a change in gender to *(check one)*: **female** **male** **nonbinary** is to conform my legal gender to my gender identity and is not for any fraudulent purpose.

Date:

 (TYPE OR PRINT NAME OF MINOR)

▶

 (SIGNATURE OF MINOR)

Date:

 (TYPE OR PRINT NAME OF PETITIONING ADULT and RELATIONSHIP TO MINOR)

▶

 (SIGNATURE OF PETITIONING ADULT)

Date:

 (TYPE OR PRINT NAME OF PETITIONING ADULT and RELATIONSHIP TO MINOR)

▶

 (SIGNATURE OF PETITIONING ADULT)

Date:

 (TYPE OR PRINT NAME OF PETITIONING ADULT and RELATIONSHIP TO MINOR)

▶

 (SIGNATURE OF PETITIONING ADULT)

INSTRUCTIONS FOR FILING PETITION FOR RECOGNITION OF MINOR'S CHANGE OF GENDER AND SEX IDENTIFIER

1. Who Can File

Anyone who lives in California or was born here (or got married or had children here) can ask a court for an order recognizing a change of gender and sex identifier and for issuance of a new birth certificate reflecting that change. If the person asking for the order is under 18, the petition must be made on form NC-500 and signed by an adult. (If the person is 18 or older, use form NC-300.) The petition for a minor must be signed by at least one of the following (it can be signed by more than one):

- one or both of the minor's parents
- the minor's guardian
- an attorney appointed to act as guardian ad litem for a dependent minor (under Welfare and Institutions Code section 326.5)
- an attorney representing a minor in the juvenile justice system (under Welfare and Institutions Code section 601 or 602)
- if both of minor's parents are deceased and no guardian has been appointed, a near relative or friend.

2. Where to File

The petition to recognize a change of gender and sex identifier may be filed in the superior court of any county in California, but if the petition **includes a request to change the minor's name**, it must be filed either in the superior court in the county where the minor whose name is to be changed presently resides, or of the county where the minor's birth certificate was issued.

If the petition is filed by an attorney appointed as guardian ad litem for a dependent minor, or one representing a minor alleged or adjudged to be a person described in Welfare and Institutions Code section 601 or 602, the petition must be filed in the court having jurisdiction over the minor.

3. What Forms Are Required

All petitioners need an original and two copies of each of the following forms:

- *Petition for Recognition of Minor's Change of Gender and Sex Identifier and Issuance of New Birth Certificate and Change of Name* (form NC-500)
- *Order Recognizing Change of Gender and Sex Identifier and for Issuance of New Birth Certificate* (form NC-530)
- *Civil Case Cover Sheet* (form CM-010)

Some petitioners will also need an original and two copies of each of the following forms:

If petition is filed by a guardian, by an attorney guardian ad litem, or an attorney acting for a minor under Welfare and Institutions section 601 or 602:

- *Declaration of Guardian or Juvenile Attorney* (form NC-510G)
- *Order to Show Cause—Petition by Guardian or Guardian ad Litem* (form NC-520G) (required only if one or both parents deceased or unable to be located)

If petition does not include a signature required under Health and Safety Code section 103430(b)(1):

- *Order to Show Cause—Recognition of Minor's Change of Gender and Issuance of New Birth Certificate* (form NC-520)

If the petition also includes a request for a name change for the minor:

- *Name and Information About the Person Whose Name Is to Be Changed (Attachment to Petition for Change of Name)* (form NC-110)
- *Order to Show Cause—Change of Name to Conform to Gender Identity* (form NC-125)

4. Completing the Petition

Use form NC-500 only for a person under 18. (Adults seeking an order recognizing change of gender must use form NC-300.)

- In item 1, provide the name of the minor and the name and relationship of the adult who is signing the petition. One of the persons listed in that item must sign. (See paragraph 1 above as to which adults can sign.)
- In Item 2, check the box to indicate what gender or sex identifier the minor wants the court to recognize as the new gender and sex identifier.
- Item 4 asks the court to issue an order that will give notice to certain individuals that any objections to the petitions must be filed with the court within a certain time frame. This order is required under Health and Safety Code, section 103430(e)(1) if the petition does not include a signature required under Health and Safety Code, section 103430(b)(1). Do NOT check this item if the petition is signed by a person described in paragraph 1 above.

(If this item is checked, the *Order to Show Cause—Recognition of Minor's Change of Gender and Issuance of New Birth Certificate* (form NC-520) must also be completed and provided to the court with the petition.)

- Item 5 asks the court to set a hearing and issue an order that will give notice of the hearing and right to object to the petition to any living grandparents of the minor. This item must be checked if (1) the petition is signed by a guardian or dependency attorney appointed as a guardian ad litem, and (2) one or both parents are deceased or cannot be located.

(If this item is checked, the *Order to Show Cause—Petition by Guardian or Guardian ad Litem* (form NC-520G) must also be completed and provided to the court with the petition.)

- Item 6 should be checked if the the petition is signed by a guardian or dependency attorney appointed as a guardian ad litem, or an attorney acting for a minor under Welfare and Institutions Code section 601 or 602, and *Declaration of Guardian or Juvenile Attorney* (form NC-510G) must be attached to the petition.

If the petition is **not** asking to change the name of the minor, items 7, 8, and 9 can be skipped. (See *Declaration and Signatures* below.)

If asking the court to **change the name of the minor** in this petition, complete items 7 and 8, and check “Change of Name” in the title. If the minor has already obtained a name change from a court, complete item 9.

- Item 7 asks the court to decree that minor's name is changed, and includes the proposed new name.
- Item 7a asks for information needed to determine if the *Order to Show Cause for Change of Name to Conform to Gender Identity* (form NC-125) must be served. That form must be issued for every petition that includes a request for a name change, but only needs to be served if the minor has any living parents who did not sign the petition. If so, the name and address of each non-signing parent must be entered here.
- Item 7b notes that *Name and Information About the Person Whose Name Is to Be Changed* (form NC-110) must be attached.
- Item 8 provides the information as to why the name change petition may be filed in this court. (See paragraph 2 above.)
- Item 9 asks the court that the new birth certificate reflect a new name for a minor who has already obtained a name change decree or order from a court. If item 9 is checked, a certified copy of the name change decree or order must be attached to the petition.)
- *Declaration and Signatures*. The minor may complete (check the box identifying the new gender) and sign the Declaration on the second page of the petition. Note that it is signed under penalty of perjury. The adult named in item 1 must also sign the form, and any living parent may also sign.

5. Filing and Filing Fee

Prepare an original *Civil Case Cover Sheet* (form CM-010). File the original petition with any attachments or orders to show cause required on page 1 of this information sheet with the *Civil Case Cover Sheet* with the clerk of the court and obtain two filed-endorsed copies of the petition and any order to show cause. A filing fee will be charged unless you qualify for a fee waiver. If you want to apply for a fee waiver, see *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO).

6. Requesting Orders to Show Cause and Hearing Date

One or more of the following orders to show cause may be required.

If the petition is not signed by a person described in paragraph 1:

- If the petition does **not** include a signature by a person described in paragraph 1, the court must issue an *Order to Show Cause--Recognition of Minor's Change of Gender and Issuance of New Birth Certificate* (form NC-520). Submit the completed form with the petition. The clerk will obtain the judicial signature and give you back copies.
- A copy of the order and the petition must be served on the non-signing person named in the order within 30 days of issuance of the order, and a Proof of Service must be filed with the court (form NC-121 may be used). If a non-signing person lives in California, the form must be served in person. If they live outside California, the form may be served either in person or by first-class mail requiring return receipt. If such service is not possible, or if such person lives outside the United States, then the court may order that service be done in another way.
- If the petition **is** signed by a person described in paragraph 1 above, this order to show cause will not be issued. The court will make the decision based on the petition, except as provided below.
- If objections are filed within six weeks of the issuance of that order, the court will set a hearing date and send you and the objectors notice of the date, time, and place. If no objections are filed, the court will make the decision based on the petition you filed.

(continued on next page)

If the petition is signed by a guardian or attorney guardian ad litem:

- If the petition is signed by a guardian or an attorney appointed as guardian ad litem, and one or both parents are deceased or cannot be located, then a hearing must be set. Any living grandparents known to petitioners must be served with an order to show cause with the date and time of the hearing.
- Petitioner should request a date for a hearing on the *Order to Show Cause—Petition by Guardian or Guardian ad Litem* (form NC-520G) at least six weeks in the future. **Submit the completed form with the petition.** The clerk will provide the hearing date and location, obtain the judicial officer's signature, file the original, and give back copies.
- A copy of the completed *Order to Show Cause* showing the time and place of the hearing must be served on the grandparents at least 30 days before the hearing date, and a Proof of Service must be filed with the court (form NC-121 may be used). If a grandparent lives in California, the form must be served in person. If a grandparent lives outside California, the form may be served either in person or by first-class mail requiring return receipt. If such service is not possible or if a grandparent lives outside the United States, then the court may order that service be done in another way.

If the petition includes a request for a name change:

- If the petition includes a request to change minor's name, the court must issue an *Order to Show Cause for Change of Name to Conform to Gender Identity* (form NC-125). **Petitioner should submit the completed form with the petition. The clerk will obtain the judicial signature and give you back copies.**
- **The order needs to be served on any living parent who did not sign the petition. (If all living parents did sign, it need not be served on anyone.) A copy of the order and the petition must be served on the non-signing parent within 30 days of issuance of the order, and a Proof of Service must be filed with the court (form NC-121 may be used). If a non-signing parent lives in California, the form must be served in person. If they live outside California, the form may be served either in person or by first-class mail requiring return receipt. If such service is not possible, or if such person lives outside the United States, then the court may order that service be done in another way.**
- If objections are filed within six weeks of the issuance of that form, the court will set a hearing date and send you and the objectors notice of the date, time, and place. If no objections are filed, the court will make the decision based on the petition you filed.

7. Court Hearing

Check with the court to find out if a hearing will be held. If a hearing is held, bring copies of all documents to the hearing. If the judge grants the petition, the judge will sign the original order, form NC-530.

8. Domestic Violence Confidentiality Program

In cases where the minor is a participant in the state address confidentiality program (Safe at Home), the petition, including the name change portion of the petition, and any order to show cause should, instead of giving the proposed name, indicate that the new name is confidential and on file with the Secretary of State. See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO).

9. Birth Certificate

If you were born in California, to obtain a new birth certificate reflecting the change of gender or name, file a certified copy of the order within 30 days with the Secretary of State and the State Registrar and pay the applicable fees. You may write or contact the State Registrar at:

California Department of Public Health

Vital Records – MS 5103

P.O. Box 997410

Sacramento, CA 95899-7410

Phone: 916-445-2684

Website: www.cdph.ca.gov

Local courts may supplement these instructions. Check with the court to determine whether supplemental information is available. For instance, the court may provide you with additional written information identifying the department that handles name and gender change petitions, and the times when petitions are heard.

PETITION OF (Name of petitioner or petitioners):

CASE NUMBER:

DRAFT 03.22.2022 not approved by JC

FOR CHANGE OF GENDER

DECLARATION OF GUARDIAN OR JUVENILE ATTORNEY (Attachment to Form NC-500)*Court-appointed guardians must fill out all items on this page.**An attorney appointed as guardian ad litem for a dependent minor (Welf. & Inst. Code, § 326.5), must complete items 1–4.**An attorney for a minor under the jurisdiction of the juvenile court (Welf. & Inst. Code, § 601 or 602), must complete items 1–3.*

1. a. Petitioner (name):
b. Address (street, city, county, and zip code):

2. a. Minor seeking recognition of gender change (present name of minor):
b. Address (street, city, county, and zip code):

3. Petitioner was appointed guardian for minor or is attorney for minor who is under the jurisdiction of the juvenile court as follows:
 - (a) Superior Court of California, County of (name):
 - (b) Department (check one): Juvenile Probate
 - (c) Case number (specify):
 - (d) Date of appointment (if applicable):

4. The living grandparents of the minor (provide if known, and if either parent is deceased or cannot be located):
 - (a) (Grandparent's name): (address):

 - (b) (Grandparent's name): (address):

 - (c) (Grandparent's name): (address):

 - (d) (Grandparent's name): (address):

5. The minor identified in item 2 is likely to remain under the guardian's care until the minor reaches the age of majority because (explain):

Continued (If you need additional space, check the box, prepare an Attachment 5, and attach it to this declaration.)

6. The minor identified in item 2 is not likely to be returned to the custody of the parents because (explain):

Continued (If you need additional space, check the box, prepare an Attachment 6, and attach it to this declaration.)


7. Other relevant information about the guardianship and why the proposed change is in the best interest of the minor (specify):

Continued (If you need additional space, check the box, prepare an Attachment 7, and attach it to this declaration.)

I declare under penalty of perjury under the laws of the State of California that the information in the foregoing declaration is true and correct.

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PETITIONER)

Guardian of (name of minor):

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">03.22.2022</h3> <h3 style="margin: 0;">not approved by JC</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of each petitioner): <p style="text-align: center;">FOR CHANGE OF GENDER (Minor)</p>	
ORDER TO SHOW CAUSE—RECOGNITION OF MINOR'S CHANGE OF GENDER AND SEX IDENTIFIER	CASE NUMBER:
This form may be used to issue an order to show cause under Health and Safety Code section 103430(e)(1) only when a petition on form NC-500 does not include the signature of at least one of the following, as required by section 103430(b)(1): <ul style="list-style-type: none"> • at least one of the minor's parents • the minor's guardian • an attorney appointed to act as guardian ad litem for a dependent minor (under Welfare and Institutions Code section 326.5) • an attorney representing a minor in the juvenile justice system (under Welfare and Institutions Code section 601 or 602) • if both of minor's parents are deceased and no guardian has been appointed, a near relative or friend <p>Note: If petitioner is the guardian or guardian ad litem of the minor seeking an order to show cause under Health and Safety Code section 103430(c)(2) because either parent is deceased or cannot be located, use form NC-520G.</p>	

TO ANY PERSON OR PERSONS REQUIRED TO SIGN PETITION FOR RECOGNITION OF MINOR'S CHANGE OF GENDER AND WHO DID NOT SIGN:

1. Petitioner (name of petitioning adult): _____ filed a petition on behalf of
 (name of minor): _____
 requesting a decree recognizing that minor's gender and sex identifier is changed to

- female
- male
- nonbinary

and an order for issuance of a new birth certificate reflecting minor's changed gender and sex identifier.

2. In addition to petitioner, the following persons were required under Health and Safety Code section 103430(b)(1) to sign the petition for a change of gender and sex identifier by the above-named minor, and did not sign it:

- (Name): _____
- (Name): _____
- (Name): _____
- (Name): _____

3. THE COURT ORDERS that any person identified in item 2 show cause, if any, why the petition should not be granted by filing a written objection that includes any reasons for the objection **within six weeks of the date this order is issued**. If no written objection is timely filed, the court will grant the petition without a hearing.

Date: _____ JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	DRAFT -new form 03.22.2022 not approved by JC
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>name of each petitioner</i>): <p style="text-align: center;">FOR CHANGE OF GENDER (Minor)</p>	
ORDER TO SHOW CAUSE— PETITION BY GUARDIAN OR GUARDIAN AD LITEM	CASE NUMBER:

Use this form only when a petition on form NC-500 is filed by guardian of minor or attorney guardian ad litem appointed for minor by juvenile court, and either or both of minor's parents are deceased or cannot be located.

TO ALL LIVING GRANDPARENTS OF MINOR:

1. Petitioner (*name of petitioning adult*): _____ filed a petition for an order recognizing change of gender and sex identifier for (*current name of minor*): _____
2. THE COURT ORDERS that any grandparent of the minor interested in this matter may appear before this court at the hearing indicated below to show cause, if any, why the petition for recognition of change of gender and sex identifier should not be granted.

NOTICE OF HEARING

a. Date: _____ Time: _____ Dept.: _____ Room: _____

- b. The address of the court is
- same as noted above.
- other (*specify*): _____

(To appear remotely: check in advance of the hearing for information about how to do so on the court's website. To find your court's website, go to <https://www.courts.ca.gov/find-my-court.htm>.)

Date: _____

JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	DRAFT 03.22.2022 not approved by JC
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of each petitioner): (FOR CHANGE OF GENDER (Minor))	
ORDER RECOGNIZING MINOR'S CHANGE OF GENDER AND SEX IDENTIFIER AND FOR ISSUANCE OF NEW BIRTH CERTIFICATE <input type="checkbox"/> and DECREE CHANGING NAME	CASE NUMBER:

1. The petition was duly considered
- a. at the hearing on (date): _____ in Courtroom: _____ of the above-entitled court.
- b. without a hearing.

THE COURT FINDS

2. a. All notices required by law have been given.
- b. The following person seeking recognition of a change of gender and sex identifier is a minor (specify present name):
- c. The petition includes a request for a change of name to (specify new name):
- (1) the minor is a resident in this county.
- (2) the minor's birth certificate was issued in this county.
- d. The adult petitioner who signed on behalf of the minor was minor's:
- (1) two parents (names):
- (2) one parent (name):
- (3) guardian (name):
- (a) The minor is likely to remain in the guardian's care until the age of majority.
- (b) The minor whose name is to be changed is not likely to be returned to the custody of the parents.
- (4) attorney guardian ad litem appointed by the juvenile court (name):
- (5) attorney representing minor who is asserted be a person described in Welfare & Institutions Code section 601 or 602 (name):
- (6) near relative or friend (name and relationship to minor):
- (a) The minor's parents are both deceased.
- (b) No guardian has been appointed for minor.
- e. (For name change) Minor is not is required to register as a sex offender under Penal Code section 290. This determination was made (check one) by using CLETS/CJIS based on information provided to the clerk of the court by a local law enforcement agency.
- f. No timely objections to the proposed changes were made.
- g. Objections to the proposed changes were made by (name and relationship to minor):

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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- h. *(If objections by parent)* After considering objections by minor's parent, it appears to the satisfaction of the court that the proposed recognition of change of gender and sex identifier:
 - is in the best interest of the minor, and the petition should be granted.
 - is not in the best interest of the minor, and the petition should be denied.
- i. It appears to the satisfaction of the court that all the allegations in the petition are true and sufficient, that the proposed recognition of change of gender and sex identifier (and name, if requested), are not fraudulent, and that the petition should be granted.
- j. Other findings *(if any)*:

THE COURT ORDERS

- 3. The gender and sex identifier of the minor *(name)*:
is changed to:
 - a. female.
 - b. male.
 - c. nonbinary.
- 4. A new birth certificate reflecting the change of gender described in item 3 shall be issued.
- 5. If minor was born in California, a certified copy of this order shall be filed by the petitioner within 30 days with the State Registrar. When the State Registrar receives a certified copy of this order and payment of the applicable fees, the State Registrar shall establish for the petitioner a new birth certificate reflecting the gender of the minor as it has been altered.

THE COURT FURTHER ORDERS

- 6. The name of *(present name)*:
is changed to *(new name)*:
- 7. Other orders:

Date:

JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	DRAFT 03/22/22 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>name of each petitioner</i>): (BY GUARDIAN or DEPENDENCY ATTORNEY)	
ORDER RECOGNIZING MINOR'S CHANGE OF GENDER AND FOR ISSUANCE OF NEW BIRTH CERTIFICATE <input type="checkbox"/> and DECREE CHANGING NAME	CASE NUMBER:

1. The petition was duly considered
- a. at the hearing on (*date*): _____ in Courtroom: _____ of the above-entitled court.
 - b. without a hearing.

THE COURT FINDS

2. a. All notices required by law have been given.
- b. The person seeking recognition of a change of gender (*specify present name*): _____ is a minor.
 - c. The petition was filed on behalf of the minor by a dependency attorney appointed as guardian ad litem pursuant to rules adopted under section 326.5 of Welfare and Institutions Code (*attorney name*): _____
 - d. The petition was filed on behalf of the minor by the minor's guardian (*name*): _____
 - (1) The minor is likely to remain in the guardian's care until the age of majority.
 - (2) The minor whose name is to be changed is not likely to be returned to the custody of his or her parents.
 - e. The minor is not is required to register as a sex offender under section 290 of the Penal Code.
 This determination was made (*check one*) by using CLETS/CJIS based on information provided to the clerk of the court by a local law enforcement agency.
 - f. No objections to the proposed recognition of gender change were made.
 - g. Objections to the proposed recognition of gender change of name were made by (*name*): _____
 - h. It appears to the satisfaction of the court that all the allegations in the petition are true and sufficient, that the proposed recognition of gender change is in the best interest of the minor, and that the petition should be granted.
 - i. Other findings (*if any*): _____

PLAINTIFF: DEFENDANT:	CASE NUMBER:
--------------------------	--------------

THE COURT ORDERS

3. The gender of the minor (*name*):
 is changed to:
 - a. female.
 - b. male.
 - c. nonbinary.

4. A new birth certificate reflecting the change of gender described in item 3 shall be issued.

5. If minor was born in California, a certified copy of this order shall be filed by the petitioner within 30 days with the State Registrar. When the State Registrar receives a certified copy of this order and payment of the applicable fees, the State Registrar shall establish for the petitioner a new birth certificate reflecting the gender of the minor as it has been altered.

THE COURT FURTHER ORDERS

6. The name of (*present name*):
 is changed to (*new name*):

Date:

JUDGE OF THE SUPERIOR COURT

SIGNATURE OF JUDGE FOLLOWS LAST ATTACHMENT

PROPOSE TO REVOC

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Name Change Forms for Persons in Address Confidentiality Program

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise forms NC-400, NC-400-INFO, NC-410, NC-420 and NC-425

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Anne M. Ronan, 415-865-8933, anne.ronan@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2021

Project description from annual agenda: 2. Name and Gender Change Forms: conforming forms to law.

Develop form recommendations as appropriate.

[]

• The committee will also consider the concerns of the Secretary of State's Safe at Home program (anonymous address program for victims of domestic violence) that the name-change forms for those individuals do not contain all the instructions required.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-05

Title	Action Requested
Rules and Forms: Name Change Forms for Persons in Address Confidentiality Program	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms NC-400, NC-400-INFO, NC-410, NC-420, and NC-425	January 1, 2023
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Tamara Wood, Chair	Anne M. Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee is proposing revisions and additions to the Judicial Council forms that participants in the Secretary of State's address confidentiality program (Safe at Home) may use to request a confidential name change or to request that their petition for name change be filed under seal. These changes are recommended based on a request that courts ensure that confidential name changes are on file with the Secretary of State's office before a decree is issued by the court.

Background

The Secretary of State's office, which administers the Safe at Home program, has asked that the courts make it clearer to petitioners that they must have the proposed name on file with the Safe at Home program before filing a petition for the intended name change. (Code Civ. Proc. § 1277(b).) Petitioners who wish to seek a name change receive, after submitting a Notice of Intent of Name Change form with Safe at Home program, a letter confirming that they are an active participant in the program and that their intended change of name is on file with the program. Currently, the information sheet provides that the letter should be made available to the court, but the Safe at Home program has asked that this provision be required so the courts are not considering a petition for a confidential name change before the proposed name is on file with the program. Having that form on file with the Secretary of State is a precondition to the confidential name change decree because the form is the only documentation that lists both the new and the old name of the participant. Because the new name is not included in the court files, no other record of the new name exists.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

The Proposal

In order to ensure that the program participant's proposed new name is on file with the program office before a petition for change of name is filed with the court, the committee proposes revisions to five forms for confidential name changes, which are summarized below.

- *Confidential Cover Sheet—Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400). This form must be attached to any petition for change of name under the address confidentiality program. The proposed revision adds as item 1 the required letter from the Secretary of State's office, confirming that the applicant's intended name change is on file with that office. Minor corrections to the form have been made at the same time.
- *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO). This information sheet provides instructions on filing for a confidential name change under the Safe at Home program. In item 3, the committee proposes adding a statement instructing that the letter from the Secretary of State be filed with the court. The instruction in item 7d has been similarly revised. There are also minor changes to correct cross-references and simplify some language.
- *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410). This form is used when a petitioner seeks to file a petition for name change under seal. Petitioners must be active participants in the Safe at Home program, must have a Notice of Intent of Name Change on file with the Secretary of State's office, and must allege that they are pursuing a name change to avoid domestic violence, stalking, sexual assault, or human trafficking. In item 2, the required letter from the Secretary of State's office has been added to the list of forms that may be filed under seal. There is also a minor correction to the citation to the Government Code in item 1.
- *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420). This form is a mandatory declaration for a petitioner seeking to file a name change petition under seal. In item 2, the committee proposes to insert the statement, "I have on file with the Secretary of State a Notice of Intent of Name Change."
- *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425). This is an optional form for courts to use when issuing an order on a petition to file a name change petition under seal. The committee proposes adding the required letter from the Secretary of State's office to the list of documents that the court may allow to be filed under seal.

Alternatives Considered

The committee considered taking no action at this time, but because almost the entire series of name change and gender recognition forms is currently being revised to reflect statutory changes, it seems logical to include this revision in the current rule and form cycle so courts could deal with them all at the same time.

Fiscal and Operational Impacts

The changes will require education of court staff and judicial officers to ensure that the letter provided by the Secretary of State is filed with other initiating documents.

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?

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 3 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. Forms NC-400, NC-400-INFO, NC-410, NC-420, and NC-425, at pages 4–10

ATTORNEY (<i>leave blank if no attorney</i>) STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>): [CONFIDENTIAL]	FOR COURT USE ONLY DRAFT 03/22/2022 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>name of each petitioner</i>): <p align="center">[CONFIDENTIAL]</p>	
CONFIDENTIAL COVER SHEET—NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	CASE NUMBER:

INSTRUCTIONS: This petition for change of name is being brought by a petitioner who is a participant in the Secretary of State's address confidentiality program under Government Code section 6205 et seq. and who is petitioning (1) to avoid domestic violence, (2) to avoid stalking, (3) to avoid sexual assault, or (4) to avoid human trafficking. **As provided by Code of Civil Procedure section 1277(b), the current legal name of the petitioner must be kept confidential by the court and must not be published or posted in the court's calendars, indexes, or register of actions, or by any means or in any public forum.**

This Confidential Cover Sheet must be affixed to the first page of the petition and to any other documents filed in this name change action. (See *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO).)

This cover sheet is affixed to the following documents (*check all that apply*):

1. Letter from Secretary of State's office confirming that petitioner is an active participant in the confidential address program and that a Notice of Intent of Name Change is on file
2. *Petition for Change of Name* (form NC-100)
3. *Attachment to Petition for the Name Change* (form NC-110)
4. *Order to Show Cause for Change of Name* (form NC-120)
5. *Decree Changing Name* (form NC-130)
6. *Civil Case Cover Sheet* (form CM-010)
7. *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410)
8. *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Confidentiality Program (Safe at Home)* (form NC-420)
9. *Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-425)
10. *Other (describe):* _____

Date:

The name of the petitioner is to remain confidential UNLESS:

1. The petitioner's participation in the address confidentiality program is ended (Gov. Code, § 6206.7); or
2. The court finds by clear and convincing evidence that the **allegations of domestic violence, stalking, or sexual assault** in the petition are false. (Code Civ. Proc., § 1278(b).)

1 Confidentiality in Name Change Proceedings

It is important that you understand that changing your name, especially confidentially, is a life-changing decision. It may make it more difficult for you to enforce a restraining order and significantly impair your ability to obtain a passport, apply for school programs, purchase or rent property, gain employment, get credit, start a business, and other matters.

The law provides confidentiality for a petitioner seeking a name change who is a participant in the Secretary of State's confidential address program, Safe at Home, under Government Code section 6205 et seq., *and* who asserts reasons for a name change that include seeking (1) to avoid domestic violence, (2) to avoid stalking, (3) to avoid sexual assault, or (4) to avoid human trafficking. (One of these reasons must be stated in the papers filed with the *Petition for Change of Name* (form NC-100).)

By law, the court must keep the current legal name of such a petitioner confidential. The court must not publish or post the name in the court's calendars, indexes, or registers of actions, or in any other place in which it might be accessible to the public. In addition, the proposed new name is not put into the court records at all and does not have to be published. (Code Civ. Proc., § 1277(b).)

To ensure this confidentiality for the name change proceeding, petitioners must follow the instructions below.

2 Is a Lawyer Necessary?

You are not required to have a lawyer, but it is highly advisable that you contact a lawyer or legal service agency to discuss the effects of a confidential name change.

3 How to Get Started

Before beginning the court process for a confidential name change, you must be an active participant in the Safe at Home program. You must complete and file a Notice of Intent of Name Change with the Safe at Home program at the Secretary of State's office. You will receive a letter from that program to show to the court, confirming **that you are an active participant in the confidential address program and that a Notice of Intent of Name Change is on file. This letter must be filed with the court.** You can reach the Safe at Home program by calling toll free 1-877-322-5227 or **by going to www.sos.ca.gov/safeathome.**

4 Where to File

As with all name change petitions, the petition filed under the confidential address program must be filed in the superior court of the county where the person whose name is to be changed presently lives.

5 Whose Name May Be Changed

The petition may be used to change one's own name and, under certain circumstances, the names of others (e.g., children under 18 years of age). There are no filing fees for minors in the Safe at Home program.

6 Name Changes for Children

A petitioner in the confidential address program must comply with all the rules stated in item 8 in the *Instructions* on the back of the *Petition for Change of Name* (form NC-100-INFO), concerning serving notice of a name change petition for a child on the child's parents or grandparents. The confidentiality provisions do not change those requirements. You will generally not be able to change a child's name without notifying the other parent.

7 What Forms Are Required

Prepare an original and two copies of the forms described in item 4 of the *Instructions* for Filing a *Petition for Change of Name* (form NC-100-INFO). In addition:

- In the *Petition for Change of Name* (form NC-100), *Order to Show Cause for Change of Name* (form NC-120), and *Decree Changing Name* (form NC-130), include your present name where indicated. Instead of including the proposed new name, indicate that the new name is confidential and **on file with the Secretary of State's Safe at Home program.**
- In the *Attachment to the Petition for Change of Name* (form NC-110), include the reasons for seeking the name change.
- Prepare and attach to the front of each document a *Confidential Cover Sheet --Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400). Do not include the petitioner's current name on these forms. These forms will flag the documents as containing confidential information.
- You will also need to file the letter from the Safe at Home when filing the petition, to confirm that you are in the confidential address program and have a Notice of Intent of Name Change on file with the Safe at home program. Keep a copy of that letter for your records.**



8 Filing

Follow the instructions in item 5 of the *Instructions for Filing a Petition for Change of Name* (form NC-100-INFO). Prepare and attach a *Confidential Cover Sheet* (form NC-400) to the *Civil Case Cover Sheet* (form CM-010), your petition, and any other document you file under that item.

9 Requesting a Court Hearing Date and Obtaining the Order to Show Cause

You should request a date for the hearing on the *Order to Show Cause for Change of Name* at least six weeks after the date you file the petition. Take the completed form to the clerk's office. The clerk will provide the hearing date and location, obtain the judicial officer's signature, file the original, and give you a copy.

10 No Requirement to Publish the Order to Show Cause

In most cases, the *Order to Show Cause for Change of Name* must be published in a local newspaper of general circulation. But a petitioner does not have to publish the order if a participant in the address confidentiality program and the petition alleges that petitioner (1) is petitioning to avoid domestic violence, (2) is petitioning to avoid stalking, or (3) is a victim of sexual assault, or is filing on behalf of a victim of sexual assault.

11 Court Hearing

If no written objection is filed at least two court days before the hearing, the court may grant the petition without a hearing. Check with the court to find out if a hearing will be held. If there is a hearing, bring copies of all documents to the hearing. If the judge grants the petition, the judge will sign the original decree.

12 Application to File Documents Under Seal

If a petitioner in the confidential address program believes that the protections described above and required by law that keeping the current and future name confidential are not sufficient in a particular case, the petitioner may ask the court to file the petition and related documents under seal. Documents filed under seal are secured and kept separate from the public files.

For the court to order that the petition may be filed under seal, you must show facts to support the following findings by the court:

- a. There is an overriding interest that overcomes the right of public access to the record.
- b. That overriding interest supports sealing the name change documents.

- c. A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.
- d. The proposed order to seal the records is narrowly tailored to protect that overriding interest.
- e. No less restrictive means than sealing the whole record exist to achieve the overriding interest.

A petitioner in the confidential address program may file an application to file records under seal following the procedures in rule 2.577 of the California Rules of Court. The application must be made on the *Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-410) and be accompanied by a *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420), containing facts sufficient to justify the sealing.

Attach a *Confidential Cover Sheet* (form NC-400) to the application. All the documents that you want filed under seal must be put in a sealed envelope, with a completed *Confidential Cover Sheet* (form NC-400) on top marked "Conditionally Under Seal" and lodged with the court. If the application is denied, the documents will be returned by the clerk unless you file written notice within 10 days that they should be filed unsealed.

13 Making the Records Public

Even if the documents are not sealed, as long as the other requirements are met, your name will remain confidential **UNLESS:**

- a. Your participation in the address confidentiality program is ended under Government Code section 6206.7; or
- b. The court finds by clear and convincing evidence that the allegations of domestic violence, stalking, or sexual assault in the petition are false (see Code of Civil Procedure section 1278(b)).

If another person or a court wants to make the records public based on the above, the court must hold a hearing, with notice sent to the petitioner in care of the Safe at Home program, as permitted under Government Code section 6206(a)(5)(A).

Local courts may supplement these instructions. For instance, the court may provide you with additional written information identifying the department that handles name change petitions and the times when petitions are heard. Check with the court to determine whether supplemental information is available.



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">03/22/2022</p> <p style="text-align: center;">Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner):	
<p style="text-align: center;">APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)</p>	CASE NUMBER:

Before you complete this petition, you should read the *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO). You must file a *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420) with this application. You must file this application and the petition in the superior court of the county where the person whose name is to be changed resides.

- Petitioner (name): _____ is a participant in the Secretary of State's address confidentiality program under Government Code sections 6205–6210 and is alleging one of the following as a reason for the name change: (1) seeking to avoid domestic violence, (2) seeking to avoid stalking, (3) seeking to avoid sexual assault, or (4) seeking to avoid human trafficking.
- Petitioner requests that the court file the following documents under seal:
 - Letter from Secretary of State's office confirming that petitioner is an active participant in the confidential address program and that a Notice of Intent of Name Change is on file
 - Petition for Change of Name (form NC-100)
 - Attachment to Petition for Change of Name (form NC-110)
 - Order to Show Cause for Change of Name (form NC-120)
 - Decree Changing Name (form NC-130)
 - Civil Case Cover Sheet (form CM-010)
 - Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-410)
 - Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-420)
 - Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-425)
 - Other (specify): _____
- The facts that support this petition to file the documents checked above under seal are stated in the *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420).
- Petitioner has completed each of the documents checked above, placed them in a sealed envelope, and is lodging the envelope with the court along with this application.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ (SIGNATURE OF ATTORNEY OR PETITIONER WITHOUT ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <p style="text-align: center; font-size: 24pt;">DRAFT</p> <p style="text-align: center; font-size: 24pt;">03/22/22</p> <p style="text-align: center; font-size: 24pt;">Not Approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (name of each petitioner):	
DECLARATION IN SUPPORT OF APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)	CASE NUMBER:

I (name): declare as follows:

1. I have personal knowledge of the facts stated in this declaration and could and would testify competently to those facts.
2. I am a participant in the Secretary of State's confidential address program, Safe at Home. I have on file with the Secretary of State a Notice of Intent of Name Change.
3. I am seeking a name change (check all that apply):
 - a. To avoid domestic violence.
 - b. To avoid stalking.
 - c. To avoid sexual assault.
 - d. To avoid human trafficking.
4. Facts showing that there is an overriding interest that overcomes the right of public access to the records in this name change proceeding are (specify):

Continued on Attachment 4 (If you need more space, attach form MC-025.)

5. Facts showing that the overriding interest described in item 4 supports filing the documents in this name change proceeding under seal are (specify):

Continued on Attachment 5. (If you need more space, attach form MC-025.)

PETITIONER:	CASE NUMBER:
-------------	--------------

6. Facts showing that there is a substantial probability that the overriding interest described in item 4 will be prejudiced if the records in this name change proceeding are not sealed are *(specify)*:

Continued on Attachment 6. *(If you need more space, attach form MC-025.)*

7. Facts showing that an order sealing the records in this action is narrowly tailored to protect that overriding interest are *(specify)*:

Continued on Attachment 7. *(If you need more space, attach form MC-025.)*

8. Facts showing that there is no less restrictive means to protect that overriding interest than filing the entire record under seal are *(specify, including facts that show why the law requiring the court to keep the current name and the proposed name confidential, is not sufficient protection of that interest)*:

Continued on Attachment 8. *(If you need more space, attach form MC-025.)*

The number of pages attached is:

I declare under penalty of perjury under the laws of the State of California that the foregoing, including statements on all attachments, is true and correct.

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF DECLARANT)

ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): [CONFIDENTIAL]	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center; font-size: 24pt;">DRAFT</p> <p style="text-align: center; font-size: 24pt;">03/22/22</p> <p style="text-align: center; font-size: 24pt;">Not Approved by Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (Name of each petitioner): <p style="text-align: center;">[CONFIDENTIAL]</p>	
<p style="text-align: center;">ORDER ON APPLICATION TO FILE DOCUMENTS UNDER SEAL IN NAME CHANGE PROCEEDING UNDER ADDRESS CONFIDENTIALITY PROGRAM (SAFE AT HOME)</p>	CASE NUMBER: _____

1. The application was duly considered
- a. at the hearing on (date): _____ in Department: _____ of the above-entitled court.
- b. without hearing.

THE COURT FINDS

2. a. As to whether the following factors apply to the documents for which filing under seal has been requested:
- (1) An overriding interest that overcomes the right of public access to the record does does not exist.
 - (2) The overriding interest does does not support sealing the record.
 - (3) A substantial probability does does not exist that the overriding interest will be prejudiced if the record is not sealed.
 - (4) The proposed order to seal this record is is not narrowly tailored.
 - (5) A less restrictive means to achieve the overriding interest does not does exist.
- b. Other findings (if any): _____

THE COURT ORDERS

3. The application to file documents under seal is **denied**. The documents will be returned to petitioner unless petitioner informs the clerk of the court within 10 days that petitioner wants the unsealed documents to be filed.
4. The application to file documents under seal is **granted**. The following documents may be filed under seal:
- a. Letter from Secretary of State's office confirming that petitioner is an active participant in the confidential address program and that a Notice of Intent of Name Change is on file
 - b. Petition for Change of Name (form NC-100)
 - c. Attachment to Petition for Change of Name (form NC-110)
 - d. Order to Show Cause for Change of Name (form NC-120)
 - e. Decree Changing Name (form NC-130)
 - f. Civil Case Cover Sheet (form CM-010)
 - g. Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-410)
 - h. Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-420)
 - i. Order on Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home) (form NC-425)
 - j. Other (specify): _____
5. Other order (if any): _____

Date: _____

JUDGE OF THE SUPERIOR COURT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Civil Law: Revision of Unlawful Detainer Summons for use in Forcible Detainer cases

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise SUM-130

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Sarah Abbott, 415-865-7687, sarah.abbott@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): 11.16.2021

Project description from annual agenda: Consider revising form SUM-130. Currently the mandatory summons SUM-130, providing 5-days' notice, is, by its title, limited to use in unlawful detainer proceedings. There is no summons form for equivalent notice for forcible detainers. Parties have reported that courts will not accept individually amended forms. Revising the mandatory form to allow its use with forcible detainers would ensure that defendants are provided with the requisite notice.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)
n/a

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-06

Title	Action Requested
Civil Law: Revision of Unlawful Detainer Summons for Use in Forcible Detainer Cases	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form SUM-130	January 1, 2023
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Tamara Wood, Chair	Sarah Abbott, 415-865-7687 sarah.abbott@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes revising form SUM-130, *Summons—Unlawful Detainer—Eviction*, to expand use of the mandatory form to expressly include forcible entry and forcible detainer proceedings. The revisions are intended to address confusion by courts and litigants as to whether form SUM-130 may be used in these types of proceedings.

Background

Currently, form SUM-130 is, by its title, limited to use in unlawful detainer proceedings. However, forcible detainer and forcible entry proceedings, like unlawful detainers, are special proceedings governed by chapter 4 of title 3 (Summary Proceedings) of part 3 (Special Proceedings of a Civil Nature) of the Code of Civil Procedure, beginning at section 1159.¹ The summonses for all three types of proceedings are governed by section 412.20, which applies to all civil summonses, except that defendants in these special proceedings have only five days to respond to the summons.²

There is currently no summons form designated for use in forcible detainer or forcible entry proceedings. Courts have reported that some parties have attempted to file individually amended summons forms for use in these cases, causing confusion and inefficiency for court users and

¹ See Code Civ. Proc., §§ 1159, 1160.

² See Code Civ. Proc., § 1167.

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staff. Revising the mandatory form to expressly provide for its use in forcible detainer and forcible entry proceedings would alleviate confusion, provide plaintiffs with an appropriate summons form, and ensure that defendants are provided with the requisite notice.

The Proposal

To expressly expand the scope of form SUM-130 for use in forcible entry and forcible detainer proceedings, the committee proposes that the Judicial Council revise the form title to read *Summons—Eviction (Unlawful Detainer/Forcible Detainer/Forcible Entry)*. The committee does not recommend other revisions to the body of the form as it believes the substance is currently appropriate for use in all three types of proceedings.

Alternatives Considered

The committee considered not recommending any changes to the form, but decided that the proposed revisions would be beneficial so that parties will have a form summons to use in forcible detainer and forcible entry cases. The committee also considered various alternative form titles, but concluded that the title as proposed would provide the most clarity. Finally, the committee considered whether any substantive revisions to the form would be appropriate if its scope is expanded for use in proceedings other than unlawful detainers, but concluded that no substantive revisions are needed.

Fiscal and Operational Impacts

The impact to the courts may include costs to copy the revised form and update any forms packets for unlawful detainer forms. It also may require staff time to educate court professionals about the expanded use of the form.

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?

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 3 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

1. Form SUM-130, at pages 4–5

SUMMONS—EVICTION
(CITACIÓN JUDICIAL—DESALOJO)

UNLAWFUL DETAINER / FORCIBLE DETAINER / FORCIBLE ENTRY
(RETENCIÓN ILÍCITA DE UN INMUEBLE / RETENCIÓN FORZOSA / ENTRADA FORZOSA)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

DRAFT

03/15/2022

Not Approved by
 the Judicial Council

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 5 days. You have 5 DAYS, not counting Saturdays and Sundays and other judicial holidays, after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff.

¡AVISO! Usted ha sido demandado. Si no responde dentro de 5 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 5 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante.

A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

Una carta o una llamada telefónica no lo protege. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por falta de comparecencia y se le podrá quitar su sueldo, dinero y bienes sin más advertencia.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services website (www.lawhelpca.org), the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), or by contacting your local court or county bar association.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados local.

FEE WAIVER: If you cannot pay the filing fee, ask the clerk for a fee waiver form. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

EXENCIÓN DE CUOTAS: *Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos con un gravamen sobre cualquier cantidad de \$10,000 ó más recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.*

1. The name and address of the court is:
 (El nombre y dirección de la corte es):

CASE NUMBER (número de caso):

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

3. (Must be answered in all cases) An **unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415)** did not did for compensation give advice or assistance with this form. (If plaintiff has received **any** help or advice for pay from an unlawful detainer assistant, complete item 4 below.)

4. **Unlawful detainer assistant** (complete if plaintiff has received any help or advice for pay from an unlawful detainer assistant):

- a. Assistant's name:
- b. Telephone no.:
- c. Street address, city, and zip:

- d. County of registration:
- e. Registration no.:
- f. Registration expires on (date) :

Date: _____ Clerk, by _____, Deputy
 (Fecha) _____ (Secretario) _____ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
 (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (form POS-010).)

[SEAL]

5. **NOTICE TO THE PERSON SERVED:** You are served
- a. as an individual defendant.
 - b. as the person sued under the fictitious name of (specify):
 - c. as an occupant.
 - d. on behalf of (specify):
 under: CCP 416.10 (corporation). CCP 416.60 (minor).
 CCP 416.20 (defunct corporation). CCP 416.70 (conservatee).
 CCP 416.40 (association or partnership). CCP 416.90 (authorized person).
 CCP 415.46 (occupant). other (specify):
 - e. by personal delivery on (date):

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Rules Committee Meeting Date: March 30, 2022

Title of proposal: Judicial Branch Education: Rules Review and Modernization

Proposed rules, forms, or standards (*include amend/revise/adopt/approve*):

Amend Cal. Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491; repeal rule 10.493

Committee or other entity submitting the proposal:

The Center for Judicial Education and Research (CJER) Advisory Committee

Staff contact (name, phone and e-mail): Karene Alvarado, 415-865-7761, karene.alvarado@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by Rules Committee date: N/A

Project description from annual agenda: The CJER Advisory Committee's annual agenda is approved by the Executive and Planning Internal Committee. The Executive and Planning Committee approved this project as part of the CJER Advisory Committee's 2022 annual agenda on March 10, 2022.

If requesting July 1 or out of cycle, explain:

N/A

Additional Information: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Information for JC Staff regarding form translations:

- *List any amended forms in this proposal that have already been translated:* N/A
- *List any new forms that require translation by statute or that you will request to be translated:* N/A

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-07

<p>Title Judicial Branch Education: Rules Review and Modernization</p> <p>Proposed Rules, Forms, Standards, or Statutes Amend Cal. Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491; repeal rule 10.493</p> <p>Proposed by Center for Judicial Education and Research Advisory Committee Hon. Kimberly A. Gaab, Chair</p>	<p>Action Requested Review and submit comments by May 13, 2022</p> <p>Proposed Effective Date January 1, 2023</p> <p>Contact Karene Alvarado, 415-865-7761 karene.alvarado@jud.ca.gov</p>
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Executive Summary

The Center for Judicial Education and Research (CJER) Advisory Committee recommends amending nineteen and repealing one rule of court governing judicial branch education. The amendments are required to recognize new and developing education delivery methods and priorities, adopt current adult education terminology, provide court staff and judicial officers a greater degree of authority and flexibility in meeting their education requirements, resolve education disparities between the appellate and trial courts and between judicial officers and court staff in certain assignments and positions, adopt gender-neutral language, and clarify and simplify existing language in the rules and make other grammatical and typographical corrections.

Background

The Judicial Council adopted a comprehensive set of rules on judicial branch education in two stages in 2006 and 2007. In 2011, the Judicial Council directed the CJER Governing Committee, the predecessor to the CJER Advisory Committee, to conduct a complete review of the education rules. This review resulted in the CJER Governing Committee proposing a slate of rule amendments to simplify rule language, increase flexibility in rule compliance, and correct minor

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typographical errors and omissions. The Judicial Council adopted the proposed amendments, effective January 1, 2012.

Following a requested amendment to rule 10.472 from the appellate clerk/executive officers in 2020 and motivated, in part, by lessons learned during the COVID-19 pandemic, the CJER Advisory Committee initiated a follow-up review to consider whether the education requirements and expectations continue to meet the current needs of the judicial branch. This second comprehensive review of the education rules resulted in the following proposal by the committee.

The Proposal

The proposal would amend many of the rules of court related to judicial branch education generally providing greater flexibility and choice to judicial officers and the courts. The amendments fall into five broad categories, summarized below.

Recognize new and developing education delivery methods and priorities and adopt current adult education terminology

The current language in the rules limited the ability of the judicial branch to comply with the education requirements during the COVID-19 pandemic. The following proposals are intended to replace outdated terminology and delivery methods with updated language to reflect changes in technology and acknowledge the increased effectiveness of and greater access provided by remote education.

- Propose amending rules 2.812(c)(1), 2.813 (Advisory Committee Comment), 10.461(c)(2)(B), 10.462(d)(3), 10.468(b)(4) and (c)(7), 10.471(b)(2)(B), 10.472(c)(5), 10.473(c)(3)(B), 10.474(c)(5), 10.478(b)–(g), and 10.491(c)(5) to update the language on acceptable delivery methods for hours-based education requirements. Current language in these rules generally requires specific education to be obtained by participation in “traditional” (live, face-to-face) or “in-person” education, distance education such as broadcasts, videoconferences, and online coursework, and/or self-directed study. The CJER Advisory Committee proposes replacing these restrictions with language that notes participation in education by an approved provider under rule 10.481, including education that is “instructor-led (live remote or in-person),” asynchronous (such as videos and eLearning), and/or self-directed study counts toward hours-based education requirements and expectations within the rules of court. This proposed phrasing reflects current adult education terminology and is broad enough to incorporate future delivery methods as they become available and validated as educationally sound.
- Propose amending rules 10.469(e)(1) and 10.479(c) to include recommendations that fairness and access education for judicial officers and court staff should include consideration of court users with limited economic means and without access to stable housing. These proposals are consistent with the recommendation included in the *Report*

to the Chief Justice: Work Group on Homelessness (Nov. 2021) at pages 38–40 (see Link A) (noting that “education on topics relevant to homelessness can reduce misconceptions and biases involving court users who lack stable housing and can lead to a more empathetic approach in serving these court users, ultimately resulting in a more accessible, effective, equitable, and compassionate justice system.”)

Provide judicial officers and court staff a greater degree of authority and flexibility in meeting their education requirements

As the courts continue to respond to the lingering impact the COVID-19 pandemic continues to have on court operations, the CJER Advisory Committee recognized a greater need for court autonomy and flexibility in responding efficiently to each court’s unique situation. The following proposals are intended to provide judicial officers and the courts a greater degree of autonomy to address current circumstances and future challenges.

- Propose amending rules 10.461(d)(1), 10.462(e)(1), 10.472(d)(1), 10.473(d)(1), and 10.491(b)(3) to increase local court authority to extend deadlines for content-based education requirements. Under the existing rules, the local court authority may only extend the deadlines for completion for hours-based requirements. This amendment permits the local courts to deal comprehensively with education requirements, both content-based and hours-based. Extensions granted under this authority are capped at one year.
- Propose amending rule 10.462(c)(2) to remove the requirement that supervising judges participate in a “calendar management overview” course within one year of assuming the role of supervising judge. Calendar management practices vary widely from court to court making a statewide course of limited utility for supervising judges. Education on this topic is best delivered on the local court level.
- Propose amending rule 10.468(b)(3) to expand the number of providers probate judicial officers may utilize. The current rule requires probate judicial officers to receive education from CJER, the California Judges Association (CJA), or the local court. The proposed amendment would allow probate judicial officers the same access to approved providers that is accorded to judges in other assignments. It would also provide them with enhanced flexibility in meeting their education requirements.
- Propose amending rule 10.472(c)(5) and 10.474(c)(5) to permit preapproved self-directed study as an option for appellate and trial court staff to complete their hours-based continuing education requirements. The proposal expands local control and the authority of court leaders to develop educational programs uniquely tailored to the needs of the individual employee. Permitting preapproved self-directed study provides an additional method for court leadership and staff to meet their educational needs.

- Propose amending rule 10.472(c)(7) and (d)(1) to note that the authority to determine whether an appellate court employee must participate in specific education or to grant an extension of time to complete education requirements rests with the administrative presiding justice or the clerk/executive officer. This proposed amendment reflects how the appellate courts currently operate and does not prohibit administrative presiding justices or clerk/executive officers from delegating this authority to managers and supervisors.
- Propose amending rule 10.481(b)(1)(B) to eliminate the requirement that education from entities not on the approved provider list be at least one hour in length in order to be approved for educational credit. This amendment recognizes that education can be obtained in smaller increments, such as webinars and podcasts, offered by providers not expressly listed on the approved provider list under rule 10.481(a).

Resolve education disparities between the appellate and trial courts and between judicial officers and court staff in certain assignments and positions

In undertaking a comprehensive review of the education rules, the CJER Advisory Committee noted that the education requirements had diverged over time for judicial officers in different assignments and for court staff in different positions. Standards also varied between the appellate and trial courts. The following proposals seek to address this divergence by eliminating certain exclusions and disproportionalities in the education rules while clarifying some requirements and preserving standards.

- Propose amending rules 5.340(1), 10.462(c)(4), 10.463(a)(1), 10.472(b)(1) and (2), 10.474(b)(1) and (2), and 10.491(b)(1) to apply a consistent one-year deadline to complete required orientations. Under the existing requirements, the deadlines to complete orientations vary from six months to one year depending on the assignment or position of the individual. Applying a consistent one-year deadline to orientation courses simplifies compliance and eliminates disparities between judicial officers who sit in certain assignments or hear specific cases and between appellate and trial court staff. However, the requirement that new judges and subordinate judicial officers attend CJER's new judge orientation program within six months of taking their oath of office under rule 10.462(c)(1)(A) will remain unchanged. The proposed amendment also does not impact the timing of the Judicial Council's employment orientations.
- Propose amending rules 10.461(c)(1)(A) and 10.473(c)(2) to insert the phrase "the period provided for" before the word "completion" in relation to content-based orientation courses. Under the existing rules, some individuals have a specific period for completing content-based courses before entering hours-based requirements. Others must actually complete the content-based course before entering the applicable hours-based education cycle. This proposed amendment creates a consistent standard for everyone and a specific, ascertainable date by which orientations and new employee programs must be

completed, based on an individual's oath date or first day of employment. It eliminates the possibility of individuals deferring their entering hours-based education requirements by not completing their content-based orientation requirements.

- Propose amending rule 10.463 to extend family law education requirements to any judicial officer who regularly hears family law matters. The rule currently applies only to those whose formal primary assignment is in a family law department or those who are the “sole” judicial officers at their court who hear family law matters. This proposed amendment extends the requirements of this rule to those who regularly hear family law matters but whose primary assignments may be in another area of the law.
- Propose amending rule 10.468(b)(4) to eliminate individual reporting cycles for judges sitting in a probate assignment. The current rule creates an individual reporting cycle for probate judges based on either the calendar year following the completion of content-based education or the date their probate assignments begin. This individual cycle does not run concurrently with the general three-year education cycle under rule 10.462(d). The proposed amendment would have these cycles run concurrently for probate judges to eliminate a non-substantive administrative tracking and reporting requirement. This proposal does not alter the amount of education judicial officers in probate would need to complete.
- Propose amending rules 10.468(b) and (c) and 10.478(b)–(g) to resolve an education disparity between judicial officers in a probate assignment and specific probate court staff with their counterparts in other departments. The existing requirements for judicial officers and court staff in a probate department are objectively more stringent than the general rules. These include enhanced content-based requirements (i.e., a greater number of hours required for specific subjects), more frequent education cycles (e.g., annual requirements for court staff), and expressly exclude self-directed study as an option for meeting the education requirements. While still preserving education requirements for judges and court staff in probate assignments and positions above and beyond their counterparts in other departments, this proposal seeks to bring the probate rules more in alignment with the other education requirements by reducing the number of hours required each cycle for certain assignments and positions, extending the reporting cycle for court staff from annual to every other year, and permitting self-study.
- Propose amending rules 10.471(b)(2)(B) and 10.472(c)(5) to eliminate the requirement that half of the hours-based education requirements of clerk/executive officers and appellate staff be completed through traditional (live, face-to-face) or instructor-led education. This restriction on delivery method only applies to the appellate courts. By comparison, the trial court presiding judges and court executive officers have discretion to determine the number of hours of instructor-led education that is required for court leadership and employees. Deleting this requirement eliminates this disparity while

simultaneously providing the appellate courts greater flexibility in meeting their education requirements.

- Propose amending rules 10.472(c)(3) and 10.474(c)(3) to permit the appellate and trial court employee orientation to count toward the hours-based education requirements for these employees. Currently only Judicial Council employees are permitted to have their new employee orientation count as credit for their hours-based education. Permitting appellate and trial court employees to have their orientations count toward their hours-based requirements removes this disparity.
- Propose amending rules 10.472(c)(3) and 10.474(c)(3) to eliminate the quarter system for determining when an appellate or trial court employee enters hours-based education requirements. This quarter system has proven difficult to administer. The proposal would simplify and replace this system by using an employee’s first date of employment as the standard entry point into the hours-based education cycle. Employees entering mid-cycle would have their number of hours prorated based on how many months are left in the cycle.

Adopt gender-neutral language

As part of an ongoing Judicial Council effort, the CJER Advisory Committee proposes amending rules 10.452, 10.461, 10.462, 10.464, 10.469, 10.471–10.474, 10.478, 10.479, and 10.491 to eliminate gender-specific language and incorporate plural nouns and gender-neutral pronouns and possessive pronouns where appropriate.

Clarify and simplify existing language in the rules and make other grammatical and typographical corrections

In addition to the proposal listed above, the CJER Advisory Committee recommends the following clarifications, non-substantive modifications, and corrections:

- Propose amending rules 10.452, 10.461–10.464, 10.468, 10.469, and 10.471–10.474 to replace the terms “period” and “education period” with “education cycle.” Hours-based education requirements and expectations for judicial officers, court staff, and Judicial Council employees operate under consecutive two-year or three-year education cycles. The phrase “education cycle” is more commonly used within the branch and reflects the ongoing nature of the education obligations.
- Propose amending rules 10.461(c)(2)(C), 10.462(d)(4), 10.471(b)(2)(B), 10.472(c)(6), 10.473(c)(3)(C), and 10.474(c)(6) to clarify previous amendments on faculty service in lieu of participation in education programs. Under the existing rules, there is no cap on an individual’s use of faculty service for hours-based education requirements. While the

faculty service must be on a legal or judicial topic for a legal or judicial audience, there is no cap on the number of hours that may be credited in this manner.

- Propose amending rules 10.462(c)(1)–(3) and the Advisory Committee Comment, 10.473(b)(1), and 10.491(b)(1) and (2) to remove proper nouns of specific courses or referenced documents. Currently the rules refer to specific names of courses and documents whose titles have changed over the last decade. By removing their proper nouns from the rules, the programs and documents referenced in this manner will be permitted to change over time yet still be referenced in the rules. The sole exception to this proposed amendment is that B. E. Witkin Judicial College will retain its title within rule 10.462(c)(1)(C).
- Propose amending rules 10.463(b) and 10.464(a) to clarify that a “periodic update” on new developments in family law and procedure for judges who hear cases involving domestic violence must occur at least once every three-year education cycle. Currently, the phrase “periodic update” is undefined.
- Propose amending rules 10.468(a) and 10.478(a) to remove definitions of generally applicable terms. The terms that the CJER Advisory Committee proposes deleting are equally applicable to the other education rules, but they are only included in the specific probate assignment rules. Deleting these terms will make the probate rules consistent with the other education rules.
- Propose amending rules 2.812, 2.815, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491 to simplify sentence structure, reorganize provisions, remove redundant clauses, and correct minor typographical errors.
- Propose repealing rule 10.493. This rule would be rendered redundant if the language in this proposal defining hours-based education delivery methods as “participation in education by an approved provider under rule 10.481(a), including education that is instructor-led (live remote or in-person), asynchronous (such as videos and eLearning), and self-directed study” is adopted.

As a package, the proposed amendments are intended to ensure that the educational needs of the judicial branch continue to be met by providing greater flexibility and clarity to existing requirements and by updating provisions to reflect new and emerging technologies.

Alternatives Considered

The CJER Advisory Committee considered and rejected a proposal that would have eliminated the requirement that judicial officers obtain at least half of their hours-based expectations and requirements through participation in instructor-led education. The committee concluded that it is in the interest of the public and the branch that judicial officers seek out opportunities to

communicate and exchange ideas with other judges and attorneys on legal developments and updates and be exposed to opinions and perspectives from their colleagues in other courts.

The committee also considered proposing an amendment to rule 10.468(c)(2) that would have reduced the number of hours from 9 hours to 6 that are required every three years from probate judges in courts with four or fewer authorized judges. While the committee is proposing that the hours-based requirements for probate judges from courts with five or more authorized judges be reduced from 18 to 12 hours every three years, the committee concluded that 9 hours every three years remains a reasonable amount of education for probate judges from smaller courts.

Fiscal and Operational Impacts

The committee does not anticipate that the proposal will have significant fiscal or operational impacts on the judicial branch. The proposal may result in minor implementation costs as the appellate and trial courts train their staff on the proposed amendments and adapt their education tracking and reporting systems.

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?
- Do the terms “asynchronous education” and “eLearning” contained within the proposal require additional definition?

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) or revising processes and procedures (please describe)?
- Would four 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. Cal. Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, 10.491, and 10.493, at pages 9–48
2. Link A: *Report to the Chief Justice: Work Group on Homelessness*, https://www.courts.ca.gov/documents/hwg_work-group-report.pdf

Rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491 of the California Rules of Court would be amended, and rule 10.493 would be repealed, effective January 1, 2023, to read:

1 **Rule 2.812. Requirements for court appointment of an attorney to serve as a**
2 **temporary judge**

3
4 **(a)–(b) *****

5
6 **(c) Education and training requirements**

7
8 The presiding judge may appoint an attorney to serve as a temporary judge only if
9 the following minimum training requirements are satisfied:

10
11 (1) *Mandatory training on bench conduct and demeanor*

12
13 Within three years before appointment, the attorney must have attended and
14 successfully completed, ~~within the previous three years,~~ a course of at least 3
15 hours' duration on the subjects identified in rule 2.813(a) approved by the
16 court in which the attorney will serve. This course must be of at least three
17 hours' duration, taken in person instructor-led (live remote or in-person), and
18 be taught by a qualified judicial officer approved by the court.

19
20 (2) *Mandatory training in ethics*

21
22 Within three years before appointment, the attorney must have attended and
23 successfully completed, ~~within the previous three years,~~ a course of at least 3
24 hours' duration on the subjects identified in rule 2.813(b) approved by the
25 court in which the attorney will serve. This course must be of at least three
26 hours' duration and may be taken by any means approved by the court,
27 including in person, by broadcast with participation, or online.

28
29 (3) *Substantive training*

30
31 Within three years before appointment, the attorney must have attended and
32 successfully completed, ~~within the previous three years,~~ a course on the
33 substantive law in each subject area in which the attorney will serve as a
34 temporary judge. These courses may be taken by any means approved by the
35 court, ~~including in person, by broadcast with participation, or online.~~ The
36 substantive courses have the following minimum requirements:

37
38 (A) *Small claims*

39
40 Within three years before appointment, an attorney serving as a
41 temporary judge in small claims cases must have attended and

1 successfully completed, ~~within the previous three years,~~ a course of at
2 ~~least 3 hours' duration~~ on the subjects identified in rule 2.813(c). The
3 course must be at least three hours' duration and approved by the court
4 in which the attorney will serve.

5
6 (B) *Traffic*

7
8 Within three years before appointment, an attorney serving as a
9 temporary judge in traffic cases must have attended and completed;
10 ~~within the previous three years, a course of at least 3 hours' duration~~ on
11 the subjects identified in rule 2.813(d). The course must be at least
12 three hours' duration and approved by the court in which the attorney
13 will serve.

14
15 (C) *Other subject areas*

16
17 If the court assigns attorneys to serve as temporary judges in other
18 substantive areas such as civil law, family law, juvenile law, unlawful
19 detainers, or case management, the court must determine what
20 additional training is required ~~and what additional courses are required~~
21 before an attorney may serve as a temporary judge in each of those
22 subject areas. The training required in each area must be of at least 3
23 hours' duration. The court may also require that an attorney possess
24 additional years of practical experience in each substantive area before
25 being assigned to serve as a temporary judge in that subject area.

26
27 (D)–(E) ***

28
29 (d) **Requirements for retired judicial officers**

30
31 Commencing five years after the retired judicial officer last served in a judicial
32 position either as a full-time judicial officer or as an assigned judge, a retired
33 judicial officer serving as a temporary judge must satisfy all the education and
34 training requirements of this rule. ~~However, a retired judicial officer serving as a~~
35 ~~temporary judge in a small claims case must satisfy all the requirements of Code of~~
36 ~~Civil Procedure section 116.240(b) and the rules in this chapter before serving in~~
37 ~~the case.~~

38
39 (e)–(g) ***

1 **Advisory Committee Comment**

2
3 The goal of this rule is to ensure that attorneys who serve as court-appointed temporary judges are
4 qualified and properly trained.

5
6 **Subdivision (a).** ***

7
8 **Subdivision (b).** ***

9
10 **Subdivision (c).** A court may use attorneys who are not temporary judges to assist in the
11 settlement of cases. For example, attorneys may work under the presiding judge or individual
12 judges and may assist them in settling cases. However, these attorneys may not perform any
13 judicial functions such as entering a settlement on the record under Code of Civil Procedure
14 section 664.6. Settlement attorneys who are not temporary judges are not required to satisfy the
15 requirements of these rules, but they must satisfy any requirements established by the court for
16 attorneys who assist in the settlement of cases.

17
18
19 **Rule 2.813. Contents of training programs**

20
21 **(a)–(b)** ***

22
23 **(c) Small claims**

24
25 Before the court may appoint an attorney to serve as a temporary judge in small
26 claims cases, the attorney must have received training under rule 2.812(c)(3)(A) in
27 the following subjects:

- 28
29 (1) Small claims procedures and practices;
30
31 (2) Consumer sales;
32
33 (3) Vehicular sales, leasing, and repairs;
34
35 (4) Credit and financing transactions;
36
37 (5) Professional and occupational licensing;
38
39 (6) Tenant rent deposit law;
40
41 (7) Contract, warranty, tort, and negotiable instruments law; ~~and~~
42
43 (8) The subjects specified in Code of Civil Procedure section 116.240(b); and

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(9) Other subjects deemed appropriate by the presiding judge based on local needs and conditions.

In addition, an attorney serving as a temporary judge in small claims cases must be familiar with the publications identified in Code of Civil Procedure section 116.930.

(d) ***

Advisory Committee Comment

The purpose of this rule is to ensure that all court-appointed temporary judges have proper training in bench conduct and demeanor, ethics, and each substantive area in which they adjudicate cases. Each court is responsible for approving the training and instructional materials for the temporary judges appointed by that court. The training in bench conduct and demeanor must be ~~in person~~ instructor-led (live remote or in-person), but in other areas each court may determine the approved method or methods by which the training is provided. ~~The methods may include in person courses, broadcasts with participation, and online courses.~~ Courts may offer Minimum Continuing Legal Education (MCLE) credit for courses that they provide and may approve MCLE courses provided by others as satisfying the substantive training requirements under this rule. Courts may work together with other courts, or may cooperate on a regional basis, to develop and provide training programs for court-appointed temporary judges under this rule.

Rule 2.815. Continuing education

(a) **Continuing education required**

Every three years, each attorney appointed as a temporary judge must attend and successfully complete every three years a course on bench conduct and demeanor, an ethics course, and a course in each substantive area in which the attorney will serve as a temporary judge. The courses must cover the same subjects and be of the same duration as the courses prescribed in rule 2.812(c). These courses must be approved by the court ~~that appoints the attorney~~ in which the attorney will serve.

(b) ***

Rule 5.340. Judicial education for child support commissioners

Every commissioner whose principal judicial assignment is to hear child support matters must attend the following judicial education programs:

1
2 (1) *Basic child support law education*

3
4 Within ~~six months~~ one year of beginning an assignment as a child support
5 commissioner, the judicial officer must attend a basic educational program on
6 California child support law and procedure designed primarily for judicial officers.
7 The training program must include instruction on both state and federal laws
8 concerning child support. A judicial officer who has completed the basic
9 educational program need not attend the basic educational program again.

10
11 (2)–(4) ***

12
13
14 **Rule 10.452. Minimum education requirements, expectations, and recommendations**

15
16 **(a) Purpose**

17
18 Justices, judges, and subordinate judicial officers are entrusted by the public with
19 the impartial and knowledgeable handling of proceedings that affect the freedom,
20 livelihood, and happiness of the people involved. Court personnel assist justices,
21 judges, and subordinate judicial officers in carrying out their responsibilities and
22 must provide accurate and timely services to the public. ~~Each Justice, judge, and~~
23 ~~subordinate judicial officers, and each court staff members~~ is are individually
24 responsible for maintaining and improving his or her their professional
25 competence. To assist them in enhancing their professional competence, the
26 judicial branch will develop and maintain a comprehensive and high-quality
27 education program, including minimum education requirements, expectations, and
28 recommendations, to provide educational opportunities for all justices, judges,
29 subordinate judicial officers, and court personnel.

30
31 **(b) Goals**

32
33 The minimum education requirements, expectations, and recommendations ~~set~~
34 ~~forth~~ stated in rules 10.461–10.479 are intended to achieve two complementary
35 goals:

- 36
37 (1) To ensure that ~~both individuals who are new to the bench or the court and~~
38 ~~those who are experienced on the bench or court but are beginning a new~~
39 ~~assignment or role~~ all justices, judges, subordinate judicial officers, and court
40 personnel obtain education on the tasks, skills, abilities, and knowledge
41 necessary to be successful in ~~the~~ their new court assignments and roles; and
42

1 (2) To establish broad continuing education parameters, based on ~~time~~ multi-year
2 education cycles, ~~for continuing education~~ for experienced individuals ~~who~~
3 ~~are experienced both on the bench or court and in their assignments or roles,~~
4 while preserving the ability of ~~the individual~~ these individuals, working with
5 the ~~individual who~~ persons oversees overseeing his or her their work, to
6 determine the appropriate education content and providers.

7
8 **(c) Relationship of minimum education requirements and expectations to**
9 **education recommendations**

10
11 The education requirements and expectations ~~set forth~~ stated in rules ~~10.461–10.462~~
12 10.461, 10.462, and 10.471–10.474 are minimums. Justices, judges, and
13 subordinate judicial officers should participate in more judicial education than is
14 required and expected, related to each individual’s responsibilities and ~~particular~~
15 ~~judicial assignment or assignments~~ and in accordance with the judicial education
16 recommendations ~~set forth~~ stated in rule 10.469. Additional education requirements
17 related to specific responsibilities are ~~set forth~~ stated in rule 10.463 (for those
18 hearing family law matters), rule 10.464 (for those hearing domestic violence
19 issues), and rule 10.468 (for those hearing probate proceedings).

20
21 **(d) Responsibilities of Chief Justice and administrative presiding justices**

22
23 The Chief Justice and ~~each~~ administrative presiding justices:

24
25 (1) Must grant sufficient leave to Supreme Court and Court of Appeal justices,
26 the clerk/executive officer, and the managing attorney to ~~enable them to~~
27 complete the minimum education requirements stated in rules 10.461, 10.471,
28 and 10.472, respectively;

29
30 (2) ***

31
32 (3) In addition to the educational leave required under (d)(1)–(2), should grant
33 leave to a justice, clerk/executive officer, or managing attorney to serve on
34 education committees and as a faculty member at education programs when
35 the individual’s services have been requested for ~~these purposes~~ judicial or
36 legal education by ~~Judicial Council staff, the California Judges Association,~~
37 ~~or the court. If a court’s calendar would not be adversely affected, the court~~
38 ~~should grant additional leave for a justice, the clerk/executive officer, or the~~
39 ~~managing attorney to serve on an educational committee or as a faculty~~
40 ~~member for judicial branch education;~~

1 (4) Should establish an education plan for ~~his or her~~ the court to facilitate the
2 involvement of justices, the clerk/executive officer, and the managing
3 attorney as both participants and faculty in education activities;

4
5 (5) ***

6
7 (6) Must retain the records and cumulative histories of participation provided by
8 justices. These records and cumulative histories are subject to periodic audit
9 by Judicial Council staff. The Chief Justice and the administrative presiding
10 justices ~~must report the data from the records and cumulative histories~~ their
11 courts' compliance with education requirements on an aggregate basis to the
12 Judicial Council, on a form provided by the Judicial Council, within six
13 months after the end of each three-year ~~period~~ education cycle.

14
15 **(e) Responsibilities of presiding judges**

16
17 ~~Each~~ Presiding judges:

18
19 (1) Must grant sufficient leave to ~~all~~ their judges and subordinate judicial officers
20 and to the court executive officer to enable them to complete the minimum
21 education requirements and expectations stated in rules 10.462 and 10.473,
22 respectively;

23
24 (2) To the extent compatible with the efficient administration of justice, must
25 grant to ~~all~~ their judges and subordinate judicial officers and to the court
26 executive officer sufficient leave to participate in education programs
27 consistent with the education recommendations stated in rules 10.469 and
28 10.479. After a judge or subordinate judicial officer has completed the new
29 judge education required under rule 10.462, the presiding judge should grant
30 each judge and subordinate judicial officer at least eight court days per
31 calendar year to participate in continuing education relating to the judge's or
32 subordinate judicial officer's responsibilities or current or future court
33 assignment;

34
35 (3) In addition to the educational leave required or authorized under rule 10.603
36 or (e)(1)–(2), should grant leave to a judge or subordinate judicial officer or
37 the executive officer to serve on education committees and as a faculty
38 member at education programs when the judicial officer's or executive
39 officer's services have been requested for ~~these purposes~~ judicial or legal
40 education by Judicial Council staff, the California Judges Association, or the
41 court. ~~If a court's calendar would not be adversely affected, the presiding~~
42 ~~judge should grant additional leave for a judge or subordinate judicial officer~~

1 ~~or executive officer to serve on an educational committee or as a faculty~~
2 ~~member for judicial branch education;~~

3
4 (4) Should establish an education plan for ~~his or her~~ the court to facilitate the
5 involvement of judges, subordinate judicial officers, and the executive officer
6 as both participants and faculty in education activities and should consult
7 with each judge, each subordinate judicial officer, and the executive officer
8 regarding their education needs and requirements related to their current and
9 future assignments;

10
11 (5) Should use ~~his or her~~ their assignment powers to enable all judges and
12 subordinate judicial officers, ~~particularly those assigned to specific calendar~~
13 ~~courts~~, to participate in educational activities;

14
15 (6) ***

16
17 (7) Must retain the records and cumulative histories of participation provided by
18 judges. These records and cumulative histories are subject to periodic audit
19 by Judicial Council staff. The presiding judges ~~must report the data from the~~
20 ~~records and cumulative histories~~ their courts' compliance with education
21 requirements on an aggregate basis to the Judicial Council, on a form
22 provided by the Judicial Council, within six months after the end of each
23 three-year ~~period~~ education cycle.

24
25 **(f) Responsibilities of Supreme Court and Court of Appeal justices,**
26 **~~clerks/executive clerk/executive officers, managing attorneys, and supervisors~~**

27
28 ~~Each court's~~ Justices, clerk/executive clerk/executive officers, managing attorneys,
29 and supervisors:

30
31 (1)–(2) ***

32
33 (3) Should allow and encourage court personnel, in addition to participating as
34 students in educational activities, to serve on court personnel education
35 committees and as faculty at court personnel education programs when an
36 employee's services have been requested for these purposes ~~by Judicial~~
37 ~~Council staff or the court~~;

38
39 (4) Should establish an education plan for their court to facilitate the involvement
40 of court personnel as both participants and faculty in educational activities,
41 and should consult with each court staff member regarding ~~his or her~~ their
42 education needs and requirements and professional development; and
43

- 1 (5) Must ensure that ~~supervisors and other~~ court personnel are reimbursed by
2 their court in accordance with the travel policies issued by the Judicial
3 Council for travel expenses incurred in attending in-state education programs
4 as a participant, except to the extent that: (i) certain expenses are covered by
5 the Judicial Council; or (ii) the education provider or sponsor of the program
6 pays the expenses. Provisions for these expenses must be part of every
7 court's budget. The clerk/executive officer or the managing attorney may
8 approve reimbursement of travel expenses incurred by ~~supervisors and other~~
9 court personnel in attending out-of-state education programs as a participant.

10
11 **(g) Responsibilities of trial court executive officers, managers, and supervisors**

12
13 ~~Each~~ Trial court's executive officers, managers, and supervisors:

14
15 (1)–(2) ***

- 16
17 (3) Should allow and encourage court personnel, in addition to participating as
18 students in education activities, to serve on court personnel education
19 committees and as faculty at court personnel education programs when an
20 employee's services have been requested for these purposes ~~by Judicial~~
21 ~~Council staff or the court~~;

- 22
23 (4) Should establish an education plan for their court to facilitate the involvement
24 of court personnel as both participants and faculty in educational activities,
25 and should consult with each court staff member regarding ~~his or her~~ their
26 education needs and requirements and professional development; and

- 27
28 (5) Must ensure that ~~managers, supervisors, and other~~ court personnel are
29 reimbursed by their court in accordance with the Trial Court Financial
30 Policies and Procedures Manual for travel expenses incurred in attending in-
31 state education programs as a participant, except to the extent that: (i) certain
32 expenses are covered by the Judicial Council; or (ii) the education provider or
33 sponsor of the program pays the expenses. Provisions for these expenses
34 must be part of every court's budget. The court executive officer may
35 approve reimbursement of travel expenses incurred by ~~managers, supervisors,~~
36 ~~and other~~ court personnel in attending out-of-state education programs as a
37 participant.

38
39
40 **Rule 10.461. Minimum education requirements for Supreme Court and Court of**
41 **Appeal justices**
42

1 (a)–(b) ***

2
3 (c) **Hours-based continuing education**

4
5 (1) Each justice must complete 30 hours of continuing judicial education every
6 three years, beginning on the dates outlined:

7
8 (A) A new Supreme Court justice enters the three-year continuing
9 education ~~period cycle~~ on January 1 of the year following confirmation
10 of appointment, and a new Court of Appeal justice enters the three-year
11 continuing education ~~period cycle~~ on January 1 of the year following
12 the period provided for completion of the required new justice
13 education orientation program; continuing education requirements are
14 prorated based on the number of years remaining in the three-year
15 ~~period education cycle~~.

16
17 (B) For all other justices, the first continuing education ~~period cycle~~ begins
18 January 1, 2008.

19
20 (C) The first continuing education ~~period cycle~~ for Supreme Court and
21 Court of Appeal justices is for two years from January 1, 2008, through
22 December 31, 2009, rather than three years. The continuing education
23 requirements and limitations in (c) are consequently prorated for this
24 two-year ~~period education cycle~~. The first three-year ~~period education~~
25 ~~cycle~~ then begins January 1, 2010.

26
27 (2) The following education applies toward the required 30 hours of continuing
28 judicial education:

29
30 (A) Any education offered by an approved provider (~~see under rule~~
31 ~~10.481(a) and any other education, including education taken to satisfy~~
32 ~~a statutory or other education requirement~~, approved by the Chief
33 Justice or the administrative presiding justice as meeting the criteria
34 listed in rule 10.481(b).

35
36 (B) Each hour of participation in ~~traditional (live, face-to-face) education;~~
37 ~~distance education such as broadcasts, videoconferences, and online~~
38 ~~coursework; self-directed study; and faculty service education by an~~
39 approved provider under rule 10.481, including education that is
40 instructor-led (live remote or in-person), asynchronous (such as videos
41 and eLearning), and self-directed study, counts toward the continuing
42 education requirement on an hour-for-hour basis. ~~Each~~ Justices must
43 complete at least half of ~~his or her~~ their continuing education hours

1 requirement as a participant in ~~traditional (live, face-to-face)~~ instructor-
2 led (live remote or in-person) education. ~~The~~ Justices may complete the
3 balance of ~~his or her~~ their education hours requirement through any
4 other means with no limitation on any particular type of education.
5

6 (C) A justice who serves as faculty by teaching legal or judicial education
7 to a legal or judicial audience may apply faculty service as continuing
8 education hours as faculty service. ~~There is no restriction on the~~
9 number or percentage of hours that a justice may claim as faculty
10 service. Credit for faculty service counts toward the continuing
11 education requirement on an hour-for-hour basis in the same manner as
12 all other types of education—~~on an hour-for-hour basis~~.
13

14 **(d) Extension of time**

15
16 (1) Upon request and for good cause, the Chief Justice or the administrative
17 presiding justice may grant a justice a one-year extension of time to complete
18 the continuing education requirement in ~~(e)~~ this rule.
19

20 (2) If the Chief Justice or the administrative presiding justice grants a request for
21 an extension of time, ~~the justice, in consultation with~~ the Chief Justice or the
22 administrative presiding justice and the justice, should ~~also~~ pursue interim
23 means of obtaining relevant educational content.
24

25 (3) An extension of time to complete the hours-based continuing education
26 requirement does not affect what is required in the next three-year ~~period~~
27 education cycle.
28

29 **(e) Records and summaries of participation for justices**

30 ~~Each~~ Justices ~~is~~ are responsible for:
31
32

33 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
34 of participation for three years after each course or activity that is applied
35 toward the requirements, on a form provided by the Chief Justice for the
36 Supreme Court or by the administrative presiding justice for each appellate
37 district of the Court of Appeal. The form must include the information
38 regarding a justice's participation in education that is needed by the Chief
39 Justice or the administrative presiding justice to complete the aggregate form
40 required by rule 10.452(d)(6);
41

42 (2) At the end of each year, giving the Chief Justice or the administrative
43 presiding justice a copy of ~~his or her~~ their record of participation in education

1 for that year, on the form provided by the Chief Justice or the administrative
2 presiding justice; and

- 3
4 (3) At the end of each three-year ~~period~~ education cycle, giving the Chief Justice
5 or the administrative presiding justice a copy of ~~his or her~~ their record of
6 participation in education for that year and a cumulative history of
7 participation for that three-year ~~period~~ cycle, on the form provided by the
8 Chief Justice or the administrative presiding justice.

9
10 **Advisory Committee Comment**

11
12 The requirements formerly contained in subdivision (e)(2) of rule 970, which has been repealed,
13 are carried forward without change in rule 10.461(b).

14
15 Judicial Council staff have developed ~~both a manual format and an automated format of the~~
16 ~~individual justice's recording and reporting form referenced in an individual reporting form that~~
17 ~~justices may use in tracking their own participation in education as required by rule 10.461(e)(1).~~
18 ~~that gathers all the information needed by the Chief Justice or the administrative presiding justice~~
19 ~~to complete the aggregate report to the Judicial Council required under rule 10.452(d)(6). The~~
20 ~~form is available from the council's Center for Judicial Education and Research.~~ The Chief
21 Justice ~~or~~ and the administrative presiding justices may determine which form should be used in
22 ~~his or her~~ their court and may provide the ~~manual or automated format of council-developed form~~
23 ~~(available from the council's Center for Judicial Education and Research)~~ or may provide another
24 appropriate form ~~that has been developed by his or her~~ their court or by another court ~~that gathers~~
25 ~~all the information needed by the Chief Justice or the administrative presiding justice to complete~~
26 ~~the aggregate report to the Judicial Council.~~

27
28
29 **Rule 10.462. Minimum education requirements and expectations for trial court**
30 **judges and subordinate judicial officers**

31
32 **(a)–(b) *****

33
34 **(c) Content-based requirement**

- 35
36 (1) ~~Each~~ New trial court judges and subordinate judicial officers must complete
37 the “new judge education” curriculum provided by the Judicial Council’s
38 Center for Judicial Education and Research (CJER) as follows:

- 39
40 (A) The new judge orientation program within six months of taking the
41 oath as a judge or subordinate judicial officer. For purposes of the new
42 judge orientation program, a judge or subordinate judicial officer is
43 considered “new” only once, and any judge or subordinate judicial

1 officer who has completed the new judge orientation program, as
2 required under this rule or under former rule 970, is not required to
3 complete the program again. A judge or subordinate judicial officer
4 who was appointed, elected, or hired before rule 970 was adopted on
5 January 1, 1996, is not required to complete the program;

6
7 (B) An orientation course in ~~his or her~~ their primary assignment (civil,
8 criminal, family, juvenile ~~delinquency~~ justice or dependency, probate,
9 or traffic) within one year of taking the oath as a judge or subordinate
10 judicial officer; and

11
12 (C) The B. E. Witkin Judicial College of California within two years of
13 taking the oath as a judge or subordinate judicial officer; ~~unless the~~ If a
14 new judge previously completed the Judicial College as a new
15 subordinate judicial officer, ~~in which case~~ then the presiding judge may
16 determine whether the new judge must complete it again.

17
18 (2) ~~Each~~ Judges beginning a supervising judge role ~~is~~ are expected to complete
19 the following education, CJER's supervising judge orientation program
20 within one year of beginning the supervising judge role, preferably before
21 beginning the role. This expectation does not apply unless he or she is if they
22 are returning to a similar supervising judge role after less than two years in
23 another assignment or ~~is~~ are beginning a supervising judge role less than two
24 years after serving in the presiding judge role and completing ~~the Presiding~~
25 ~~Judges Orientation and Court Management Program~~ CJER's presiding judge
26 and court executive officer orientation program.

27
28 (A) ~~For a judge who has administrative responsibility, CJER's Supervising~~
29 ~~Judges Overview course within one year of beginning the supervising~~
30 ~~judge role, preferably before beginning the role;~~

31
32 (B) ~~For a judge who has calendar management responsibility, a calendar~~
33 ~~management overview course, provided either by the local court or by~~
34 ~~CJER, within one year of beginning the supervising judge role,~~
35 ~~preferably before beginning the role;~~

36
37 (C) ~~For a judge who has both administrative and calendar management~~
38 ~~responsibility, both overview courses within one year of beginning the~~
39 ~~role.~~

40
41 (3) ~~Each~~ Judges beginning a presiding judge role ~~is~~ are expected to complete
42 CJER's Presiding Judges Orientation and Court Management Program
43 presiding judge and court executive officer orientation program within one

1 year of beginning the presiding judge role, preferably before beginning the
2 role. ~~This expectation does not apply unless he or she is~~ if they are returning
3 to a presiding judge role after two years or less in another role or assignment.
4

- 5 (4) ~~Each judge~~ Judges ~~is~~ are expected to and ~~each~~ subordinate judicial ~~officer~~
6 officers must, if beginning a new primary assignment (unless ~~he or she is~~
7 they are returning to an assignment after less than two years in another
8 assignment), complete a course on the new primary assignment, provided by
9 CJER, the California Judges Association (CJA), or the local court, within ~~six~~
10 months one year of beginning the new assignment. CJER is responsible for
11 identifying content for these courses and will share the identified content with
12 CJA and the local courts.
13

14 **(d) Hours-based continuing education**
15

- 16 (1) Each judge is expected to and each subordinate judicial officer must complete
17 30 hours of continuing judicial education every three years, beginning on the
18 dates outlined:
19

20 (A) A new judge or new subordinate judicial officer enters the three-year
21 continuing education ~~period~~ cycle on January 1 of the year following
22 the period provided for completion of the required new judge
23 education; continuing education expectations for judges and
24 requirements for subordinate judicial officers are prorated based on the
25 number of years remaining in the three-year ~~period~~ education cycle.
26

27 (B) For all other judges and subordinate judicial officers, the first three-
28 year ~~period~~ education cycle begins on January 1, 2007.
29

- 30 (2) The following education applies toward the expected or required 30 hours of
31 continuing judicial education:
32

33 (A) The content-based courses under (c)(2), (3), and (4) for a new
34 supervising judge, a new presiding judge, and a judge or subordinate
35 judicial officer beginning a new primary assignment (the “new judge
36 education” required under (c)(1) does not apply); and
37

38 (B) Any other education offered by an approved provider (~~see under~~ rule
39 10.481(a)) and any other education, ~~including education taken to satisfy~~
40 ~~a statutory or other education requirement~~, approved by the presiding
41 judge as meeting the criteria listed in rule 10.481(b).
42

1 (3) Each hour of participation in ~~traditional (live, face-to-face) education;~~
2 ~~distance education, such as broadcasts, videoconferences, and online~~
3 ~~coursework; self-directed study; and faculty service~~ education by an
4 approved provider under rule 10.481, including education that is instructor-
5 led (live remote or in-person), asynchronous (such as videos and eLearning),
6 and self-directed study, counts toward the continuing education expectation
7 or requirement on an hour-for-hour basis. ~~Each Judge~~ and subordinate
8 judicial officers must complete at least half of ~~his or her~~ their continuing
9 education hours expectation or requirement as a participant in ~~traditional~~
10 ~~(live, face-to-face)~~ instructor-led (live remote or in-person) education. The
11 ~~Judge~~ or subordinate judicial officers may complete the balance of ~~his or her~~
12 their judicial education hours expectation or requirement through any other
13 means with no limitation on any particular type of education.

14
15 (4) A judge or subordinate judicial officer who serves as faculty by teaching
16 legal or judicial education for a legal or judicial audience may apply faculty
17 service as continuing education hours as ~~faculty service~~. There is no
18 restriction on the number or percentage of hours that a judge may claim as
19 faculty service. Credit for faculty service counts toward the continuing
20 education expectation or requirement on an hour-for-hour basis in the same
21 manner as all other types of education—~~on an hour-for-hour basis~~.

22
23 (5) ***

24
25 (e) **Extension of time**

26
27 (1) Upon request and for good cause, a presiding judge may grant a judge or
28 subordinate judicial officer an extension of time, up to a one year, to
29 complete the education expectations or requirements in (c)(2)-(4) ~~and the~~
30 ~~continuing education expectation or requirement in (d)~~ as follows: this rule.

31
32 (A)—~~A time extension to complete the content-based expectations or~~
33 ~~requirements in (c)(2)-(4) is limited to the original time period provided~~
34 ~~for completion that is, one year, one year, or six months, respectively.~~

35
36 (B)—~~A time extension to complete the hours-based continuing education~~
37 ~~expectation or requirement in (d) is limited to one year.~~

38
39 (2) If the presiding judge grants a request for an extension of time, the presiding
40 judge and the judge or subordinate judicial officer, ~~in consultation with the~~
41 ~~presiding judge~~, should also pursue interim means of obtaining relevant
42 educational content.

- 1 (3) An extension of time to complete the hours-based continuing education
2 expectation or requirement does not affect what is expected or required in the
3 next three-year ~~period~~ education cycle.
4

5 **(f) Records and cumulative histories of participation for judges**
6

7 ~~Each~~ Judges ~~is~~ are responsible for:
8

- 9 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
10 of participation for three years after each course or activity that is applied
11 toward the requirements and expectations, on a form provided by the
12 presiding judge. The form must include the information regarding a judge's
13 participation in education that is needed by the presiding judge to complete
14 the aggregate form required by rule 10.452(e)(7);
15
16 (2) At the end of each year, giving the presiding judge a copy of ~~his or her~~ their
17 record of participation in education for that year, on the form provided by the
18 presiding judge; and
19
20 (3) At the end of each three-year ~~period~~ education cycle, giving the presiding
21 judge a copy of ~~his or her~~ their record of participation in education for that
22 year and a cumulative history of participation for that three-year ~~period~~
23 education cycle, on the form provided by the presiding judge.
24

25 **(g) Records of participation for subordinate judicial officers**
26

- 27 (1) Each court is responsible for tracking participation in education and for
28 tracking completion of minimum education requirements for its subordinate
29 judicial officers.
30
31 (2) ~~Each~~ Subordinate judicial officers must keep records of ~~his or her~~ their own
32 participation for three years after each course or activity that is applied
33 toward the requirements.
34

35 **Advisory Committee Comment**
36

37 The minimum judicial education requirements in rule 10.462 do not apply to retired judges
38 seeking to sit on regular court assignment in the Temporary Assigned Judges Program. Retired
39 judges who seek to serve in the Temporary Assigned Judges Program must comply with the
40 education requirements included in the program's standards and guidelines established by the
41 Chief Justice's Standards and Guidelines for Judges Who Serve on Assignment, which includes
42 education requirements.
43

1 Judicial Council staff have developed ~~both a manual format and an automated format of the~~
2 ~~individual judge's recording and reporting form referenced in an individual reporting form that~~
3 ~~judges may use in tracking their own participation in education as required by rule 10.462(f), that~~
4 ~~gathers all the information needed by the presiding judge to complete the aggregate report to the~~
5 ~~Judicial Council required under rule 10.452(e)(7). The form is available from the council's Center~~
6 ~~for Judicial Education and Research. The Presiding judges may determine which form should be~~
7 ~~used in his or her their court and may provide the manual or automated format of the council-~~
8 ~~developed form (available from the Judicial Council's Center for Judicial Education and~~
9 ~~Research) or may provide another appropriate form that has been developed by his or her their~~
10 ~~court or by another court that gathers all the information needed by the presiding judge to~~
11 ~~complete the aggregate report to the Judicial Council.~~

12
13
14 **Rule 10.463. Education requirements for family court judges and subordinate**
15 **judicial officers**

16
17 Each judge or subordinate judicial officer whose primary assignment is to hear family
18 law matters, or who ~~is the sole judge hearing~~ regularly hears family law matters
19 regardless of their primary assignment, must complete the following education:
20

21 **(a) Basic family law education**

22
23 (1) Within ~~six months~~ one year of beginning a family law assignment, ~~or within~~
24 ~~one year of beginning a family law assignment in courts with five or fewer~~
25 ~~judges~~, the judge or subordinate judicial officer must complete a basic
26 educational program on California family law and procedure designed
27 primarily for judicial officers. A judge or subordinate judicial officer who has
28 completed the basic educational program need not complete the basic
29 educational program again.

30
31 (2) All other judicial officers who regularly hear family law matters, including
32 retired judges who sit on court assignment, must complete appropriate family
33 law educational ~~programs~~.

34
35 **(b) Continuing family law education**

36
37 The judge or subordinate judicial officer must complete a periodic update on new
38 developments in California family law and procedure at least once each education
39 cycle.

40
41 **(c) *****

42
43 **Advisory Committee Comment**

1
2 In determining what constitutes “appropriate” education, judges and subordinate judicial officers
3 should determine the number of hours of education on family law matters that is adequate for
4 their assignment, taking into account the size of the court, the nature of their assignment, the mix
5 of assignments, and other factors.
6

7
8 **Rule 10.464. Education requirements and expectations for judges and subordinate**
9 **judicial officers on domestic violence issues**

10
11 **(a) Judges and subordinate judicial officers hearing specified matters**

12
13 ~~Each~~ Judges or subordinate judicial officers who hears criminal, family, juvenile
14 ~~delinquency justice~~, juvenile dependency, or probate matters must participate in
15 appropriate education on domestic violence issues as part of ~~his or her~~ their hours-
16 based continuing education requirements and expectations under rule 10.462(d)
17 each education cycle. Each judge or subordinate judicial officer whose primary
18 assignment is in one of these areas also must participate in a periodic update on
19 domestic violence as part of these requirements and expectations at least once each
20 education cycle.
21

22 **(b) Specified courses to include education on domestic violence issues**

23
24 The education provider must include education on domestic violence issues at the
25 Judicial College under rule 10.462(c)(1)(C) and in courses for primary assignments
26 in criminal, family, juvenile ~~delinquency justice~~, juvenile dependency, or probate
27 under rule 10.462(c)(1)(B) or (c)(4).
28

29 **Advisory Committee Comment**

30
31 In determining what constitutes “appropriate” education, ~~each~~ judges ~~or~~ and subordinate judicial
32 officers should determine the number of hours of education on domestic violence that is adequate
33 for ~~his or her~~ their assignment, taking into account the size of the court, the nature of ~~his or her~~
34 their assignment, the mix of assignments, and other factors.
35

36
37 **Rule 10.468. Content-based and hours-based education for superior court judges**
38 **and subordinate judicial officers regularly assigned to hear probate**
39 **proceedings**

40
41 **(a) Definitions**

42
43 As used in this rule, the following terms have the meanings stated below:

1
2 ~~(1) “Judge” means a judge of the superior court.~~

3
4 ~~(2) “Subordinate judicial officer” has the meaning specified in rule 10.701(a).~~

5
6 ~~(3) “Judicial officer” means a judge or a subordinate judicial officer.~~

7
8 ~~(4)~~(1) “Probate proceedings” are decedents’ estates, guardianships and
9 conservatorships under division 4 of the Probate Code, trust proceedings
10 under division 9 of the Probate Code, and other matters governed by
11 provisions of that code and the rules in title 7 of the California Rules of
12 Court.

13
14 ~~(5)~~(2) A judicial officer “regularly assigned to hear probate proceedings” is a
15 judge or subordinate judicial officer who is:

16
17 (A) Assigned to a dedicated probate department where probate proceedings
18 are customarily heard on a full-time basis;

19
20 (B) Responsible for hearing most of the probate proceedings filed in a court
21 that does not have a dedicated probate department; or

22
23 (C) Responsible for hearing probate proceedings on a regular basis in a
24 department in a branch or other location remote from the main or
25 central courthouse, whether or not ~~he or she~~ the judicial officer also
26 hears other kinds of matters in that department and whether or not there
27 is a dedicated probate department in the main or central courthouse; or

28
29 (D) Designated by the presiding judge of a court with four or fewer
30 authorized judges.

31
32 ~~(6) “CJER” is the Judicial Council’s Center for Judicial Education and Research.~~

33
34 ~~(7) “CJA” is the California Judges Association.~~

35
36 **(b) Content-based requirements**

37
38 (1) ~~Each~~ Judicial officers beginning a regular assignment to hear probate
39 proceedings after the effective date of this rule, ~~unless he or she is~~ they are
40 returning to this assignment after less than two years in another assignment, ~~must complete, as soon as possible but not to exceed six months from the~~
41 ~~assignment’s commencement date,~~ 6 ~~six~~ hours of education on probate
42

1 guardianships and conservatorships, including court-supervised fiduciary
2 accounting, within one year of starting the assignment.

3
4 (2) The education required in (1) is ~~in addition to the New Judge Orientation~~
5 ~~program for new judicial officers and the B. E. Witkin Judicial College~~
6 ~~required under rule 10.462(e)(1)(A) and (C) and may be applied toward~~
7 ~~satisfaction of the 30 hours-based~~ of continuing education expected of judges
8 and required of subordinate judicial officers under rule 10.462(d).

9
10 (3) The education required in (1) must be provided by ~~CJER, CJA, or the judicial~~
11 ~~officer's court. CJER is responsible for identifying content for this education~~
12 ~~and will share the identified content with CJA and the courts~~ the Center for
13 Judicial Education and Research (CJER), an approved provider under rule
14 10.481(a), or education approved by the judicial officer's presiding judge as
15 meeting the education criteria specified in rule 10.481(b).

16
17 (4) The education required in (1) may be ~~by traditional (face to face) instructor-~~
18 ~~led (live remote or in-person), asynchronous (such as videos and eLearning),~~
19 ~~or self-directed study or distance learning means, such as broadcasts,~~
20 ~~videoconferences, or online coursework, but may not be by self-study.~~

21
22
23 **(c) Hours-based continuing education**

24
25 (1) In a court with five or more authorized judges, ~~each~~ judicial officers regularly
26 assigned to hear probate proceedings must complete ~~48~~ 12 hours of
27 continuing education every ~~three years~~ three-year education cycle, with a
28 ~~minimum of six hours required in the first year~~, on probate guardianships and
29 conservatorships, including court-supervised fiduciary accounting. ~~The three-~~
30 ~~year period begins on January 1 of the year following the judicial officer's~~
31 ~~completion of the education required in (b)(1) or, if he or she is exempt from~~
32 ~~that education, on January 1 of the year the assignment commenced after the~~
33 ~~effective date of this rule.~~

34
35 (2) In a court with four or fewer authorized judges, ~~each~~ judicial officers
36 regularly assigned to hear probate proceedings must complete nine hours of
37 continuing education every ~~three years~~ three-year education cycle, with a
38 ~~minimum of three hours per year~~, on probate guardianships and
39 conservatorships, including court-supervised fiduciary accounting. ~~The three-~~
40 ~~year period begins on January 1 of the year following the judicial~~
41 ~~officer's completion of the education required in (b)(1) or, if he or she is~~
42 ~~exempt from that education, on January 1 of the year the assignment~~
43 ~~commenced after the effective date of this rule.~~

1
2 (3) ~~The first continuing education period for judicial officers who were regularly~~
3 ~~assigned to hear probate proceedings before the effective date of this rule and~~
4 ~~who continue in the assignment after that date is two years, from January 1,~~
5 ~~2008, through December 31, 2009, rather than three years. The continuing~~
6 ~~education requirements in (1) are prorated for the first continuing education~~
7 ~~period under this paragraph. The first full three-year period of continuing~~
8 ~~education for judicial officers under this paragraph begins on January 1,~~
9 ~~2010. The three-year education cycle begins on and runs concurrently with~~
10 ~~the dates specified in rule 10.462(d)(1).~~

11
12 (4)–(5) ***

13
14 (6) ~~A~~ Judicial officers may fulfill the education requirement in (1) or (2) through
15 council-sponsored education, an approved provider (~~see under rule~~
16 10.481(a)), or education approved by the judicial officer’s presiding judge as
17 meeting the education criteria specified in rule 10.481(b).

18
19 (7) The education required in (1) or (2) may be ~~by traditional (face to face)~~
20 instructor-led (live remote or in-person), asynchronous (such as videos and
21 eLearning), or self-directed study broadcasts, videoconferences, or online
22 coursework, but may not be by self-study.

23
24 (d)–(e) ***

25
26
27 **Rule 10.469. Judicial Education recommendations for justices, judges, and**
28 **subordinate judicial officers**

29
30 **(a) Judicial education recommendations generally**

31
32 ~~Each~~ Justices, judges, and subordinate judicial officers, as part of ~~his or her~~ their
33 continuing judicial education, should regularly participate in educational activities
34 related to ~~his or her~~ their responsibilities and particular judicial assignment or
35 assignments. Minimum education requirements and expectations related to judicial
36 responsibilities and assignments are ~~set forth~~ stated in rules 10.461–10.462.
37 Additional education requirements related to specific responsibilities are ~~set forth~~
38 stated in rule 10.463 (for those hearing family law matters), rule 10.464 (for those
39 hearing domestic violence issues), and rule 10.468 (for those hearing probate
40 proceedings). The following recommendations illustrate for some specific
41 responsibilities and assignments how justices, judges, and subordinate judicial
42 officers should participate in more judicial education than is required and expected.
43

1 **(b) Jury trial assignment**

2
3 ~~Each~~ Judges or subordinate judicial officers assigned to jury trials should regularly
4 ~~use refer to the Judicial Council CJER educational materials or other~~ appropriate
5 educational materials and should regularly complete ~~CJER or other~~ appropriate
6 educational programs devoted to the conduct of jury voir dire and the treatment of
7 jurors.
8

9 **(c) Hearing of juvenile dependency matters**

10
11 ~~Each~~ Judges or subordinate judicial officers who hears juvenile dependency
12 matters, including retired judges who sit on court assignment, should regularly ~~use~~
13 refer to appropriate educational materials and should annually complete appropriate
14 education programs on juvenile dependency law and procedure, consistent with the
15 requirements in Welfare and Institutions Code section 304.7.
16

17 **(d) Capital case assignment**

18
19 ~~Each~~ Judges assigned to hear a capital case should complete, before the
20 commencement of the trial, a comprehensive education program on California law
21 and procedure relevant to capital cases provided by ~~CJER~~ the Center for Judicial
22 Education and Research (CJER). A judge with a subsequent assignment to a capital
23 case should complete a periodic update course within two years before the
24 commencement of the trial. The periodic update may be provided through actual
25 classroom instruction or through ~~video, audio, or~~ any other media as determined by
26 CJER.
27

28 **(e) Fairness and access education**

29
30 (1) In order to achieve the objective of assisting judicial officers in preserving
31 the integrity and impartiality of the judicial system through the prevention of
32 bias, each justice, judge, and subordinate judicial officer should regularly
33 participate in education on fairness and access. The education should include
34 the following subjects: race and ethnicity; gender; sexual orientation; ~~and~~
35 persons with disabilities; persons with limited economic means; and persons
36 without stable housing.
37

38 (2) Each justice, judge, and subordinate judicial officer must participate in
39 education on unconscious bias, as well as the prevention of harassment,
40 discrimination, retaliation, and inappropriate workplace conduct. This
41 education must be taken at least once every three-year continuing education
42 ~~period~~ cycle as determined by rules 10.461(c)(1) and 10.462(d).
43

1
2 **Rule 10.471. Minimum education requirements for Supreme Court and Court of**
3 **Appeal ~~clerk/executive~~ clerk/executive officers**

4
5 (a) ***

6
7 (b) **Hours-based requirement**

8
9 (1) ~~Each clerk/executive~~ Clerk/executive officers must complete 30 hours of
10 continuing education every three years beginning on the following dates:

11
12 (A) For a new clerk/executive officers, the first three-year ~~period~~ cycle
13 begins on January 1 of the year following ~~his or her~~ their hire.

14
15 (B) For all other ~~clerk/executive~~ clerk/executive officers, the first three-
16 year ~~period~~ cycle begins on January 1, 2008.

17
18 (2) The following education applies toward the required 30 hours of continuing
19 education:

20
21 (A) Any education offered by an approved provider (~~see under rule~~
22 10.481(a)) and any other education, ~~including education taken to satisfy~~
23 ~~a statutory or other education requirement~~, approved by the Chief
24 Justice or the administrative presiding justice as meeting the criteria
25 listed in rule 10.481(b).

26
27 (B) Each hour of participation in ~~traditional (live, face-to-face) education;~~
28 ~~distance education such as broadcasts, videoconferences, and online~~
29 ~~coursework; faculty service; education by an approved provider under~~
30 rule 10.481, including education that is instructor-led (live remote or
31 in-person), asynchronous (such as videos and eLearning), and self-
32 directed study, counts toward the continuing education requirement on
33 an hour-for-hour basis. ~~Each clerk/executive officer must complete at~~
34 ~~least half of his or her continuing education hours requirement as a~~
35 ~~participant in traditional (live, face-to-face) education. The~~
36 ~~clerk/executive officer may complete the balance of his or her~~
37 ~~education hours requirement through any other means with no~~
38 ~~limitation on any particular type of education. The Chief Justice or the~~
39 administrative presiding justice has discretion to determine the number
40 of hours, if any, of instructor-led (live remote or in-person) education
41 required to meet the continuing education requirement.
42

1 (C) A clerk/executive officer who serves as faculty by teaching legal or
2 judicial education to a legal or judicial audience may apply education
3 hours as faculty service. There is no restriction on the number or
4 percentage of hours that a clerk/executive officer may claim as faculty
5 service. Credit for faculty service counts toward the continuing
6 education requirement on an hour-for-hour basis in the same manner as
7 all other types of education—~~on an hour-for-hour basis.~~

8
9 **(c) Extension of time**

- 10
11 (1) Upon request and for good cause, the Chief Justice or the administrative
12 presiding justice may grant a one-year extension of time a clerk/executive
13 officer an extension of time, up to one year, to complete the education
14 requirements in (b).
15
16 (2) If the Chief Justice or the administrative presiding justice grants a request for
17 an extension of time, the Chief Justice or the administrative presiding justice
18 and the clerk/executive officer, in consultation with the Chief Justice or the
19 administrative presiding justice, must also pursue interim means of obtaining
20 relevant educational content.
21
22 (3) ***

23
24 **(d) Record of participation; statement of completion**

25
26 ~~Each~~ Clerk/executive officers ~~is~~ are responsible for:

- 27
28 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
29 of participation for three years after each course or activity that is applied
30 toward the requirements;
31
32 (2) At the end of each year, giving the Chief Justice or the administrative
33 presiding justice a copy of ~~his or her~~ their record of participation in education
34 for that year; and
35
36 (3) At the end of each three-year period, giving the Chief Justice or the
37 administrative presiding justice a signed statement of completion for that
38 three-year period.
39
40

41 **Rule 10.472. Minimum education requirements for Supreme Court and Court of**
42 **Appeal managing attorneys, supervisors, and other personnel**
43

1 (a) ***

2
3 (b) **Content-based requirements**

4
5 (1) Each new managing attorney or supervisor must complete orientation courses
6 within ~~six months~~ one year of becoming a managing attorney or supervisor,
7 unless the individual's supervisor determines that the new managing attorney
8 or supervisor has already completed these orientation courses or courses
9 covering equivalent content. The courses must include orientation about:

10
11 (A) The judicial branch of California;

12
13 (B) The local court; and

14
15 (C) Basic management and supervision.

16
17 (2) Each new court employee who is not a managing attorney or supervisor must
18 complete orientation courses within ~~six months~~ one year of becoming a court
19 employee, unless the employee's supervisor determines that the new court
20 employee has already completed these orientation courses or courses
21 covering equivalent content. The courses must include orientation about:

22
23 (A) The judicial branch of California;

24
25 (B) The local court;

26
27 (C) Basic employee issues, such as sexual harassment and safety; and

28
29 (D) The employee's specific job.

30
31 (3) ***

32
33 (c) **Hours-based requirements**

34
35 (1)–(2) ***

36
37 (3) The ~~first~~ two-year ~~period~~ education cycle for all managing attorneys,
38 supervisors, and other personnel begins on January 1, ~~2008~~ of each even-
39 numbered year. The orientation education required for new managing
40 attorneys, supervisors, and other personnel under (b) ~~does not apply~~ applies
41 toward the required hours of continuing education ~~because it must be~~
42 ~~completed before they enter the two-year period~~. Each New managing
43 attorneys, supervisors, or employees enters the two-year continuing education

1 ~~period cycle on the first day of the quarter following his or her completion of~~
2 ~~the orientation education required under (b); the quarters begin on January 1,~~
3 ~~April 1, July 1, and October 1. Each managing attorney, supervisor, or~~
4 ~~employee who enters the two-year continuing education period after it has~~
5 ~~begun their first day of employment and must complete a prorated number of~~
6 ~~continuing education hours for that two-year period education cycle, based on~~
7 ~~the number of quarters remaining in it.~~
8

9 (4) Any education offered by an approved provider ~~(see under rule 10.481(a))~~
10 ~~and any other education, including education taken to satisfy a statutory,~~
11 ~~rules-based, or other education requirement, that is approved by the~~
12 ~~clerk/executive officer, the managing attorney, or the employee's supervisor~~
13 ~~as meeting the criteria listed in rule 10.481(b) applies toward the orientation~~
14 ~~education required under (b) and the continuing education required under~~
15 ~~(c)(1) and (2).~~
16

17 (5) Each hour of participation in ~~traditional (live, face-to-face) education;~~
18 ~~distance education such as broadcasts, videoconferences, online coursework;~~
19 ~~and faculty service education by an approved provider under rule 10.481,~~
20 ~~including education that is instructor-led (live remote or in-person),~~
21 ~~asynchronous (such as videos and eLearning), and self-directed study~~
22 ~~approved in advance by the supervisor of the managing attorney, supervisor,~~
23 ~~appellate judicial attorney, or other employee, counts toward the continuing~~
24 ~~education requirement on an hour-for-hour basis. Each managing attorney,~~
25 ~~supervisor, and other employee must complete at least half of his or her~~
26 ~~continuing education hours requirement as a participant in traditional (live,~~
27 ~~face-to-face) education. The managing attorney, supervisor, or other~~
28 ~~employee may complete the balance of his or her education hours~~
29 ~~requirement through any other means with no limitation on any particular~~
30 ~~type of education. Self-directed study is encouraged for professional~~
31 ~~development but does not apply toward the required hours. The~~
32 ~~administrative presiding justice or the clerk/executive officer has discretion to~~
33 ~~determine the number of hours, if any, of instructor-led (live remote or in-~~
34 ~~person) education required to meet the continuing education requirement.~~
35

36 (6) A managing attorney, supervisor, appellate judicial attorney, or other
37 employee who serves as faculty by teaching legal or judicial education for a
38 legal or judicial audience may apply education hours for the faculty service.
39 There is no restriction on the number or percentage of hours that a managing
40 attorney, supervisor, appellate judicial attorney, or other employee may claim
41 as faculty service. Credit for faculty service counts toward the continuing
42 education requirement on an hour-for-hour basis in the same manner as all
43 other types of education—~~on an hour-for-hour basis.~~

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(7) The administrative presiding justice or the clerk/executive officer,~~the managing attorney, or the employee’s supervisor~~ may require supervisors and other court personnel to participate in specific courses or to participate in education in a specific subject matter area as part of their continuing education.

(d) Extension of time

(1) Upon request and for good cause, the administrative presiding justice, a justice (for that justice’s chambers staff), the managing attorney, or the clerk/executive officer,~~or a supervisor, if delegated by the clerk/executive officer, or the employee’s supervisor~~ may grant a ~~six-month extension of time~~ an extension, up to one year, to complete the education requirements in this rule.

(2) If the administrative presiding justice, the justice, managing attorney, or the clerk/executive officer ~~or supervisor~~ grants a request for an extension of time, the administrative presiding justice, the justice, or the clerk/executive officer and the managing attorney, supervisor, or employee who made the request,~~in consultation with the justice, managing attorney, clerk/executive officer, or supervisor~~, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the next two-year ~~period~~ education cycle.

(e) Records of participation

(1) ***

(2) ~~Each~~ Managing attorneys, supervisors, and employees must keep records of ~~his or her~~ their own participation for two years after each course or activity that is applied toward the requirements.

Rule 10.473. Minimum education requirements for trial court executive officers

(a) ***

(b) Content-based requirement

1 (1) ~~Each New executive officers~~ must complete the ~~Presiding Judges Orientation~~
2 ~~and Court Management Program~~ presiding judge and court executive officer
3 orientation program provided by the Judicial Council’s Center for Judiciary
4 Education and Research (CJER) within one year of becoming an executive
5 officer and should participate in additional education during the first year.

6
7 (2) ~~Each Executive officers~~ should participate in CJER’s ~~Presiding Judges~~
8 ~~Orientation and Court Management Program~~ presiding judge and court
9 executive officer orientation program each time a new presiding judge from
10 ~~his or her~~ their court participates in the course and each time the executive
11 officer becomes the executive officer in a different court.

12
13 (c) **Hours-based requirement**

14
15 (1) ***

16
17 (2) For a new executive officer, the first three-year ~~period~~ education cycle begins
18 on January 1 of the year following the period provided for completion of the
19 required education for new executive officers.

20
21 (3) The following education applies toward the required 30 hours of continuing
22 education:

23
24 (A) Any education offered by an approved provider (~~see under rule~~
25 10.481(a)) and any other education, ~~including education taken to satisfy~~
26 ~~a statutory or other education requirement~~, approved by the presiding
27 judge as meeting the criteria listed in rule 10.481(b).

28
29 (B) Each hour of participation in ~~traditional (live, face-to-face) education;~~
30 ~~distance education such as broadcasts, videoconferences, and online~~
31 ~~coursework; self-directed study; and faculty service~~ education by an
32 approved provider under rule 10.481, including education that is
33 instructor-led (live remote or in-person), asynchronous (such as videos
34 and eLearning), and self-directed study, counts toward the continuing
35 education requirement on an hour-for-hour basis. The presiding judge
36 has discretion to determine the number of hours, if any, of ~~traditional~~
37 ~~(live, face-to-face)~~ instructor-led (live remote or in-person) education
38 required to meet the continuing education requirement.

39
40 (C) A court executive officer who serves as faculty by teaching legal or
41 judicial education to a legal or judicial audience may apply education
42 hours as faculty service. There is no restriction on the number or
43 percentage of hours that a court executive officer may claim as faculty

1 service. Credit for faculty service counts toward the continuing
2 education requirement on an hour-for-hour basis in the same manner as
3 all other types of education—~~on an hour-for-hour basis.~~
4

5 **(d) Extension of time**

- 6
- 7 (1) Upon request and for good cause, a presiding judge may grant ~~a one-year~~
8 ~~extension of time~~ an extension, up to one year, to complete the education
9 requirements in ~~(b) and (c)~~ this rule.
- 10
- 11 (2) If the presiding judge grants a request for an extension of time, the presiding
12 judge and the executive officer, ~~in consultation with the presiding judge,~~ must
13 ~~also~~ pursue interim means of obtaining relevant educational content.
- 14
- 15 (3) ***
- 16

17 **(e) Record of participation; statement of completion**

18 ~~Each~~ Executive officers ~~is~~ are responsible for:

- 19
- 20
- 21 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
22 of participation for three years after each course or activity that is applied
23 toward the requirements;
- 24
- 25 (2) At the end of each year, giving the presiding judge a copy of ~~his or her~~ their
26 record of participation in education for that year; and
- 27
- 28 (3) ***
- 29

30

31 **Rule 10.474. Trial court managers, supervisors, and other personnel**

32

33 **(a) *****

34

35 **(b) Content-based requirements**

- 36
- 37 (1) Each new manager or supervisor must complete orientation courses within
38 ~~six months~~ one year of becoming a manager or supervisor, unless the court's
39 executive officer determines that the new manager or supervisor has already
40 completed these orientation courses or courses covering equivalent content.
41 The courses must include orientation about:

- 42
- 43 (A) The judicial branch of California;

1
2 (B) The local court; and

3
4 (C) Basic management and supervision.

5
6 (2) Each new court employee who is not a manager or supervisor must complete
7 orientation courses within ~~six months~~ one year of becoming a court
8 employee, unless the employee's supervisor determines that the new court
9 employee has already completed these orientation courses or courses
10 covering equivalent content. The courses must include orientation about:

11
12 (A) The judicial branch of California;

13
14 (B) The local court; ~~and~~

15
16 (C) Basic employee issues, such as sexual harassment and safety; and

17
18 (D) The employee's specific job.

19
20 (3) ***

21
22 **(c) Hours-based requirements**

23
24 (1)-(2) ***

25
26 (3) The two-year cycle for all managers, supervisors, and other personnel begins
27 on January 1 of each odd-numbered year. The orientation education required
28 for new managers, supervisors, and other personnel under (b) ~~does not apply~~
29 applies toward the required hours of continuing education ~~because it must be~~
30 ~~completed before they enter the two-year period.~~ Each new manager,
31 supervisor, or employee enters the two-year continuing education period on
32 the first day of the quarter following his or her completion of the orientation
33 education required under (b); the quarters begin on January 1, April 1, July 1,
34 and October 1. Each manager, supervisor, or employee who enters the two-
35 year continuing education period after it has begun New managers,
36 supervisors, or employees enter the two-year continuing education cycle on
37 their first day of employment and must complete a prorated number of
38 continuing education hours for that two-year education cycle period, based on
39 the number of quarters remaining in it.

40
41 (4) Any education offered by an approved provider (see under rule 10.481(a))
42 and any other education, ~~including education taken to satisfy a statutory,~~
43 ~~rules-based, or other education requirement,~~ that is approved by the executive

1 officer or the employee’s supervisor as meeting the criteria listed in rule
2 10.481(b) applies toward the ~~orientation~~ education required under (b) ~~and the~~
3 ~~continuing education required under (c)(1) and (2) this rule.~~

4
5 (5) Each hour of participation in ~~traditional (live, face-to-face) education;~~
6 ~~distance education such as broadcasts, videoconferences, online coursework;~~
7 ~~and faculty service~~ education by an approved provider under rule 10.481,
8 including education that is instructor-led (live remote or in-person),
9 asynchronous (such as videos and eLearning), and self-directed study
10 approved in advance by the direct supervisor of the manager, supervisor, or
11 court employee, counts toward the continuing education requirement on an
12 hour-for-hour basis. The court executive officer has discretion to determine
13 the number of hours, if any, of traditional (live, face-to-face) instructor-led
14 (live remote or in-person) education required to meet the continuing
15 education requirement. Self-directed study is encouraged for professional
16 development but does not apply toward the required hours.

17
18 (6) A manager, supervisor, or employee who serves as faculty by teaching legal
19 or judicial education to a legal or judicial audience may apply education
20 hours as faculty service. There is no restriction on the number or percentage
21 of hours that a manager, supervisor, or employee may claim as faculty
22 service. Credit for faculty service counts toward the continuing education
23 requirement on an hour-for-hour basis in the same manner as all other types
24 of education—on an hour-for-hour basis.

25
26 (7) The court executive officer may require managers, supervisors, and other
27 court personnel to participate in specific courses or to participate in education
28 in a specific subject matter area as part of their continuing education.
29

30 **(d) Extension of time**

31
32 (1) Upon request and for good cause, the executive officer may grant a one-year
33 extension of time an extension, up to one year, to complete the education
34 requirements in this rule. If an extension is granted, the subsequent two-year
35 compliance period begins immediately after the extended compliance period
36 ends, unless otherwise determined by the executive officer.

37
38 (2) If the executive officer grants a request for an extension of time, the
39 executive officer and the manager, supervisor, or employee who made the
40 request, in consultation with the executive officer, must also pursue interim
41 means of obtaining relevant educational content.
42

1 (3) An extension of time to complete the hours-based requirement does not affect
2 the timing of the next two-year education cycle.

3
4 **(e) Records of participation**

5
6 (1) ***

7
8 (2) ~~Each Managers, supervisors, and employees~~ must keep records of ~~his or her~~
9 their own participation for two years after each course or activity that is
10 applied toward the requirements.

11
12
13 **Rule 10.478. Content-based and hours-based education for court investigators,**
14 **probate attorneys, and probate examiners**

15
16 **(a) Definitions**

17
18 As used in this rule, the following terms have the meanings specified below, unless
19 the context or subject matter otherwise require:

20
21 (1)–(4) ***

22
23 (5) ~~“CJER” is the Judicial Council’s Center for Judicial Education and Research.~~

24
25 **(b) Content-based requirements for court investigators**

26
27 (1) ~~Each Court investigators~~ must complete ~~18~~ 12 hours of education within one
28 year of ~~his or her~~ their start date after January 1, 2008 ~~the effective date of~~
29 this rule. The education must include the following general topics:

30
31 (A)–(F) ***

32
33 (2)–(3) ***

34
35 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
36 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
37 ~~but may not be by self-study.~~ Each hour of participation in education by an
38 approved provider under rule 10.481, including education that is instructor-
39 led (live remote or in-person), asynchronous (such as videos and eLearning),
40 and self-directed study approved in advance by the court executive officer or
41 the court investigator’s supervisor, counts toward the continuing education
42 requirement in (1) on an hour-for-hour basis.

1 (c) **Content-based education for probate attorneys**

2
3 (1) ~~Each~~ Probate attorneys must complete ~~48~~ 12 hours of education within six
4 months of ~~his or her~~ their start date after January 1, 2008, in probate-related
5 topics, including guardianships, conservatorships, and court-supervised
6 fiduciary accounting.

7
8 (2)–(3) ***

9
10 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
11 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
12 ~~but may not be by self-study. Each hour of participation in education by an~~
13 ~~approved provider under rule 10.481, including education that is instructor-~~
14 ~~led (live remote or in-person), asynchronous (such as videos and eLearning),~~
15 ~~and self-directed study approved in advance by the court executive officer or~~
16 ~~the probate attorney’s supervisor, counts toward the continuing education~~
17 ~~requirement in (1) on an hour-for-hour basis.~~

18
19 (d) **Content-based education for probate examiners**

20
21 (1) ~~Each~~ Probate examiners must complete ~~30~~ 20 hours of education within one
22 year of ~~his or her~~ their start date after January 1, 2008, in probate-related
23 topics, of which ~~48~~ 12 hours must be in guardianships and conservatorships,
24 including court-appointed fiduciary accounting.

25
26 (2)–(3) ***

27
28 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
29 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
30 ~~but may not be by self-study. Each hour of participation in education by an~~
31 ~~approved provider under rule 10.481, including education that is instructor-~~
32 ~~led (live remote or in-person), asynchronous (such as videos and eLearning),~~
33 ~~and self-directed study approved in advance by the court executive officer or~~
34 ~~the probate examiner’s supervisor, counts toward the continuing education~~
35 ~~requirement in (1) on an hour-for-hour basis.~~

36
37 (e) **Hours-based education for court investigators**

38
39 (1) Each court investigator must complete 12 hours of continuing education on
40 some or all of the general topics listed in (b)(1) each ~~calendar year~~ two-year
41 education cycle. ~~For court investigators employed by or performing services~~
42 ~~under contract with the court before the effective date of this rule, the first~~
43 ~~calendar year the education is required begins on January 1, 2008. For court~~

1 ~~investigators who begin their employment or performance of services under~~
2 ~~contract with the court after the effective date of this rule, the first year this~~
3 ~~education is required begins on January 1 of the year immediately following~~
4 ~~completion of the education required in (b). The education cycle is~~
5 ~~determined in the same manner as in rule 10.474(c)(3).~~

6
7 (2)–(3) ***

8
9 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
10 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
11 ~~but may not be by self-study. Each hour of participation in education by an~~
12 ~~approved provider under rule 10.481, including education that is instructor-~~
13 ~~led (live remote or in-person), asynchronous (such as videos and eLearning),~~
14 ~~and self-directed study approved in advance by the court executive officer or~~
15 ~~the court investigator’s supervisor, counts toward the continuing education~~
16 ~~requirement in (1) on an hour-for-hour basis.~~

17
18 **(f) Hours-based education for probate attorneys**

19
20 (1) ~~Each probate attorney must complete 12 hours of continuing education each~~
21 ~~calendar year two-year education cycle in probate-related subjects, of which~~
22 ~~six hours per year must be in guardianships and conservatorships, including~~
23 ~~court-supervised fiduciary accounting. For probate attorneys employed by or~~
24 ~~performing services under contract with the court before the effective date of~~
25 ~~this rule, the first calendar year the education is required begins on January 1,~~
26 ~~2008. For probate attorneys who begin their employment with the court after~~
27 ~~the effective date of this rule, the first year this education is required begins~~
28 ~~on January 1 of the year immediately following completion of the education~~
29 ~~required in (e). The education cycle is determined in the same manner as in~~
30 ~~rule 10.474(c)(3).~~

31
32 (2)–(3) ***

33
34 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
35 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
36 ~~but may not be by self-study. Each hour of participation in education by an~~
37 ~~approved provider under rule 10.481, including education that is instructor-~~
38 ~~led (live remote or in-person), asynchronous (such as videos and eLearning),~~
39 ~~and self-directed study approved in advance by the court executive officer or~~
40 ~~the probate attorney’s supervisor, counts toward the continuing education~~
41 ~~requirement in (1) on an hour-for-hour basis.~~

1 **(g) Hours-based education for probate examiners**

2
3 (1) Each probate examiner must complete 12 hours of continuing education each
4 ~~calendar year~~ two-year education cycle in probate-related subjects, of which
5 six hours per year must be in guardianships and conservatorships, including
6 court-appointed fiduciary accounting. ~~For probate examiners employed by~~
7 ~~the court before the effective date of this rule, the first calendar year the~~
8 ~~education is required begins on January 1, 2008. For probate examiners who~~
9 ~~begin their employment with the court after the effective date of this rule, the~~
10 ~~first year this education is required begins on January 1 of the year~~
11 ~~immediately following completion of the education required in (d). The~~
12 ~~education cycle is determined in the same manner as in rule 10.474(c)(3).~~

13
14 (2)–(3) ***

15
16 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
17 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
18 ~~but may not be by self-study. Each hour of participation in education by an~~
19 ~~approved provider under rule 10.481, including education that is instructor-~~
20 ~~led (live remote or in-person), asynchronous (such as videos and eLearning),~~
21 ~~and self-directed study approved in advance by the court executive officer or~~
22 ~~the probate examiner’s supervisor, counts toward the continuing education~~
23 ~~requirement in (1) on an hour-for-hour basis.~~

24
25 **(h)–(i) *****

26
27
28 **Rule 10.479. Education recommendations for appellate and trial court personnel**

29
30 **(a) Education recommendations generally**

31
32 ~~Each~~ Appellate and trial court executive or administrative officers, managers,
33 supervisors, and other employees, as part of his or her their continuing education,
34 should regularly participate in educational activities related to ~~his or her~~ their
35 responsibilities. Minimum education requirements for court personnel are ~~set forth~~
36 stated in rules 10.471–10.474. The following recommendations illustrate ~~for some~~
37 ~~specific responsibilities~~ how executive and administrative officers, managers,
38 supervisors, and other personnel should participate in more education than is
39 required for some specific responsibilities.

40
41 **(b) Education on treatment of jurors**

1 The presiding judge of each trial court should ensure that all court executives and
2 all court employees who interact with jurors are properly trained in the appropriate
3 treatment of jurors. Court executives and jury staff employees should regularly ~~use~~
4 ~~refer to CJER educational materials or other~~ appropriate educational materials and
5 should regularly ~~participate in complete CJER programs or other~~ appropriate
6 educational programs devoted to the treatment of jurors.

7
8 **(c) Fairness and access education**

9
10 In order to achieve the objective of assisting court employees in preserving the
11 integrity and impartiality of the judicial system through the prevention of bias, all
12 court ~~personnel~~ executives and all court employees should regularly participate in
13 education on fairness and access. The education should include instruction on the
14 following subjects: race and ethnicity;_; gender;_; sexual orientation;_; persons with
15 disabilities;_; ~~and~~ sexual harassment; persons with limited economic means; and
16 persons without stable housing.

17
18 **(d) Education on quality service to court users**

19
20 All court employees who regularly interact with members of the public should
21 ~~regularly~~ participate in education covering appropriate skills and conduct for
22 working with court ~~customers~~ users ~~offered locally or by the Judicial Council~~
23 ~~through CJER.~~

24
25
26 **Rule 10.481. Approved providers; approved course criteria**

27
28 **(a) Approved providers**

29
30 The Judicial Council’s Center for Judicial Education and Research (CJER) is
31 responsible for maintaining a current list of approved providers. The list of
32 approved providers must include the Judicial Council, the California Judges
33 Association, and all California state courts. The list ~~and~~ should also include other
34 reputable national and state organizations that regularly offer education directed to
35 justices, judges, and court personnel. The director of CJER may add or remove
36 organizations from the list of approved providers as appropriate according to ~~these~~
37 the criteria contained in (b). Any education program offered by any of the approved
38 providers that is relevant to the work of the courts or enhances the ~~individual~~
39 participant’s participants’ ability to perform ~~his or her~~ their jobs may be applied
40 toward the education requirements and expectations stated in rules 10.461–10.479,
41 except for the requirements stated in the rules 10.461(b), 10.462(e), and 10.473(b),
42 ~~for that require a specific provider or providers are required.~~

1 **(b) Approved education criteria**

2
3 Education is not limited to the approved providers referred to in (a). Any education
4 from another provider that is approved by the Chief Justice, the administrative
5 presiding justice, or the presiding judge as meeting the criteria listed below may be
6 applied toward the continuing education expectations and requirements for justices,
7 judges, ~~and subordinate judicial officers,~~ ~~or requirements for clerks/executive~~
8 clerk/executive officers, or court executive officers. Similarly, any education from
9 another provider that is approved by the clerk/executive officer, the court executive
10 officer, or the employee’s supervisor as meeting the criteria listed below may be
11 applied toward the orientation or continuing education requirements for managers,
12 supervisors, and other employees or the content-based or hours-based continuing
13 education requirements for probate court investigators, probate attorneys, and
14 probate examiners in rule 10.478.

15
16 (1) The education must meet the following ~~three~~ two criteria:

17
18 (A) The subject matter is relevant to the work of the courts or the judicial
19 branch; and

20
21 ~~(B) The education is at least one hour in length; and~~

22
23 ~~(C)~~(B) Anticipated learning outcomes (how new knowledge, skills, or
24 abilities will be applied, demonstrated, or used) are identified prior to
25 the education work.

26
27 (2) The education must also meet at least two of the following five criteria:

28
29 (A)–(D) ***

30
31 (E) An assessment tool or activity (such as the development of an action
32 plan to apply the newly gained knowledge or skill) enables the
33 participants to determine whether the skills, abilities, or knowledge
34 gained through the education can be used in the future in ~~his or her~~
35 their work.

36
37 **Advisory Committee Comment**

38
39 **Subdivision (b).** The director of CJER or their designee is available to assist those authorized to
40 approve a request to apply education offered by a non-approved provider in determining whether
41 the education meets the listed criteria.

1 **Rule 10.491. Minimum education requirements for Judicial Council employees**

2
3 (a) ***

4
5 (b) **Education requirements for new employees and new managers and**
6 **supervisors**

7
8 (1) Each new employee with supervisory or management responsibilities must
9 complete the new manager/supervisor orientation within six months of being
10 hired or appointed ~~or as soon as possible after being hired or appointed.~~

11
12 (2) Each new employee, including those with supervisory or management
13 responsibilities, must complete the new employee orientation within six
14 months of being hired ~~or as soon as possible after being hired.~~

15
16 (3) For good cause, the Administrative Director or the employee's office director
17 may grant an extension, up to six months, to complete the education
18 requirements in (1) and (2).

19
20 ~~(3)~~(4) Completion of the orientation courses counts toward the education hours
21 requirement in (c).

22
23 (c) **Continuing education requirements**

24
25 (1)-(2) ***

26
27 (3) The Administrative Director may require management or employees to
28 complete specific compliance courses ~~or specific courses for management.~~
29 This compliance education applies toward the continuing education
30 requirement in (c)(1) on an hour-for-hour basis.

31
32 (4) ***

33
34 ~~(5) Continuing education may be live (face-to-face) or distance education, such~~
35 ~~as webinars, videoconferencing, online courses, and broadcasts. Each hour of~~
36 ~~participation in education by an approved provider under rule 10.481,~~
37 ~~including education that is instructor-led (live remote or in-person),~~
38 ~~asynchronous (such as videos and eLearning), and self-directed study~~
39 ~~approved in advance by an employee's supervisor, counts toward the~~
40 ~~continuing education requirement on an hour-for-hour basis.~~

41
42 (6) ***

1
2 **Rule 10.493. Instructor-led training [Repealed]**

3
4 **(a) — Definition**

5
6 ~~“Instructor-led training” means synchronous education, guided by faculty, that~~
7 ~~allows for real-time communication between faculty and participants and is offered~~
8 ~~by an approved provider under rule 10.481. Examples of instructor-led training~~
9 ~~include in-person trainings in a classroom setting, live webinars, and live~~
10 ~~videoconferences.~~

11
12 **(b) — Application**

13
14 ~~Notwithstanding any other rule, instructor-led training may be used to satisfy all~~
15 ~~continuing education requirements specified in the California Rules of Court that~~
16 ~~require traditional (live, face-to-face) education. This provision applies whether the~~
17 ~~requirement relates to a specific course or to a certain percentage or number of~~
18 ~~hours of education.~~

19
20 **~~Advisory Committee Comment~~**

21
22 ~~This rule is intended to eliminate within the California Rules of Court any restriction that requires~~
23 ~~that a specific course or a certain number or percentage of hours of education be taken in a~~
24 ~~traditional (live, face-to-face) learning environment. This rule applies whether the education is~~
25 ~~described as “traditional (live, face-to-face),” “live (face-to-face),” “in person,” or any~~
26 ~~combination of these terms.~~

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/30/2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Criminal Procedure: Criminal Protective Orders

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms CR-160 and CR-161

Committee or other entity submitting the proposal:
 Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-ihn@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): 11/2/2021

Project description from annual agenda: Revise mandatory forms - Criminal Protective Order – Domestic Violence (form CR-160), Criminal Protective Order – Other Than Domestic Violence (form CR-161), and Order to Surrender Firearms in Domestic Violence Case (form CR-162)

The committee will consider amendments to 1) increase accessibility of the forms, 2) change references to the sex of the restrained person to gender, and consider a nonbinary gender option; 3) add additional identification data fields for protected persons; 4) add additional identification data fields for animals granted to the protected person for care, possession, and control; 5) reflect current law, including the requirement to prioritize enforcement of protective orders in pending cases involving specified sex offenses and offenses requiring sex offender registration (AB 1498 (Stats. 2014, ch. 665)), further defining “coercive control” (SB 1141 (Stats. 2020, ch. 245)), and clarifying firearm storage requirements (Family Code section 6389 and Code of Civil Procedure section 527.9); and 6) incorporate language similar to the civil domestic violence restraining orders to promote consistency.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR22-08

Title	Action Requested
Criminal Procedure: Criminal Protective Orders	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms CR-160 and CR-161	January 1, 2023
Proposed by	Contact
Criminal Law Advisory Committee Hon. Brian. M. Hoffstadt, Chair	Sarah Fleischer-Ihn, 415-865-7702 sarah.fleischer-ihn@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee recommends revisions to two mandatory Judicial Council criminal protective orders to (1) increase readability through design changes and the use of clearer language; (2) reflect changes to Family Code section 6320; (3) be consistent with the fields in the California Restraining and Protective Order System (CARPOS) database; (4) change references to “sex” to “gender,” and include a gender nonbinary option; (5) replace the three-year expiration default; (6) include prohibitions on firearm precursor parts; (7) clarify the scope of specified provisions; (8) add a limited contact option to reflect Penal Code section 136.2(a)(1)(G)(i); (9) revise warnings and notices; (10) add a new law enforcement instruction section; (11) add a provision for the court to indicate that it finds that the victim’s family members have been targeted or harmed by the defendant (for postconviction orders issued under Penal Code section 136.2(i)(1)); (12) add a provision for the court to indicate that it finds that a percipient witness has been harassed by the defendant (for postconviction orders issued under Penal Code¹ section 136.2(i)(2)); (13) delete the ammunition prohibition on form CR-161; (14) delete the provision on recording of prohibited communications on form CR-161; and (15) delete the federal punishment reference on form CR-161.

Background

Forms CR-160 and CR-161 are mandatory Judicial Council forms used to provide protective orders in criminal cases. *Criminal Protective Order—Domestic Violence* (form CR-160) was first introduced as an optional municipal court criminal protective order form in 1998. The order has

¹ All further statutory references are to the Penal Code unless otherwise specified.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

been revised several times to reflect statutory changes and to add warnings and notices for both defendants and law enforcement.

In 2007, *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) was spun off from form CR-160 based on concern from the Attorney General’s task force on domestic violence cases that including all types of criminal protective orders on one form resulted in domestic violence orders not being properly entered into the relevant domestic violence registries and databases.

The Proposal

The proposal would revise the two criminal protective order forms in several ways, to make them easier to read and enforce and to more precisely reflect current law. The specific changes proposed and why are described below.

Reasons changes are needed

User friendliness and clear language

The committee recommends improving the accessibility of the forms by increasing readability, reorganizing and categorizing content, eliminating unnecessary repetition and simplifying language whenever possible. The revisions would also make the forms more consistent with *Restraining Order After Hearing* (form DV-130), the civil domestic violence protective order, and other civil protective orders as appropriate.

In 2003, civil domestic violence protective order forms from the Judicial Council shifted to a plain language format as part of an effort to facilitate access to and understanding of the court process. The Judicial Council approved a new format recommended by the Family and Juvenile Law Advisory Committee, which had redesigned the forms with support from a literacy expert, worked extensively with interested groups, and tested the forms with self-represented litigants to elicit further feedback.

The Criminal Law Advisory Committee has not recommended that forms CR-160 and CR-161 undergo the same shift to the council’s plain language format, likely because criminal protective orders do not involve self-represented litigants to the same extent as in the civil context. However, the defendant may be subject to certain protective order conditions for up to 10 years, when they are no longer represented by counsel but nevertheless may be charged with a probation violation or have new charges filed for violation of a protective order. Protected persons may also receive and rely on copies of the protective order. For these reasons, the committee is recommending revising the text and formatting of the forms to include simpler language, and more titles and instructions to make them easier to understand.

Family Code section 6320

The forms include a section on actions that the defendant is enjoined from based on Family Code section 6320. The committee recommends revising form CR-160 to incorporate changes to

section 6320 by Senate Bill 1141 (Stats. 2020, ch. 248), which added a new subdivision defining “disturbing the peace of the other party” and “coercive control” in domestic violence situations; and to revise both forms to incorporate changes to Family Code section 6320 by Assembly Bill 157 (Stats. 2013, ch. 260) to enjoin the defendant from impersonating the protected person.

The committee also recommends including additional language, consistent with the civil domestic violence protective order forms and Family Code section 6320, by adding hitting and annoying by phone or through other electronic means as enjoined activities.

Gender-neutral pronouns

The Council’s Rules Committee has directed advisory committees, in revising all Judicial Council rules and forms, to use gender-neutral pronouns where legally possible and include a nonbinary option for gender identity questions. Accordingly, the committee recommends changing references to “sex” on the protective orders to “gender” and including a nonbinary gender option.

Consistency with CARPOS

The committee recommends several changes to the form fields so that they are consistent with the data fields in the California Restraining and Protective Order System (CARPOS), and to denote when a field is mandatory in CARPOS.

Default expiration dates

The orders currently state: “This order expires on (*date*):_____ . If no date is listed, this order expires three years from date of issuance.” The committee recommends deleting the three-year expiration default, as it appears overbroad as it relates to pretrial orders, which should terminate upon sentence or dismissal (see *People v. Stone* (2004) 123 Cal.App.4th 153, 160 [order must be “limited to the pendency of the criminal proceeding”]). The committee recommends a revision to clarify that if no date is listed, the order remains in effect until there is a sentence or termination of the protective order.

Firearm precursor parts

The committee recommends adding language to both forms addressing the prohibition to firearm precursor parts under section 30405(a)(1), effective July 1, 2022. Section 30405(a)(1) prohibits a person prohibited from owning or possessing a firearm under specified Penal Code sections from owning, possessing, or having custody or control of a firearm precursor part. A person subject to a protective order under section 136.2 and persons convicted of any felony or specified misdemeanors are prohibited from having firearm precursor parts under the new law.

Limited scope of specified provisions

The committee recommends adding a note to two existing provisions on the forms to specify that they only apply when the protective order is issued pretrial under section 136.2(a)(1) or to any order issued under section 136.2:

The defendant must not attempt to or actually prevent or dissuade any victim or

witness from attending a hearing or testifying or making a report to any law enforcement agency or person (for pretrial orders issued under Penal Code section 136.2(a)(1)).

The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise (for orders issued under Penal Code section 136.2).

No-contact order in case involving violent crime

The committee recommends adding an option for the court to issue a limited no-contact order pursuant to section 136.2(a)(1)(G)(iv), which states that a court may order the defendant to have no contact with the intent to annoy, harass, threaten, or commit acts of violence against a victim or witness of violent crime.

Revise warnings and notices

The warnings and notices section of the forms include some provisions addressed to defendants and others for law enforcement, without differentiating between the two. Some of the warnings and notices are also redundant to information already contained in the order. The committee recommends incorporating warnings and notices geared toward the defendant into the section of the form containing the order itself, and creating a new notice section geared toward law enforcement, discussed below.

Instructions for Law Enforcement section

This new section would incorporate three sections currently in the warnings and notices section on page 2: Start Date and End Date of Order, Enforcing this Order in California, and Conflicting Orders: Priorities for Enforcement, with revisions to mirror the plain language and other aspects of the civil domestic violence protective order.

Section 136.2(e)(2) prioritizes enforcement of criminal protective orders in pending cases for domestic violence offenses, specified sex offenses, and offenses requiring sex offender registration over a civil protective order against the same defendant. The specified sex offenses and offenses requiring sex offender registration were added as priorities in Assembly Bill 1498 (Stats. 2014, ch. 665), but the advisement on conflicting orders does not currently reflect this. Further, Assembly Bill 1171 (Stats. 2021, ch. 626) repealed section 262 on spousal rape and amended 136.2(e)(2) to include “former 262.” The committee recommends incorporating the statutory changes and rewording in plain language:

Criminal Order: If none of the orders include an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.

The committee also recommends adding a new provision to form CR-160 that is in the civil domestic violence restraining order about when the protected person contacts the restrained person:

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

Additional protected person provision

The committee recommends adding a provision for the court to indicate that it finds the victim’s family members have been targeted or harmed by the defendant (for postconviction orders issued under section 136.2(i)(1)).

Under section 136.2(i)(1), a court may issue an order restraining the defendant from any contact with the victim for up to 10 years upon conviction of specified offenses. The subdivision states that “it is the intent of the Legislature in enacting this subdivision that the duration of a restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of a victim and the victim’s immediate family.” Courts have held that the victim’s family members cannot be included in the postconviction protective order under 136.2(i)(1) without evidence they have been targeted or harmed. (See, e.g., *People v. Beckmeyer* (2015) 238 Cal.App.4th 461; *People v. Delarosaranda* (2014) 227 Cal.App.4th 205, 212.)

Percipient witness protection

The committee recommends adding a provision for the court to indicate that it finds that a percipient witness has been harassed by the defendant (for postconviction orders issued under section 136.2(i)(2)). Under section 136.2(i)(2), a court may issue a postconviction restraining order for specified offenses protecting a percipient witness if it can be established by clear and convincing evidence that the witness has been harassed by the defendant.

Ammunition prohibition on form CR-161

Form CR-161 currently states that the defendant cannot have a firearm or ammunition. While a firearm *and* ammunition prohibition and relinquishment requirement applies to a defendant subject to a domestic violence protective order (Fam. Code, § 6389), there appears to be no corresponding statutory ammunition prohibition and relinquishment requirement for defendants subject to a criminal protective order not based on domestic violence; firearms, on the other hand, are prohibited and must be relinquished (Pen. Code, § 136.2(d)(1)–(3); Code of Civ. Proc., § 527.9(f)). Accordingly, the committee recommends deleting the ammunition prohibition from the form.

Recording of prohibited communications on form CR-161

Form CR-161 currently states that the protected person may record any prohibited communication made by the defendant. While a court may issue such an order upon the request of a victim of domestic violence who is seeking a domestic violence restraining order (Pen. Code, § 633.6(a)), there appears to be no corresponding statutory authorization for a nondomestic violence criminal protective order. Accordingly, the committee recommends deleting this prohibition from the form.

Federal punishment reference on form CR-161

Both forms state that “under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.” The committee recommends deleting this statement from form CR-161, as it only applies to domestic violence protective orders (see 18 U.S.C. § 922(g)(8)).

Proposed Revisions

Criminal Protective Order—Domestic Violence (*form CR-160*)

The proposal would revise *Criminal Protective Order—Domestic Violence* (form CR-160) as follows:²

- Caption box
 - Specify when orders are pending trial or upon conviction.
- Item 1, Restrained person
 - Renumber as item 1 and change title from “Person to be Restrained” to “Restrained person (defendant)”;
 - Change “sex” to “gender” and include a gender nonbinary option; and
 - Note mandatory fields with a star, similar to the civil domestic violence protective order.
- Item 2, Protected person
 - Renumber as item 2 and add title;
 - Include the mandatory and optional CARPOS fields for a protected person; and
 - Note mandatory fields with a star, similar to the civil domestic violence protective order.
- Item 3, Additional protected persons
 - Create a separate item and title for additional protected persons;
 - Include the mandatory and optional CARPOS fields for additional protected persons;

² Because the revisions are so comprehensive, they are listed here rather than highlighted in the forms.

- Add a check box indicating that the court finds the above-named protected person’s family members have been targeted or harmed by the defendant, which applies to postconviction orders under Penal Code section 136.2(i)(1); and
 - Add a check box indicating that the court finds that the above-named persons have been harassed by the defendant, which applies to postconviction orders issued under Penal Code section 136.2(i)(2).
- Instruction for Items 1–3
 - Include an instruction that information that has a star (*) next to it is required to add the order to CARPOS, similar to the civil domestic violence protective order.
 - Item 4, Expiration date
 - Renumber as item 4, add title; and
 - Replace language stating a three-year default expiration date if no date is listed with language stating that “if no date is listed, this order remains in effect until there is a sentence or termination of the protective order.”
 - Item 5, Hearing
 - Renumber as item 5 and add title.
 - Delete item 6 on the current form indicating that the court has information that the defendant owns or has a firearm or ammunition, or both, because it is redundant to another provision indicating that the court finds good cause to believe that the defendant has a firearm.
 - Item 6, Personal service
 - Renumber as item 6 and add title.
 - Item 7
 - Number as item 7 and rephrase language.
 - Warnings and notices
 - Move and simplify warnings and notices addressed to the defendant on page 2 of the current form to a box on page 1 of the proposed form.
 - Item 8, No firearms or ammunition
 - Renumber as item 8 and add title;
 - Move and incorporate firearm-related warnings addressed to the defendant from page 2 of the current form;
 - Add a new warning prohibiting possession of firearm precursor parts;
 - Create a new subsection on firearm relinquishment and exemptions; and
 - In the limited exemption subsection: replace a cite to Code of Civil Procedure section 527.9(f) with Family Code section 6389(h), add language regarding work-related requirements to the limited exemption provision reflecting Family Code section

6389(h), and add language that even if exempt under California law, the defendant may be subject to federal prosecution for possession or controlling a firearm, similar to the civil domestic violence protective order.

- Item 9, Dissuading victim or witness
 - Add title; and
 - Add language stating that this provision applies to pretrial orders issued under Penal Code section 136.2.
- Item 10, No obtaining addresses
 - Add title; and
 - Restructure options for the court.
- Item 11, Order to not abuse
 - Renumber as item 11;
 - Include language and formatting consistent with the civil domestic violence protective order, including adding an “Order to Not Abuse” title to this portion of the order, and adding hitting and annoying by phone or through other electronic means as enjoined activities;
 - Include definitions of “disturb the peace of” and “coercive control”; and
 - Add language enjoining the defendant from impersonating the protected person.
- Item 12, No-contact order
 - Consolidate two separate no-contact provisions into item 12, and add a title;
 - Include language from Penal Code section 136.2(a)(1)(D) stating that “contact through an attorney under reasonable restrictions set by the court does not violate this order;” and
 - Include language from Penal Code section 136.2(a)(1)(G)(i) stating that for victims or witnesses of violent crime, the court may issue a limited no-contact order.
- Item 13, Stay-away order
 - Consolidate two separate stay-away provisions into item 13, and add a title; and
 - Include the option to identify specific locations that the defendant must stay away from, similar to the civil domestic violence protective order.
- Item 14, Exceptions
 - Renumber as item 14 and add a title; and
 - Move and incorporate child custody and visitation information from page 2 of the current form.
- Item 15, Protected animals
 - Consolidate two separate animal-related provisions into item 15, and add a title; and
 - Include the mandatory and optional CARPOS fields for protected animals.

- Item 16, Electronic monitoring
 - Renumber as item 16 and add a title.
- Item 17, Recordings
 - Renumber as item 17 and add a title.
- Instructions for Law Enforcement
 - Create new “Instructions for Law Enforcement” section including existing information about start and end dates of orders, order enforcement, and priorities for enforcing conflicting orders, and add new information about when the protected person contacts the restrained person, similar to the civil domestic violence protective order; and
 - Revise the language in the “Conflicting Orders–Priorities for Enforcement” category to reflect statutory changes to Penal Code section 136.2(e)(2) and rewording in plain language.

Criminal Protective Order—Other Than Domestic Violence (form CR-161)

The proposal would revise *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) in the same ways described above for form CR-160, with the following differences:

- Warnings and notices
 - Move and simplify warnings and notices addressed to the defendant on page 2 of the current form to a box on page 1 of the proposed form, just as in form CR-160, but without the warnings applicable only to domestic-violence based orders.
- Item 8, No firearms
 - Delete references to ammunition prohibitions.
- Item 11, Order to not abuse
 - Same revisions as on form CR-160, but does not include the definitions of “disturbing the peace of the other party” and “coercive control.”
- Delete item 15 on the current form on stating that the protected person may record any prohibited communication made by the defendant, since it only applies in domestic-violence based cases.
- Delete warning that: “Under federal law, the issuance of a protective order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.”

Alternatives Considered

The committee first considered revising the forms in 2019 and postponed in order to coordinate efforts on changes with the Family and Juvenile Law Advisory Committee, which is responsible for the civil domestic violence protective order forms. Due to the COVID-19 pandemic, the committee considered postponing the proposal but decided to move forward with the revisions because several reflect statutory amendments or clarify existing law.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly revised forms, and there would be costs to make and replace paper forms packets.

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?
- The committee did not revise form CR-161 to incorporate changes to Family Code section 6320 adding definitions of “disturbing the peace of the other party” and “coercive control” because these appeared to apply in the context of domestic violence, and form CR-161 is a non-domestic violence criminal protective order. Should these definitions be included in form CR-161 for consistency in both forms?
- The forms currently ask for the protected persons’ full name, gender, and age. The proposed revisions ask for the protected person and additional protected persons’ name and gender, which are mandatory fields in CARPOS, as well as race and date of birth, which are optional fields in CARPOS. Additionally, the additional protected persons provision in the form asks about the person’s relationship to the primary protected person and whether they live in the same household, which are also optional fields in CARPOS. Should the optional information be included in the forms, given privacy considerations and identity theft concerns? Should date of birth be changed to year of birth or age? For example, the civil domestic violence protective order, form DV-130, only lists the protected person’s name and the name, gender, and relationship to the primary protected person of any additional protected persons. Other identifying information such as race and date of birth is in a separate confidential form, *Confidential CLETS Information* (form CLETS-001), that the restrained person and public cannot access.
- The civil domestic violence protective order forms and gun violence restraining order forms propose using “unfinished receiver/frame as defined in Penal Code section 16531” to refer to a firearm precursor part, as a clearer way of describing the prohibited parts. Should the criminal protective orders adopt similar language for clarity and consistency?

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 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. Forms CR-160 and CR-161, at pages 13–19

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE (CLETS–CPO) (Pen. Code, §§ 136.2, 1203.097(a)(2), 136.2(i)(1), 273.5(j), 368(f), and 646.9(k)) <input type="checkbox"/> ORDER PENDING TRIAL (Pen. Code, § 136.2) <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 1203.097) ORDER UPON <input type="checkbox"/> PENAL CODE, § 136.2(i)(1) <input type="checkbox"/> PENAL CODE, § 273.5(j) CONVICTION: <input type="checkbox"/> PENAL CODE, § 368(f) <input type="checkbox"/> PENAL CODE, § 646.9(k)	CASE NUMBER:

This Order May Take Precedence Over Other Conflicting Orders; See Item 4 on Page 2.

1. **Restrained person**
 *Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____
2. **Protected person**
 *Name: _____ *Gender: M F Nonbinary Race: _____
 Date of birth: _____
3. **Additional protected persons**

*Name	*Gender	Race	Date of birth	Relationship to person in item 2	Lives with person in item 2?

- The court finds that the protected person's family members have been targeted or harmed by the defendant (for postconviction orders issued under Penal Code section 136.2(i)(1))
- The court finds that the above named people have been harassed by the defendant (for postconviction orders issued under Penal Code section 136.2(i)(2))

(For items 1, 2, and 3: information that has a star (*) next to it is required to add this order into the California Restraining and Protective Orders System. Please provide all known information.)

4. **Expiration date**
 This order expires on (date): _____ . If no date is listed, this order remains in effect until there is a sentence or termination of the protective order.
5. **Hearing**
 This proceeding was heard on (date): _____ at (time): _____
 by (judicial officer): _____ .
6. **Personal service**
 Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
7. The court finds good cause to grant a protective order. See items 8–17.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or on tribal lands with the intention of disobeying this order, or make the protected persons do so, you can be charged with a federal crime.

DEFENDANT:	CASE NUMBER:
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8. No firearms or ammunition

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or ammunition. Possession of firearms or ammunition while this order is in effect may subject the defendant to state or federal prosecution, and may include jail or prison time and/or a fine. For orders issued under Penal Code sections 136.2, 273.5(j), 646.9(k), and felony violations of 368(l), the defendant must not own, possess, or have custody or control of a firearm precursor part.
- b. Within 24 hours of receiving this order, the defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order, the defendant must file a receipt with the court showing compliance with this order.
- d. The court finds good cause to believe that the defendant has a firearm within their immediate possession or control and sets a review hearing for (*date*): _____ to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code of Civil Procedure, section 527.9 (Cal. Rules of Court, rule 4.700).
- e. Limited exemption: The court has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the defendant is not required to relinquish this firearm (specify make, model, and serial number of firearm): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.

9. No dissuading victim or witness

The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person (for pretrial orders issued under Penal Code section 136.2(a)(1)).

10. No obtaining addresses (check one for orders issued under Penal Code section 136.2)

- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. The court finds good cause not to make this order.

11. Order to not abuse

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named above.

- “Disturb the peace of” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, activities, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status.

12. No-contact order (check one)

- a. Defendant must not contact the protected persons named above, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means. Contact through an attorney under reasonable restrictions set by the court does not violate this order.
- b. **For victims or witnesses of violent crime** — Defendant must have no-contact with the intent to annoy, harass, threaten, or commit acts of violence against a protected person. (Pen. Code, § 136.2(a)(1)(G)(i).)

13. Stay-away order

Defendant must stay at least _____ yards away from the protected person and their:

- a. home b. job or workplace c. vehicle d. other protected person in item 3
- e. animals listed in item 15 f. other locations:

DEFENDANT:	CASE NUMBER:
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14. **Exceptions**

Defendant may have peaceful contact with the protected persons named above, as an exception to the no-contact and stay-away orders in items 12 and 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in:

- a. the Family, Juvenile, or Probate court order in case number issued on *(date)*:
- b. any Family, Juvenile, or Probate court order issued *after* the date of this order is signed.
- c. The restrained and protected persons should always carry a certified copy of the most recent order issued by the Family, Juvenile, or Probate court.

15. **Protected animals**

- a. The protected persons named above are given the exclusive care, possession, and control of the animals listed below:

Name: _____ *Type of animal:* _____ *Breed (optional):* _____ *Color (optional):* _____

- b. Defendant must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals listed above.

16. **Electronic monitoring**

Defendant must be placed on electronic monitoring for *(specify length of time)*:

(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv) and Pen. Code, § 136.2(i)(3).)

17. **Recordings**

The protected persons may record any prohibited communications made by the defendant.

Executed on *(date)*:

JUDICIAL OFFICER

Certificate of Compliance with Violence Against Women Act (VAWA)

This protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994). This court has jurisdiction over the parties and the subject matter, and the restrained person has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (See *People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), and 646.9(k) are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- Orders under Penal Code section 1203.097(a)(2) are probationary orders, and the court has jurisdiction as long as the defendant is on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceedings (CLETS)*.

DEFENDANT:	CASE NUMBER:
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2. If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

3. Enforcing this Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (Fam. Code, § 6383.)

4. Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

- **EPO:** If one of the orders is an Emergency Protective Order (form EPO-001) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
- **No-Contact Order:** If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
- **Criminal Order:** If none of the orders include an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
- **Family, Juvenile, or Civil Order:** If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS–CPO) (Pen. Code, §§ 136.2, 136.2(i)(1), and 646.9(k)) ORDER PENDING TRIAL: <input type="checkbox"/> Pen. Code, § 136.2 <input type="checkbox"/> MODIFICATION ORDER UPON CONVICTION: <input type="checkbox"/> Pen Code, § 136.2(i)(1) <input type="checkbox"/> Pen. Code, § 646.9(k)	CASE NUMBER:

1. Restrained person

*Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____

2. Protected person

*Name: _____ *Gender: M F Nonbinary Race: _____
 Date of birth: _____

3. Additional protected persons

<i>*Name</i>	<i>*Gender</i>	<i>Race</i>	<i>Date of birth</i>	<i>Relationship to person in item 2</i>	<i>Lives with person in item 2?</i>
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- The court finds that the protected person's family members have been targeted or harmed by the defendant (for postconviction orders issued under Penal Code section 136.2(i)(1))
- The court finds that the above named people have been harassed by the defendant (for postconviction orders issued under Penal Code section 136.2(i)(2))

(For items 1, 2, and 3: information that has a star (*) next to it is required to add this order into the California Restraining and Protective Orders System. Please provide all known information.)

4. Expiration date

This order expires on *(date)*: _____ . If no date is listed, this order remains in effect until there is a sentence or termination of the protective order.

5. Hearing

This proceeding was heard on *(date)*: _____ at *(time)*: _____
by *(judicial officer)*: _____ .

6. Personal service

Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.

7. The court has found good cause to grant a protective order. See items 8–15.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.

8. No firearms

The defendant must not own, possess, buy or try to buy, receive or try to receive, or otherwise obtain a firearm or firearm precursor part. Possession of firearms or firearm precursor parts while this order is in effect may subject the defendant to criminal prosecution, and may include jail or prison time and/or a fine up to \$1,000.

DEFENDANT:	CASE NUMBER:
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8. a. Within 24 hours of receiving this order, the defendant must surrender to local law enforcement, or sell to or store with a licensed gun dealer any firearm owned by the defendant or subject to his or her immediate possession or control.
- b. Within 48 hours of receiving this order, the defendant must file a receipt with the court showing compliance with this order.
- c. The court finds good cause to believe that the defendant has a firearm within their immediate possession or control and sets a review hearing for *(date)*: _____ to ascertain whether the defendant has complied with the firearm relinquishment requirements of Code of Civil Procedure, section 527.9 (Cal. Rules of Court, rule 4.700).
- d. Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure, section 527.9(f). Under California law, the defendant is not required to relinquish this firearm (specify make, model, and serial number of firearm): _____ but must only have it during scheduled work hours and to and from their place of work.
9. **No dissuading victim or witness**
The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing or testifying or making a report to any law enforcement agency or person (for pretrial orders issued under Penal Code section 136.2(a)(1)).
10. **No obtaining addresses (check one for orders issued under Penal Code section 136.2)**
- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. The court finds good cause not to make this order.
11. **Order to not abuse**
Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named above.
12. **No-contact order (check one)**
- a. Defendant must not contact the protected persons named above, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means. Contact through an attorney under reasonable restrictions set by the court does not violate this order.
- b. **For victims or witnesses of violent crime**— Defendant must have no-contact with the intent to annoy, harass, threaten, or commit acts of violence against a protected person. (Pen. Code, § 136.2(a)(1)(G)(i).)
13. **Stay-away order**
Defendant must stay at least _____ yards away from the protected person and their:
- a. home b. job or workplace c. vehicle d. other protected person in item 3
- e. other locations:
14. **Exceptions**
Defendant may have peaceful contact with the protected persons named above, as an exception to the no-contact and stay-away orders in items 12 and 13 of this order, only for the safe exchange of children and court-ordered visitation as stated in:
- a. the Family, Juvenile, or Probate court order in case number _____ issued on *(date)*: _____
- b. any Family, Juvenile, or Probate court order issued *after* the date of this order is signed.
- c. The restrained and protected persons should always carry a certified copy of the most recent order issued by the Family, Juvenile, or Probate court.
15. **Electronic monitoring**
Defendant must be placed on electronic monitoring for *(specify length of time)*: _____
(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv) and Pen. Code, § 136.2(i)(3).)

Executed on *(date)*:_____
JUDICIAL OFFICER

DEFENDANT:	CASE NUMBER:
------------	--------------

Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.
This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (See *People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1) and 646.9(k) are valid for up to 10 years and may be issued by the court whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceedings (CLETS)*.

2. Enforcing this Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).

3. Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

- **EPO:** If one of the orders is an Emergency Protective Order (form EPO-001) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
- **No-Contact Order:** If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
- **Criminal Order:** If none of the orders include an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
- **Family, Juvenile, or Civil Order:** If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Family Law: Child Custody and Visitation in Cases Involving Abuse by Parent and Child Testimony

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend rules 5.210, 5.225, 5.242, and 5.250; revise forms FL-311, FL-323, and FL-341

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Gabrielle Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2020

Project description from annual agenda: Item 1i: Requires a court that grants unsupervised visitation to a parent with histories of abuse, neglect or substance abuse to state its reasons for doing so in writing or on the record, and provides that if a child addresses a court regarding custody or visitation, they generally must be permitted to do so without the parties being present.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-09

Title	Action Requested
Family Law: Child Custody and Visitation in Cases Involving Abuse by Parent and Child Testimony	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend rules 5.210, 5.225, 5.242, and 5.250; revise forms FL-311, FL-323, and FL-341	January 1, 2023
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Gabrielle D. Selden, 415-865-8085 gabrielle.selden@jud.ca.gov
Hon. Stephanie E. Hulse, Cochair	Gregory Tanaka, 415-865-7671 gregory.tanaka@jud.ca.gov
Hon. Amy M. Pellman, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending four rules of court and revising three forms to comply with Senate Bill 654 (Stats. 2021, ch. 768). The bill amended Family Code section 3011 by extending the requirement that a court state its reasons when granting sole or joint custody to someone despite allegations of abuse or substance abuse against that person to orders granting unsupervised visitation to someone against whom there are allegations of abuse or substance abuse. The bill also amended Family Code section 3042 regarding child testimony to prohibit allowing the child to testify in front of the parties unless specific findings are made and to require that certain court professionals provide notice if a child changed their choice about addressing the court.

Background

Effective January 1, 2022, SB 654 amended Family Code section 3011(a)(5)(A) and (B) to require the court to follow specific procedures when it makes an order for child custody to a parent who is alleged to have a history of abuse or substance abuse. Before the amendment, absent a stipulation, the court was required to state its reasons in writing or on the record if it ordered sole or joint custody to a parent alleged to have a history of abuse

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

or substance abuse. The legislation extended that requirement to include orders for unsupervised visitation for a parent alleged to have a history of abuse or substance abuse.

To help courts comply with these changes, the committee proposes revising two forms, *Child Custody and Visitation (Parenting Time) Application Attachment* (form FL-311) and *Child Custody and Visitation (Parenting Time) Order Attachment* (form FL-341).

SB 654 also amended Family Code section 3042, relating to a child’s testimony in court, in two significant ways. The first major change prohibits the court from permitting a child addressing the court regarding child custody or visitation to do so in the presence of the parties, unless the court determines that doing so is in the best interest of the child and states its reasons for that finding on the record. It also requires the court to provide an alternative to having the child address the court in the presence of the parties to obtain input directly from the child.

The second major change is to require the attorney appointed to represent the child, a child custody evaluator or investigator, or a child custody recommending counselor to inform the judge, the parties or their attorneys, and other professionals serving on the case, if the child informs them that they have changed their choice with respect to addressing the court.

Family Code section 3042(j) specifically requires that the Judicial Council, “no later than January 1, 2023, develop or amend rules as necessary to implement this section.” The committee proposes amending rules 5.210, 5.224, 5.242, and 5.250 and revising form FL-323 to implement the requirements of the statute.

The Proposal

Family Code section 3011

Forms FL-311 and FL-341) would be revised to incorporate the requirements of Family Code section 3011(a)(5)(A).

Section 3011(a)(5)(A) provides:

When allegations about a parent pursuant to paragraphs (2)^[1] or (4)^[2] have been brought to the attention of the court in the current proceeding, and the

¹ Paragraph (2) relates to a history of abuse by one parent or any other person seeking custody against: (a) a child to whom the parent or person seeking custody is related by blood or affinity or with whom the parent or person seeking custody has had a caretaking relationship, no matter how temporary; (b) the other parent; or (c) a parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

² Paragraph (4) relates to the habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent.

court makes an order for sole or joint custody or unsupervised visitation to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Section 6323.

The statute describes the requirements for *court orders* in cases in which a party is alleged to have a history of abuse or substance abuse. Therefore, the committee initially only considered revising the custody order attachment (form FL-341). After further consideration, the committee decided that it was important to also propose revisions to form FL-311, the form for requesting court orders relating to child custody and visitation.

Child Custody and Visitation (Parenting Time) Application Attachment (form FL-311)
Form FL-311 may be used by the parties to request court orders relating to child custody and visitation. It is attached to a petition for divorce or legal separation, a response to a petition, a request for order form, or responsive declaration to request for order.

The proposed revisions to form FL-311 would give the parent the opportunity to state the reasons why they believe the court should grant child custody or unsupervised visitation to a parent alleged to have a history of abuse or substance abuse. The parent requesting the order would either write the reasons (their declaration) in the blank space provided on the form or attach a separate declaration.

The above proposed revision would allow the court to assess whether the reasons that the parent specified are sufficient to grant the parent's request for an interim order, a default judgment, or a judgment for child custody and visitation. In the case of a petitioner's request to enter a default judgment against a nonresponding party, the proposed new content would further allow the judicial officer to better assess whether the judgment could be entered based exclusively on the declarations of the petitioner or whether the matter should be set for a hearing so that the court can consider evidence about the allegations of abuse or substance abuse before ruling on the request.

The specific proposed changes in form FL-311 would be to include two new sections on the form; the first, on page 1 (item 1b), would be titled "Custody with allegations of a history of abuse or substance abuse," the other, on page 2 (item 3), would be titled "Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns."

In proposed new item 1b, the party requesting custody orders would:

- Specify that the case involves allegations of a history of abuse or substance abuse against parent(s) of the minor children;
- Ask the court to order sole or joint custody of the minor children to a parent or parents who are alleged to have a history of abuse or substance abuse; and

- Specify the reasons why the court should grant the request for sole or joint custody to the person(s) alleged to have a history of abuse or substance abuse.

Similarly, in proposed new item 3, the party requesting visitation orders could ask the court to order:

- Supervised visitation for cases involving abuse, domestic violence, child abuse or neglect;
- Supervised visitation for reasons other than abuse, domestic violence, child abuse or neglect; or
- Unsupervised visitation to the person(s) alleged to have a history of abuse or substance abuse.

The proposed new second bullet point would apply to cases in which a party seeks supervised visitation for reasons such as to help introduce a parent and a child when there has been no existing relationship between them or to help reintroduce a parent and a child after a long absence.

Finally, the form would:

- Include the following statutory language under the request for unsupervised visitation: “The orders for visitation (parenting time) that you request must be specific as to time, day, place, and manner of transfer of the child, as Family Code section 6323(c) requires”;
- Require the party to indicate the reasons why the court should make the orders in each of the situations in item 3 (Note: instead of requiring the party to respond by attaching a separate declaration in response to the item, the revised form would allow the party to choose to use the blank space on the form to write a declaration or attach a declaration.); and
- Include a general note under item 5 (Transportation for visitation (parenting time) and place of exchange) to indicate that, “In cases of domestic violence, the court must have enough information to make orders that are specific as to time, place, and manner of transfer (exchange) of the child for custody and visitation under Family Code section 6323(c).” The new language mirrors the note in item 3b(3) regarding the need for specificity in the transportation or exchange of the child.

Formatting changes

The form would need to include additional changes to accommodate the proposed new content. Specifically, form FL-311 would be expanded to four pages, and additional rows would be added to list up to six children in item 1a. Visitation (parenting time), item 2e, would be moved to the second page, the request for supervised visitation would be moved under the new item 3, a separate item 4 would be created to provide the details for the

supervised visitation provider, and additional blank space would be provided to allow a party to complete items 7 through 10 directly on the form instead of having to attach a separate form to complete these items.

Further, in the proposed new item 4 about the provider of supervised visitation, the committee proposes deleting the reference and hyperlink to repealed *Declaration of Supervised Visitation Provider* (form FL-324) and replacing it with references to the forms completed by the professional or nonprofessional supervised visitation provider (form FL-324(P) and FL-324(NP)), which were adopted effective January 1, 2021. Other changes that would appear in both forms FL-311 and FL-341 are described in the following section.

Child Custody and Visitation (Parenting Time) Order Attachment (form FL-341)

As indicated by the title, form FL-341 may be used by the court to write its orders relating to requests for child custody and visitation orders.

Form FL-341 would reflect the substantive changes to form FL-311 by including a new item 7 titled “Child custody orders with allegations of a history of abuse or substance abuse” and a new item 9 titled “Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns.”

Additional changes would include the following: expanding the form to four pages, changing the sequence of the orders regarding child abduction from item 7 to item 5, moving the orders regarding visitation to page 2, and increasing the blank space made available to complete orders on page 4.

The committee proposes minor changes in the language in various parts of the order. For example, instead of stating that a party “will have visitation” in item 9a and 9b, the form would provide that the party “has visitation.” And, instead of a statement to the judicial officer, such as “You must attach form FL-341(A)” in 9a, the committee proposes better highlighting the fact that additional orders apply with respect to the visitation orders made in this item. To this end, item 9a would be divided into subitems (1) and (2), with item (2) providing: “In addition, *Supervised Visitation Order* (form FL-341(A)) is attached.”

Miscellaneous changes

In addition to the statutory changes and formatting changes, the committee proposes revisions to other items in both forms FL-311 and FL-341.

Two of the proposed changes would align content with the changes currently being proposed to domestic violence forms in the same cycle. For example, the definition of physical custody on the first page of the forms would be changed to “person the child regularly lives with.” The definition of legal custody would be changed to “person who decides about the child’s health, education, and welfare.”

The final change proposed to both forms would be to the item about transportation for visitation (parenting time). Item 5a on form FL-311 and item 10a on form FL-341 would be changed as follows:

The children must be driven only by a licensed and insured driver. The ~~car or truck~~ vehicle must be legally registered with the Department of Motor Vehicles, and must have child restraint devices properly installed, as required by law.

The proposed new language would more accurately reflect the orders made in family court on the issue of transportation for child visitation (parenting time).

Family Code section 3042

Section 3042(g) provides:

To assist the court in determining whether the child wishes to express a preference or to provide other input regarding custody or visitation to the court, a minor's counsel, an evaluator, an investigator, or a child custody recommending counselor shall indicate to the judge that the child wishes to address the court, or the judge may make that inquiry in the absence of that request. A party or a party's attorney may also indicate to the judge that the child wishes to address the court or judge.

In addition, section 3042(h) provides:

If a child informs the minor's counsel, an evaluator, an investigator, or a child custody recommending counselor at any point that the child has changed their choice with respect to addressing the court, the minor's counsel, evaluator, investigator, or child custody recommending counselor shall, as soon as feasible, indicate to the judge, the parties or their attorneys, and other professionals serving on the case that the child has changed their preference.

The committee proposes that the Judicial Council amend rules 5.210, 5.225, 5.242, and 5.250 to reflect the duties of child custody recommending counselors, child custody evaluators and investigators, and attorney's appointed to represent the child under both sections 3042(g) and (h).

It should be noted that the committee considered using other terms instead of "child's choice" in the rules and forms, including "child's position," "child's preference," or "child's desire," but decided to recommend that the rules reflect the actual language in section 3042(h), which is "child's choice."

Rule 5.210, Court-connected child custody mediation

The rule would be amended to include new subdivision (d)(3) under “Responsibility for mediation services.” Because the obligation to notify under section 3042 affects child custody recommending counselors³ and not confidential mediators, the committee proposes the following language:

- (3) If so informed by the child at any point, each child custody recommending counselor must notify the parties, other professionals serving on the case, and then the judicial officer:
 - (A) About the child’s desire to provide input and address the court; and
 - (B) As soon as feasible, that the child has changed their choice about addressing the court.

Rule 5.225, Appointment requirements for child custody evaluators

This rule would be amended by adding subdivisions (l)(7) and (8) to provide that a person appointed as a child custody evaluator must:

- (7) Inform the parties, other professionals serving on the case, and then the judicial officer about the child’s desire to provide input and address the court;
- (8) If so informed by the child at any point, provide notice that the child has changed their choice about addressing the court. Notice must be provided as soon as feasible to the parties or their attorneys, other professionals serving on the case, and then to the judicial officer.

The committee notes that the duty of child custody recommending counselors and child custody investigators to inform the parties and court about the child’s desire to testify was incorporated into the rules of court with the adoption of rule 5.250, Children’s participation and testimony in family court proceedings, effective January 1, 2012. By revising rules 5.210 and 5.225 as proposed, they would be more consistent with rule 5.250, and avoid confusion if the mediator and child custody evaluator only consult the rules that are specific to their professions to find information about their duties with respect to children testifying in family court.

³ Under Family Code section 3183, mediators who make those recommendations (also known as child custody recommending counselors) are considered mediators for purposes of Chapter 11 of the Family Code (commencing with Section 3160) and are subject to all requirements for mediators for all purposes under the Family Code and the California Rules of Court.

Rule 5.242, Qualifications, rights, and responsibilities of counsel appointed to represent a child in family law proceedings

The rule would be amended at subdivision (j)(4)(D). Currently, the subdivision includes counsel’s obligation under section 3042(g) to inform about the child’s desire to provide input. The amendment would provide that the obligation extends to “other professionals serving on the case” and replace “court” with “judicial officer.”

In addition, subdivision (j)(4)(E) would be added to provide that, in any case in which counsel is representing a child who is called to testify in the proceedings, counsel must:

If so informed by the child at any point, provide notice that the child has changed their choice about addressing the court. Notice must be provided as soon as feasible to the parties or their attorneys, other professionals serving on the case, and then to the judicial officer.

Rule 5.250, Children’s participation and testimony in family court proceedings

The rule would be amended in several areas to comply with section 3042, as follows:

- A new subdivision (b) would be added to reflect the statutory prohibition against permitting a child to address the court about child custody or visitation in the presence of the parties, and the exceptions that are included in the statute.
- Former subdivision (b) would be relettered as (c) and retitled “Determining if the child wishes to address, or has changed their choice about addressing, the court.”
- Subdivision (c)(2) would be added to the rule to include the responsibility for an evaluator, investigator, minor’s counsel, or child custody recommending counselor to provide notice if the child informs them, or changes their choice, about addressing the court.
- Other technical changes would be made to the rule to avoid redundancy and make the rule internally consistent. These would include renaming subdivision (a) “Authority and overview” and transferring most of the language in (a) to subdivision (b) as it relates to the court’s responsibilities in these matters, as well as adjusting the lettering of the subdivisions following (b).

Order Appointing Counsel for a Child (form FL-323)

Finally, the committee proposes revising *Order Appointing Counsel for a Child* (form FL-323). Specifically, item 8a(6) would be added under “Duties of Counsel for a Child” so that the form reflects counsel’s obligation in rule 5.242(j)(4)(D) to “Inform the parties, other professionals serving on the case, and then the court about the child’s desire to provide input and address the court.” This duty was inadvertently left out of the form when it was initially adopted. In addition, item 8a(7) would be added to specify counsel’s duty to provide prompt notice when a child changes their choice about addressing the court under Family Code section 3042(h).

To make space for the proposed new language in the form, the committee also proposes technical and organizational changes to form FL-323. Specifically, the section titled “Determination of Fees and Payment” would appear on the form as item 5 on page 1. In addition, the sections titled “Duties of Counsel for a Child” and “Counsel for a Child Has the Following Rights” would be grouped on the final page of the order. The items on the form would be renumbered to reflect the reorganized content.

Alternatives Considered

Along with amending rule 5.225, the committee considered revising *Order Appointing Child Custody Evaluator* (form FL-327) to include the evaluator’s duty to inform others if the child has indicated a change in choice about addressing the court. However, the committee decided not to include form FL-327, as it does not specify each of the child custody evaluator’s duties in the same way as form FL-323 lists the specific duties of counsel appointed to represent a child. Thus, the committee decided that revising form FL-327 would not be necessary to implement AB 654.

The committee also considered proposing only the mandatory changes to the rules to comply with the mandate of Family Code section 3042. The Legislature did not specify that the Judicial Council must adopt a rule of court or form to implement the amendments to section 3011. Therefore, the committee considered not revising forms FL-311 and FL-341 to reflect the amendments to section 3011.

However, as previously noted, the committee believes that revising forms FL-311 and FL-341 would help parties ask for orders and judicial officers comply with the requirements of Family Code section 3011, respectively, in child custody and visitation cases involving allegations of abuse or substance abuse. The committee decided to ask for specific comments from the public and the courts to determine if they find the revisions to forms FL-311 and FL-341 helpful in cases involving requests for child custody and visitation under Family Code section 3011(a)(5)(A). Feedback about the proposed changes would help inform the committee’s recommendations to the Judicial Council about the forms.

Fiscal and Operational Impacts

The impact to the courts includes costs to copy the revised forms, as well as the cost to educate judicial officers about the new procedure for specific orders made under section 3011 and to educate the court and court professionals about their expanded duties under section 3042(h).

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?
- Would it be helpful to the parties and attorneys to provide space on form FL-311 to state the reasons why sole or joint custody, or unsupervised visitation, should be granted if Family Code section 3011(a)(5)(A) applies to the case, especially in a potential default situation?
- What is the impact of these changes to the forms on low-income people?

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

1. Would the proposed changes to form FL-341 be helpful to judicial officers in providing space to indicate the reasons for ordering child custody and visitation if Family Code section 3011(a)(5)(A) applies to the case?
 2. Are the proposed changes to forms FL-311 and FL-341 helpful in reminding judicial officers about the requirements of Family Code section 3011(a)(5)(A) when reviewing requests and proposed orders and judgments relating to child custody and visitation?
 3. Would the proposed changes in (1) and (2) be best handled by judicial education?
- 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. Rules 5.210, 5.225, 5.242, and 5.250, at pages 11–16
2. Forms FL-311, FL-323, and FL-341, at pages 17–26
3. Link to SB 654,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB654

Rules 5.210, 5.225, 5.242, and 5.250 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 5.210. Court-connected child custody mediation**

2
3 **(a)–(c) *****

4
5 **(d) Responsibility for mediation services**

6
7 (1) ***

8
9 (2) Each court-connected mediator must:

10
11 (A)–(C) ***

12
13 (3) If so informed by the child at any point, each child custody recommending
14 counselor must notify the parties, other professionals serving on the case, and
15 then the judicial officer:

16
17 (A) About child’s desire to provide input and address the court; and

18
19 (B) As soon as feasible, that the child has changed their choice about
20 addressing the court.

21
22 **(e)–(h) *****

23
24
25 **Rule 5.225. Appointment requirements for child custody evaluators**

26
27 **(a)–(k) *****

28
29 **(l) Child custody evaluator**

30
31 A person appointed as a child custody evaluator must:

32
33 (1)–(6) ***

34
35 (7) Inform the parties, other professionals serving on the case, and then the
36 judicial officer or the court about the child’s desire to provide input and
37 address the court;

38
39 (8) If so informed by the child at any point, provide notice that the child has
40 changed their choice about addressing the court. Notice must be provided as
41 soon as feasible to the parties or their attorneys, other professionals serving
42 on the case, and then to the judicial officer.

1
2 (m)–(o) ***

3
4
5 **Rule 5.242. Qualifications, rights, and responsibilities of counsel appointed to**
6 **represent a child in family law proceedings**

7
8 (a)–(i) ***

9
10 **(j) Responsibilities of counsel for a child**

11
12 Counsel is charged with the representation of the child’s best interest. The role of
13 the child’s counsel is to gather evidence that bears on the best interest of the child
14 and present that admissible evidence to the court in any manner appropriate for the
15 counsel of a party. If the child so desires, the child’s counsel must present the
16 child’s wishes to the court.

17
18 (1)–(3) ***

19
20 (4) In any case in which counsel is representing a child who is called to testify in
21 the proceeding, counsel must:

22
23 (A)–(B) ***

24
25 (C) Provide procedures relevant to the child’s participation and, if
26 appropriate, provide an orientation to the courtroom where the child
27 will be testifying; ~~and~~

28
29 (D) Inform the parties, other professionals serving on the case, and then the
30 ~~court~~ judicial officer about the client’s desire to provide input and
31 address the court; and

32
33 (E) If so informed by the child at any point, provide notice that the child
34 has changed their choice about addressing the court. Notice must be
35 provided as soon as feasible to the parties or their attorneys, other
36 professionals serving on the case, and then to the judicial officer.

37
38 (k) ***

1 **Rule 5.250. Children’s participation and testimony in family court proceedings**

2
3 **(a) Children’s participation Authority and overview**

4
5 This rule is intended to implement Family Code section 3042. ~~Children’s~~
6 ~~participation in family law matters must be considered on a case-by-case basis.~~ No
7 statutory mandate, rule, or practice requires children to participate in court or
8 prohibits them from doing so. ~~When a child wishes to participate, the court should~~
9 ~~find a balance between protecting the child, the statutory duty to consider the~~
10 ~~wishes of and input from the child, and the probative value of the child’s input~~
11 ~~while ensuring all parties’ due process rights to challenge evidence relied upon by~~
12 ~~the court in making custody decisions.~~

13
14 **(b) Children’s participation**

15
16 When a child wishes to participate in a court proceeding involving child custody
17 and visitation (parenting time):

18
19 (1) The court should find a balance between protecting the child, the statutory
20 duty to consider the wishes of and input from the child, and the probative
21 value of the child’s input while ensuring all parties’ due process rights to be
22 aware of and to challenge evidence relied on by the court in making custody
23 decisions.

24
25 (2) The court must:

26
27 (A) Consider a child’s participation in family law matters on a case-by-case
28 basis; and

29
30 (B) Not permit a child addressing the court about child custody or visitation
31 (parenting time) to do so in the presence of the parties. The court must
32 provide an alternative to having the child address the court in the
33 presence of the parties to obtain input directly from the child.

34
35 (3) Notwithstanding the prohibition in (b)(2)(B), the court:

36
37 (A) May permit the child addressing the court about child custody or
38 visitation (parenting time) to do so in the presence of the parties if the
39 court determines that doing so is in the child’s best interests and states
40 its reasons for that finding on the record; and

41
42 (B) Must, in determining best interests of the child under (b)(2)(A),
43 consider whether addressing the court regarding child custody or

1 visitation (parenting time) in the presence of the parties is likely to be
2 detrimental to the child.

3
4 **(b)(c) Determining if the child wishes to address, or has changed their choice about**
5 **addressing, the court**

6
7 (1) The following persons must ~~inform the court~~ notify the persons in (c)(2) if
8 they have information indicating that a child in a custody or visitation
9 (parenting time) matter either wishes to address the court or has changed their
10 choice about addressing the court:

11
12 (A) ~~An minor's counsel~~ attorney appointed to represent the child in the
13 case;

14
15 (B) An evaluator;

16
17 (C) An investigator; ~~and~~

18
19 (D) A child custody recommending counselor who provides
20 recommendations to the judge under Family Code section 3183; and

21
22 (E) Other professionals serving on the case.

23
24 (2) The notice described in (c)(1) must be given, as soon as feasible, to the
25 following:

26
27 (A) The parties or their attorneys;

28
29 (B) The attorney appointed to represent the child;

30
31 (C) Other professionals serving on the case; and then

32
33 (D) The judicial officer.

34
35 ~~(2)~~(3) The following persons may inform the court if they have information
36 indicating that a child wishes to address the court:

37
38 (A)–(B) ***

39
40 ~~(3)~~(4) In the absence of information indicating a child wishes to address the court,
41 the judicial officer may inquire whether the child wishes to do so.

42
43 **(e)(d) *****

1
2 **~~(d)~~(e) Guidelines for receiving testimony and other input**

3
4 (1)–(4) ***

5
6 (5) In any case in which a child will be called to testify, the court may consider
7 the appointment of minor’s counsel for that child. The court may consider
8 whether such appointment will cause unnecessary delay or otherwise
9 interfere with the child’s ability to participate in the process. In addition to
10 adhering to the requirements for minor’s counsel under Family Code section
11 3151 and rules 5.240, 5.241, and 5.242, and subdivision (c) of this rule,
12 minor’s counsel must:

13
14 (A)–(C) ***

15
16 ~~(D)–Inform the parties and then the court about the client’s desire to provide~~
17 ~~input~~

18
19 (6) ***

20
21 **~~(e)~~(f) Additional responsibilities of court-connected or appointed professionals**

22
23 In addition to the duties in (c), a child custody evaluator, a child custody
24 recommending counselor, or ~~a mediator~~ an investigator assigned to meet with a
25 child in a family court proceeding must:

26
27 (1)–(3) ***

28
29 ~~(f)~~(g) ***

30
31 ~~(g)~~(h) ***

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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CHILD CUSTODY AND VISITATION (PARENTING TIME) APPLICATION ATTACHMENT

—This is not a court order—

TO Petition Response Request for Order Responsive Declaration to Request for Order
 Other (specify):

1. a. **Custody.** Custody of the minor children of the parties is requested as follows: [Attachment 1a.](#)

Child's Name	Date of Birth	Legal Custody to (person who decides about the child's health, education, and welfare)	Physical Custody to (person the child regularly lives with)

b. **Custody with allegations of a history of abuse or substance abuse**

(This item does not apply if the parties stipulate (agree) in writing or on the record about child custody or visitation.)

- (1) I ask the court to make the custody orders in item 1a, even though there are allegations of a history of abuse or the habitual or continual use of controlled substances, alcohol, or prescribed substances against the following persons (specify): petitioner respondent other parent/party
- (2) The reasons why the court should make the orders in item 1a are (specify): as follows: [Attachment 1b.](#)
(Write the reasons why you think it would be good for the children that the person(s) be granted custody, even though there are allegations against them of a history of abuse or substance abuse.)

2. **Visitation (Parenting Time).**

Note: Unless specifically ordered, a child's holiday schedule order has priority over the regular parenting time.

- a. Reasonable right of parenting time (visitation) to the party without physical custody (**not appropriate in cases involving domestic violence**).
- b. See the attached _____-page document dated (specify date):
- c. The parties will go to child custody mediation or child custody recommending counseling at (specify date, time, and location):

- d. No visitation (parenting time).

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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e. Visitation (parenting time). (Specify start and ending date and time. If applicable, check "start of" OR "after school.")

Petitioner's **Respondent's** **Other Parent's/Party's** parenting time (visitation) will be as follows:

(1) **Weekends starting (date):**

(Note: The first weekend of the month is the first weekend with a Saturday.)

1st 2nd 3rd 4th 5th weekend of the month

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(a) The parties will alternate the fifth weekends, with the petitioner respondent other parent/party having the initial fifth weekend, which starts (date):

(b) The petitioner respondent other parent/party will have the fifth weekend in odd even numbered months.

(2) **Alternate weekends starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(3) **Weekdays starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(4) Other visitation (parenting time) days and restrictions are: [listed in Attachment 2e\(4\)](#)

as follows:

3. **Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns**

(This item does not apply if the parties stipulate (agree) in writing or on the record about child custody or visitation.)

a. **Supervised visitation (parenting time)**

I ask that petitioner respondent other parent/party have supervised visitation with the minor children according to the schedule in item 2 because of (specify):

(1) Domestic violence, child abuse, or neglect.

(2) Other parenting concerns (specify):

(3) The reasons why the court should make the orders are (specify): as follows: [in Attachment 3a.](#)

(Write the reasons why you think unsupervised visitation (parenting time) would be bad for the children.)

(4) I ask that the court approve my requests about the supervised visitation provider specified in item 4 on page 3.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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b. Unsupervised visitation (parenting time)

- (1) Even though there are allegations of a history of abuse or substance abuse, I request that the court grant unsupervised visitation to (specify): Petitioner Respondent Other parent/party
- (2) The reasons why the court should make the orders are (specify): as follows: in Attachment 3b. (Write the reasons why you think it would be good for the children that the person(s) be granted unsupervised visitation (parenting time) even though there are allegations against them of a history of abuse or substance abuse.)

(3) Note: The orders for visitation (parenting time) that you request must be specific as to time, day, place, and manner of transfer of the child, as Family Code section 6323(c) requires.

4. Supervised visitation provider

- a. I request that the visitation (parenting time) be monitored by (name, if known):
 - (1) The person or agency is a professional provider. A professional provider must meet the requirements listed in Declaration of Supervised Visitation Provider (Professional) (form FL-324(P)) and sign the declaration.
 - (2) The person is a nonprofessional provider. That person must meet the requirements listed in Declaration of Supervised Visitation Provider (Nonprofessional) (form FL-324(NP)) and sign a declaration.
- b. The provider's phone number is (specify):
- c. I request that any costs of supervision be paid as follows: petitioner: _____ percent; respondent: _____ percent; other parent/party: _____ percent.

5. Transportation for visitation (parenting time) and place of exchange

Note: In cases of domestic violence, the court must have enough information to make orders that are specific as to the time, place, and manner of transfer (exchange) of the child for custody and visitation under Family Code section 6323(c).

- a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles and must have child restraint devices properly installed, as required by law.
- b. Transportation to begin the visits will be provided by (name):
- c. Transportation from the visits will be provided by (name):
- d. The exchange point at the beginning of the visit will be (address):
- e. The exchange point at the end of the visit will be (address):
- f. During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).
- g. Other (specify):

6. Child abduction prevention. There is a risk that one of the parties will take the children out of California without the other party's permission. I request the orders set out on attached form FL-312.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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7. **Children's holiday schedule.** I request the holiday and vacation schedule set out below [on form FL-341\(C\)](#)

8. **Additional custody provisions.** I request the additional orders for custody set out below [on form FL-341\(D\)](#)

9. **Joint legal custody provisions.** I request joint legal custody and want the additional orders set out below [on form FL-341\(E\)](#)

10. **Other.** I request the following additional orders (*specify*):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL v. 3/22/2022
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
ORDER APPOINTING COUNSEL FOR A CHILD	CASE NUMBER:

1. The proceeding was heard:
 On *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
 Judge *(name)*: _____ Temporary Judge
 Petitioner/Plaintiff present Attorney present *(name)*: _____
 Respondent/Defendant present Attorney present *(name)*: _____
 Other parent/party present Attorney present *(name)*: _____
 On the request for order, order to show cause, or motion filed *(date)*: _____ by *(name)*: _____

2. **THE COURT FINDS** it is in the best interest of the child to appoint counsel to represent the child under Family Code section 3150(a).

a. Counsel appointed for the child *(name of counsel)*: _____

b. Address: _____

c. Phone number: _____ d. E-mail address (optional): _____

3. **CHILD OR CHILDREN FOR WHOM COUNSEL IS APPOINTED**

<u>Name</u>	<u>Date of birth</u>	<u>Address(es) (if appropriate)</u>
-------------	----------------------	-------------------------------------

4. **REASON FOR APPOINTMENT** *(specify)*: _____

5. **DETERMINATION OF FEES AND PAYMENT**

a. Counsel for the child will be compensated as follows:

(1) *(Specify amount or rate and terms)*: _____

(2) The court reserves jurisdiction to determine compensation payable to counsel for the child.

(3) The court reserves jurisdiction to modify the compensation payable to counsel for the child retroactively.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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5. b. The court finds that the parties are able to pay the compensation and expenses for the child's counsel. The parties are ordered to pay counsel for the child as follows:
- (1) Petitioner/Plaintiff % Respondent/Defendant: % Other parent/party: %
- (a) Petitioner/Plaintiff must make installment payments of \$ per month until paid or modified by court order.
- (b) Respondent/Defendant must make installment payments of \$ per month until paid or modified by court order.
- (c) Other parent/party must make installment payments of \$ per month until paid or modified by court order.
- (2) The court reserves jurisdiction to reallocate attorney's fees and costs between the parties.
- c. The court finds that the parties are unable to pay all a portion of the costs for child's counsel. The child's counsel must be paid as follows:
- (1) The court will pay all the fees and expenses for the child's attorney.
- (2) Petitioner/Plaintiff % Respondent/Defendant: % Other parent/party: %
- Payable by court: %
- (a) Petitioner/Plaintiff must make installment payments of \$ per month until paid or modified by court order.
- (b) Respondent/Defendant must make installment payments of \$ per month until paid or modified by court order.
- (c) Other parent/party must make installment payments of \$ per month until paid or modified by court order.
- (3) The court reserves jurisdiction to reallocate attorney fees and costs between the parties.
- (4) The court may seek reimbursement from the parties if the court pays all or a portion of the compensation for the child's counsel.
- d. Other:

6. ADDITIONAL ORDERS

- a. No later than 10 court days after being appointed by the court and before beginning work on the case, counsel for a child must file a declaration with the court indicating compliance with the requirements of rule 5.242 of the California Rules of Court. *Declaration of Counsel for a Child Regarding Qualifications* (form FL-322) or other local court forms may be used for this purpose.
- b. The parties and their counsel are ordered to cooperate with counsel for the child to permit the performance of his or her duties.
- c. Counsel for the child must be provided with complete copies of all relevant documents and records filed in the proceeding within 10 days of the appointment.
- d. The parties must provide complete information concerning the child's school, medical, psychological, psychiatric, and other pertinent records to the child's counsel on request. The parties must execute such waivers and releases necessary to facilitate the child's counsel in securing access to records for the child.
- e. The parties and/or their counsel must not compromise, settle, dismiss, or otherwise remove from the court's calendar all or any portion of the issues, claims, or proceedings concerning which the child's counsel has been appointed, without participation of the child's counsel or advance notice to the child's counsel.
- f. Counsel must continue to represent the child until the appointment terminates, as provided in rule 5.240(f) of the California Rules of Court, or as stated below in item 9.

7. OTHER ORDERS:

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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8. **DUTIES OF COUNSEL FOR A CHILD**

- a. Counsel for a child must:
 - (1) Represent the child’s best interests.
 - (2) Gather evidence that bears on the best interest of the child and present that admissible evidence to the court in any manner appropriate for the counsel of a party.
 - (3) Present the child’s wishes to the court if the child so desires.
 - (4) Serve notices and pleadings on all parties consistent with rules and laws applicable to parties.
 - (5) Unless under the circumstances it is inappropriate to exercise the duty:
 - (A) Interview the child;
 - (B) Review the court files and all accessible relevant records available to both parties; and
 - (C) Make any further investigations child’s counsel considers necessary to ascertain evidence relevant to the custody or visitation hearings.
 - (6) If so informed by the child at any point, provide notice that the child:
 - (A) Wishes to address the court; or
 - (B) Has changed their choice about addressing the court.
 - (7) Provide the notice in (6) as soon as feasible to the parties or their attorneys, other professionals serving on the case, and then to the judicial officer.
- b. Counsel may introduce and examine witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to represent the child adequately.

9. **COUNSEL FOR A CHILD HAS THE FOLLOWING RIGHTS:**

- a. To have reasonable access to the child;
- b. To have standing to seek affirmative relief on behalf of the child;
- c. To receive notice of any proceeding, and all phases of that proceeding, including a request for examination affecting the child;
- d. To be heard in the proceeding and take any action available to a party in the proceeding;
- e. To have access to the child's medical, dental, mental health, and other health-care records;
- f. To have access to the child's school and educational records;
- g. To have access to the child's school and educational records; To interview school personnel, caretakers, health-care providers, mental health professionals, and others who have assessed the child or provided care to the child;
- h. To interview mediators subject to the provisions of Family Code sections 3177 and 3182;
- i. To assert or waive any privilege on behalf of the child;
- j. To receive reasonable advance notice of and the right to refuse any physical or psychological examination or evaluation that has not been ordered by the court;
- k. On approval of the court, to seek independent psychological or physical examination or evaluation of the child for purposes of the pending proceeding;
- l. On noticed motion to all parties and the local child protective services agency, to request the court to authorize the relevant local child protective services agency to release relevant reports or files concerning the child represented by the counsel as provided by Family Code section 3152; and
- m. Not to be called as a witness in the proceeding. (Fam. Code, §§ 3151(b), 3151.5.)

THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER

NOTICE

Any party required to pay court-ordered attorney fees or reimburse the court for attorney fees paid on a party's behalf must pay interest on overdue amounts at the legal rate, which is currently 10 percent per year. Failure to pay court-ordered attorney fees or reimburse the court for fees paid on a party's behalf may result in a legal action being initiated to collect overdue payments and interest on overdue amounts.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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CHILD CUSTODY AND VISITATION (PARENTING TIME) ORDER ATTACHMENT

- TO **Findings and Order After Hearing (form FL-340)** **Judgment (form FL-180)** **Judgment (form FL-250)**
 Stipulation and Order for Custody and/or Visitation of Children (form FL-355)
 Other (specify):

1. **Jurisdiction.** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (Fam. Code, §§ 3400–3465).
2. **Notice and opportunity to be heard.** The responding party was given notice and an opportunity to be heard, as provided by the laws of the State of California.
3. **Country of habitual residence.** The country of habitual residence of the child or children in this case is
 the United States Other (specify):
4. **Penalties for violating this order.** If you violate this order, you may be subject to civil or criminal penalties, or both.
5. **Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. (*Child Abduction Prevention Order Attachment (form FL-341(B))* is attached and must be obeyed.)
6. **Child custody.** Custody of the minor children of the parties is awarded as follows:

Child's Name	Birth Date	Legal custody to: <i>(person who decides about the child's health, education, and welfare)</i>	Physical custody to: <i>(person the child regularly lives with)</i>

7. **Child custody orders with allegations of a history of abuse or substance abuse**
 - a. Allegations have been made that the following person(s) have a history of abuse or the habitual or continual use of controlled substances, alcohol, or prescribed substances: petitioner respondent other parent/party
 - b. Even though there are allegations of a history of abuse or substance abuse, the court grants sole or joint custody of the minor children, as set out in item 6.
 - c. The reasons for making the custody orders to the person(s) alleged to have a history of abuse or substance abuse are:
 - (1) included in [Attachment 7](#).
 - (2) as follows:

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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8. Visitation (Parenting Time)

- a. Reasonable right of visitation to the party without physical custody (**not appropriate in cases involving domestic violence**)
- b. See the attached _____-page document
- c. The parties will go to child custody mediation or child custody recommending counseling at (*specify date, time, and location*):
- d. No Visitation (parenting time)
- e. Visitation (parenting time) for the petitioner respondent other (*name*): will be as follows:

(1) **Weekends starting (date):**

(*Note: The first weekend of the month is the first weekend with a Saturday.*)

1st 2nd 3rd 4th 5th weekend of the month

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(a) The parties will alternate the fifth weekends, with the petitioner respondent other parent/party having the initial fifth weekend, which starts (*date*):

(b) The petitioner respondent other parent/party will have the fifth weekend in odd even numbered months.

(2) **Alternate weekends starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(3) **Weekdays starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(4) **Other visitation (parenting time) days and restrictions are:** listed in Attachment 7e(4) ([form MC-025](#) may be used for this purpose) as follows:

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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9. Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns

a. Supervised visitation (parenting time).

- (1) Until further order of the court other (*specify*): _____, the petitioner respondent other parent/party (*name*): _____ will have supervised visitation (parenting time) with the minor children according to the schedule on page 1.
- (2) In addition, **Supervised Visitation Order (form FL-341(A) is attached.**

b. Unsupervised visitation (parenting time)

- (1) Even though there are allegations of a history of abuse or substance abuse, the petitioner respondent other parent/party (*name*): _____ has(have) unsupervised visitation (parenting time) with the minor children as set forth in 8.
- (2) The reasons for granting unsupervised visitation to the person(s) alleged to have a history of abuse or substance abuse are: as follows: Attachment 3b.

- (3) The orders for visitation (parenting time) are specific as to time, day, place, and manner of transfer of the child, as Family Code section 6323(c) requires.

10. Transportation for visitation (parenting time) and place of exchange

- a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles, and must have child restraint devices properly installed, as required by law.
- b. Transportation **to** begin the visits will be provided by the petitioner respondent other (*specify*): _____
- c. Transportation **from** the visits will be provided by the petitioner respondent other (*specify*): _____
- d. The exchange point at the beginning of the visit will be at (*address*): _____
- e. The exchange point at the end of the visit will be at (*address*): _____
- f. During the exchanges, the party driving the children will wait in the car and the other party will wait in his or her home (or exchange location) while the children go between the car and the home (or exchange location).
- g. Other (*specify*): _____

11. Travel with children. The petitioner respondent other parent/party(*name*): _____

- must** have written permission from the other parent or a court order to take the children out of
- a. the state of California.
 - b. the following counties (*specify*): _____
 - c. other places (*specify*): _____

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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12. **Holiday schedule.** The children will spend holiday time as listed below in the attached schedule. (*Children's Holiday Schedule Attachment (form FL-341(C))* may be used for this purpose.)

13. **Additional custody provisions.** The parties will follow the additional custody provisions listed below in the attached schedule. (*Additional Provisions—Physical Custody Attachment (form FL-341(D))* may be used for this purpose.)

14. **Joint legal custody.** The parties will share joint legal custody as listed below in the attached schedule. (*Joint Legal Custody Attachment (form FL-341(E))* may be used for this purpose.)

15. **Access to children's records.** Both the custodial and noncustodial parent have the right to access records and information about their minor children (including medical, dental, and school records) and consult with professionals who are providing services to the children.

16. **Other (specify):**

THIS IS A COURT ORDER.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 31, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Parentage Actions Under Assembly Bill 429

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Adopt rule 5.51 and form FL-211

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Gabrielle Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): November 2, 2020
Project description from annual agenda: AB 429 (Dahle) Child support: access to records (Ch. 52, Stats. of 2021)
Establishes that trials and court files are to be open to the public for new actions filed under the Uniform Parentage Act on or after January 1, 2023, excluding assisted reproduction cases.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-10

Title	Action Requested
Rules and Forms: Parentage Actions Under Assembly Bill 429	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 5.51 and form FL-211	January 1, 2023
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Gabrielle D. Selden, 415-865-8085 gabrielle.selden@jud.ca.gov
Hon. Stephanie E. Hulse, Cochair	Gregory Tanaka, 415-865-7671 gregory.tanaka@jud.ca.gov
Hon. Amy M. Pellman, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes the adoption of one new rule of court and a new confidential cover sheet, effective January 1, 2023, to comply with the mandate of Family Code section 7643.5, added by Assembly Bill 429 (Stats. 2021, ch. 52). The new form would be used by the petitioner to identify that the action or proceeding initially filed with the court to determine a parental relationship involves assisted reproduction under Family Code section 7613 or 7630(f), or sections 7960–7962, and provide information regarding the limitations on access to documents in such actions.

Background

Actions to determine a parental relationship under the Uniform Parentage Act in the Family Code have historically been confidential—the proceedings are closed to the public, and the public has limited access to records in the court file. However, AB 429 has amended the provisions governing the confidentiality currently applicable to all proceedings and records under the Uniform Parentage Act. Under amended Family Code section 7643, parentage actions filed before January 1, 2023, will remain confidential. However, those actions filed after January 1, 2023, which do not involve assisted reproduction, will no longer be confidential.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

AB 429 also added section 7643.5 to the Family Code to provide that confidentiality will continue to apply to parentage cases involving assisted reproduction, whenever they are, or were, filed in family court. Like all parentage actions filed before January 1, 2023, parentage cases involving assisted reproduction may be held in closed court with limited access to inspect and copy records.

Section 7643.5 also provides that “ [o]n or before January 1, 2023, the Judicial Council, shall create a new form or modify an existing form, as it deems appropriate, that requires a party initiating an action or proceeding filed under Section 7613, subdivision (f) of Section 7630, or Part 7 (commencing with Section 7960) to designate the action or proceeding as filed under the identified statutory provision.”

The Proposal

In response to the mandate of section 7643.5, the committee proposes that the Judicial Council adopt the following rule and form:

Rule 5.51, Confidential cover sheet for parentage actions or proceedings involving assisted reproduction; other requirements

This rule would specify the responsibilities of the petitioner to complete the confidential cover sheet and attach it to the initial document filed with the court. The proposed new rule would be placed under chapter 4 (Starting and Responding to a Family Law Case; Service of Papers), article 1 (Summonses, Notices, and Declarations), with the other rules that relate to the first papers issued by the court or required to be filed by the parties.

Confidential Cover Sheet—Parentage Action Involving Assisted Reproduction (form FL-211)

This proposed form would require the petitioner to identify that the initial filing in the case involves assisted reproduction and specify the name of the form attached to the cover sheet. It would also include instructions to the court clerk, as well as a section to provide notice to the parties and the court about the limitations on inspection and copying of records in the matter. The one-page form is based on the existing confidential cover sheet, *Confidential Cover Sheet—False Claims Action* ([form CM-011](#)), used in civil actions.

Alternatives Considered

Family Code section 7643.5 requires that the Judicial Council adopt a form or modify an existing form to comply with the statute. The committee, therefore, considered whether it should propose revising existing parentage forms as an additional way to comply with the mandate of the statute. Because there is no set of Judicial Council forms specific to assisted reproduction parentage cases, and litigants and attorneys may use their own pleadings, the committee decided to propose a new confidential cover sheet and require it to be attached to whatever form or pleading initiates the case.

In addition, the committee considered proposing only the mandatory cover sheet without an accompanying rule of court. However, because the Legislature required a new form to

commence a legal action or proceeding in family court, the committee decided it was important that the Title V rules reflect this important change in the law in chapter 4.

Fiscal and Operational Impacts

The impact to the courts includes costs to copy the new form, as well as the cost to educate court clerks about the new form and rule. Courts may also need to update their case management systems and create new docket codes due to the new form, which must remain attached to the initial document filed in the parentage action or proceeding.

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?
- To inform its future work, the Family and Juvenile Law Advisory Committee is interested in comments about whether it would be beneficial to the courts and litigants to create rules of court and/or forms specifically for assisted reproduction parentage cases. If so, what should be included?

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 3 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. Cal. Rules of Court, rule 5.51, at page 4
2. Form FL-211, at page 5
3. Link A: Assembly Bill 429,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB429

Rule 5.51 of the California Rules of Court would be adopted, effective January 1, 2023, to read:

1 **Chapter 4. Starting and Responding to a Family Law Case; Service of Papers**

2

3 **Article 1. Summonses, Notices, and Declarations**

4

5 **Rule 5.51. Confidential cover sheet for parentage actions or proceedings involving**
6 **assisted reproduction; other requirements**

7

8 **(a) Application**

9

10 This rule applies to actions or proceedings involving assisted reproduction in which
11 the parties seek to determine a parental relationship under Family Code section
12 7613 or 7630, or sections 7960–7962, that are filed with the court after January 1,
13 2023.

14

15 **(b) Filing Requirement**

16

17 To comply with Family Code section 7643.5, for all actions in (a) petitioner must
18 complete *Confidential Cover Sheet—Parentage Action Involving Assisted*
19 *Reproduction* (form FL-211) and attach it to the initial paper being filed with the
20 court.

21

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT-</p> <p style="text-align: center;">NOT APPROVED BY THE JUDICIAL COUNCIL</p> <p style="text-align: center;">V 3.09.22gs</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER: RESPONDENT:		
CONFIDENTIAL COVER SHEET— PARENTAGE ACTION INVOLVING ASSISTED REPRODUCTION		CASE NUMBER:

TO THE CLERK: The *Confidential Cover Sheet* and the attached documents must each be separately file-stamped.

INSTRUCTIONS
<ol style="list-style-type: none"> 1. Complete items 1 and 2 to identify the matter as an action or proceeding to determine a parental relationship involving assisted reproduction under Family Code section 7613 or 7630(f), or sections 7960—7962. 2. Sign and date the form. 3. Attach the completed form as the cover page of the initial documents and then file with the court clerk.

LIMITATIONS ON INSPECTION AND COPYING OF RECORDS:
<p>All papers and records, other than the final judgment, pertaining to the action or proceeding are confidential. They are subject to inspection and copying only by:</p> <ol style="list-style-type: none"> a. The parties to the action or their attorneys; b. Agents acting on a written authorization from the parties to the action; c. Agents acting on a written authorization of the attorneys for the parties; (Note: The agent's written authorization must state that the attorney obtained the consent of the party before authorizing the agent to inspect and copy the permanent record.) d. Any local child support agency, as defined in Family Code section 17000(h), for purposes of establishing parentage and enforcing child support orders; and e. All others only by court order for good cause shown.

1. This action or proceeding is filed under (*check a or b*):
 - a. Family Code sections 7613 or 7630(f).
 - b. Family Code sections 7960—7962.
2. The document to which this coversheet is attached is (*specify*):
 - a. *Petition to Determine Parental Relationship* (form FL-200).
 - b. *Stipulation of Entry of Judgment Re: Determination of Parental Relationship* (form FL-240).
 - c. Other (*specify below*):

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt forms FL-540 and FL-541

Committee or other entity submitting the proposal:
 Family and Juvenile Law Advisory Committee and the Tribal Court-State Court Forum

Staff contact (name, phone and e-mail): Ann Gilmour, 415-865-4207, ann.gilmour@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda: Family and Juvenile Advisory Committee Annual Agenda, Item 1 g. at page 4: Legislative Changes from the 2021 Legislative Session. As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently. g. AB 627 (Waldron) Recognition of tribal court orders: rights in retirement plans or deferred compensation (Ch. 627, Stats. of 2021) Establishes procedures for California courts to recognize tribal court family law orders involving the division of retirement and other deferred compensation benefits.

Tribal Court-State Court Forum Annual Agenda (Approved by the Executive and Planning Committee on March 11, 2021), Item 2 at page 7: Implement a Legislative Proposal to Facilitate Recognition of Tribal Court Orders Regarding the Division of Marital Assets as "Qualified Domestic Relations Order" Within the Meaning of 29 USC §1056(d)(3)(B) to Divide Pensions and Other Benefits Within the Scope of the Employee Retirement Income Security Act (ERISA) and Other Pension Plans

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR22-11

Title	Action Requested
Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt forms FL-540 and FL-541	January 1, 2023
Proposed by	Contact
Tribal Court–State Court Forum	Ann Gilmour, 415-865-4207,
Hon. Abby Abinanti, Cochair	ann.gilmour@jud.ca.gov
Hon. Suzanne N. Kingsbury, Cochair	
Family and Juvenile Law Advisory Committee	
Hon. Stephanie E. Hulse, Cochair	
Hon. Amy M. Pellman, Cochair	

Executive Summary and Origin

In 2020 the Legislature passed Assembly Bill 627 (Stats. 2021, ch. 58),¹ Judicial Council–sponsored legislation that added section 2611 to the Family Code and revised various provisions of the Tribal Court Civil Money Judgment Act found in the Code of Civil Procedure. The provisions ensure that divorce or dissolution judgments issued by tribal courts that include division of pension assets are effective and, in particular, are recognized as meeting the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). AB 627 mandated that the Judicial Council adopt forms to implement the legislation.

Background

California is home to more people of Native American ancestry than any other state in the nation. Currently there are 109 federally recognized tribes in California, second only to the number of tribes in the state of Alaska. Each tribe is sovereign, with powers of internal self-

¹ Available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB627.

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governance, including the authority to develop and operate a court system. At least 20 tribal courts currently operate in California, and several other courts are under development.

Tribal courts in California hear a variety of case types including child abuse and neglect cases; domestic violence protective orders; domestic relations (e.g., divorce and dissolution); contract disputes and other civil cases for money judgments; unlawful detainers, property disputes, nuisance abatements, and possession of tribal lands; name changes; and civil harassment protective orders.

Some tribal courts in California issue domestic relations orders, including divorce and dissolution decrees. When these dissolution orders include the division of pension benefits and other deferred compensation benefits governed by ERISA or a similar statute, interpretations of the law may require that the order be recognized by a state court in order to be fully effective. In 2011, the U.S. Department of Labor issued guidance on when a domestic relations order issued under tribal law would be a “ ‘judgment, decree or order ... made pursuant to a State domestic relations law within the meaning of federal law.’ ”² That guidance concluded that a tribal court order could only meet the standard for a “qualified domestic relations order” under ERISA if it was treated or recognized as such by the law of a state that could issue such an order.

The result of the guidance issued by the U.S. Department of Labor is that, for a tribal court divorce or dissolution order to effectively distribute pension or other deferred compensation benefits governed by ERISA, state law must recognize the order as a judgment, decree, or order made under state domestic relations law. The U.S. Department of Labor specifically approved of the model that had been incorporated into Oregon statute at Oregon Revised Statutes section 24.115(4).³

In 2012, the Judicial Council proposed legislation that eventually became the Tribal Court Civil Money Judgment Act (Sen. Bill 406 (Evans); Stats. 2014, ch. 243). This legislation added sections 1730–1741 to the Code of Civil Procedure to clarify and simplify the process for recognition and enforcement of tribal court civil money judgments. Prior to the passage of AB 627, California law did not explicitly recognize judgments or orders from tribal courts (or foreign courts, for that matter) that divide pension assets as judgments or orders made under state domestic relations law as mandated by ERISA. Further, current California law had no mechanism to “recognize” a tribal court order. Therefore, in order for a party in tribal court to have an ERISA domestic relations order accepted, that party would have to “register” the order.

To remedy this problem, the Judicial Council sponsored and the Legislature enacted AB 627. AB 627 creates a simplified process for California courts to recognize domestic relations orders from tribal courts that would meet the definition of a “qualified domestic relations order” under

² Advisory Opn. 2011-03A (Feb. 2, 2011), <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2011-03a>.

³ *Ibid.* See Or. Rev. Stat. § 24.115(4), <https://www.oregonlaws.org/ors/24.115>.

ERISA and other similar statutes if they were issued by a state court. AB 627 mandates that the Judicial Council create forms to implement the statute.

The Proposal

The proposal recommends the adoption of two mandatory forms to implement AB 627. Section 1733.1(a) of the Code of Civil Procedure, added by AB 627, creates a process where the parties to the underlying tribal court proceeding, when they both agree, may file a joint application for recognition of a tribal court order, and section 1733.1(b) mandates that the application be on a form adopted by the Judicial Council. Proposed new form FL-540 fulfills that mandate, for a joint application. Section 1733.1(e) contemplates the situation where one of the parties to the tribal court order does not agree to join in the application and states that the other party may proceed by having the tribal court execute a certificate in lieu of the signature of the other party. Section 1733.1(e) mandates that the Judicial Council adopt a format for that certificate. The committees concluded that it would be clearest to create a separate form for the situation where one party is not joining in the application and to include the certificate required to be executed by the tribal court in that form. Proposed new form FL-541 is for this situation.

The joint application form, FL-540 is straightforward, containing all the content required by section 1733.1(a), including the names and addresses of the joint applicants and the name and address of the tribal court, with an item stating that a certified copy of the order is attached. Although not required by the statute, the committees determined that adding the telephone number and email address for the tribal court that issued the underlying order would be useful to facilitate communication. In addition, the committees added the option of another applicant to address, for example, the situation where a child is the beneficiary of child support obligations.

Although two separate forms were not required by statute, the committees concluded that a separate form that included the tribal court certification contemplated by section 1733.1(e) would be the clearest way to provide an option for the situation where one of the parties to the underlying tribal court action is unwilling or unable to sign onto a joint application. Proposed form FL-541 is to be used for an application where one of the parties to the tribal court action is unwilling or unable to sign a joint application. The committees chose to use applicant and respondent terminology to provide wording that is familiar to state court practitioners. The form includes the same basic identifying information required by proposed form FL-540, and in addition the certificate contemplated by section 1733.1(e) of the Code of Civil Procedure is set out in the final portion of the FL-541 form. It includes the name and capacity of the person signing the certificate, the name of the tribal court, an affirmation that the order was made in compliance with the tribal court's rules and procedures and that the order is final and there is no pending appeal or stay of enforcement of the order.

The committees have not proposed any form of order to be issued by the state court because, according to section 2611 of the Family Code, the filing of the tribal court order is all that is required for it to be recognized as an order made pursuant to the domestic relations laws of this

state, and the filing does not confer any jurisdiction on the state court to modify or enforce the tribal court order.

Alternatives Considered

The committees considered taking no action but, because the new statute requires that the application be made on a Judicial Council form and mandates that the Judicial Council develop a format for a tribal court certificate, the committees concluded that action was warranted.

The committees considered whether to create only a single form for use in both a joint and separate applications. Because a sole application requires the tribal certification and a joint application does not, the committees thought that two separate forms would be easier for litigants to understand.

Fiscal and Operational Impacts

Courts may have to develop processes for recognizing these orders, such as revising their case management systems to allow for filing the new forms and attached orders and educating court staff, but that is a cost resulting from the underlying legislation. Ultimately the proposal should reduce state court costs by facilitating the process for implementing AB 627.

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?
- Is it clearer to have two application forms, one for joint applications and one for single-party applications, or should there be a single application form that could be used for either a joint or solo application?
- Do commenters suggest any additions or changes to the proposed tribal certificate in n proposed form FL-541?
- Would rules describing the process for recognizing and filing these tribal court orders be useful and of assistance to the courts and justice partners?

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 3 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. Forms FL-540 and FL-541, at pages 6–9

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER:</p> <p>NAME:</p> <p>FIRM NAME:</p> <p>STREET ADDRESS:</p> <p>CITY: STATE: ZIP CODE:</p> <p>TELEPHONE NO.: FAX NO.:</p> <p>EMAIL ADDRESS:</p> <p>ATTORNEY FOR (<i>name</i>):</p>	<p>FOR COURT USE ONLY</p> <p>DRAFT</p> <p>Not approved by</p> <p>the Judicial Council</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	
<p>APPLICANT 1:</p> <p>APPLICANT 2:</p> <p>OTHER APPLICANT (if any):</p>	
<p>JOINT APPLICATION FOR RECOGNITION OF TRIBAL COURT ORDER</p> <p>DIVIDING RETIREMENT PLAN OR OTHER DEFERRED COMPENSATION</p>	<p>CASE NUMBER:</p>

Use this form to ask the court to recognize a tribal court order that assigns all or part of the following types of benefits to an alternative payee: child support payments; spousal support payments; or marital property rights for a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation. You can make this application in the superior court of the county in which any applicant resides. **You must attach a certified copy of the tribal court order.**

If the one party to the tribal court action has not agreed to or is unable to proceed with the filing of a joint application for recognition, use *Application for Recognition of Tribal Court Order Dividing Retirement Plan or Other Deferred Compensation* (form FL-541)

Note: Recognition of this tribal court order based on this application does not give a court of this state jurisdiction to modify or enforce the tribal court order.

1. Applicant One (Petitioner in the Tribal Court Action) (*name*):
Mailing Address:

Telephone Number:
Email Address:

2. Applicant 2 (Respondent in the Tribal Court Action) (*name*):
Mailing Address:

Telephone Number:
Email Address:

3. Other Applicant (if any) (*name*):
Relationship to parties in tribal court action:
Mailing Address:

Telephone Number:
Email Address:

4. Tribal court that issued the order (*name*):
Mailing Address:

Telephone Number:
Email Address:

APPLICANT 1: APPLICANT 2:	CASE NUMBER:
------------------------------	--------------

- The applicants are parties to the underlying action, or in the case of another applicant a beneficiary of the order, in tribal court, ask the court to recognize of the order from the tribal court (*name of court*) issued on (*date filed with tribal court*) _____ under Code of Civil Procedure section 1733.1.
- A certified copy of the tribal court order to be recognized is attached to this form.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF APPLICANT 1)

Date: _____

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF APPLICANT 2)

Date: _____

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF OTHER APPLICANT (if any))

Date: _____

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
APPLICANT: RESPONDENT:	
APPLICATION FOR RECOGNITION OF TRIBAL COURT ORDER DIVIDING RETIREMENT PLAN OR OTHER DEFERRED COMPENSATION	CASE NUMBER:

This form is for use by an applicant when the other party to the tribal court action has not agreed to or is unable to proceed with the filing of a joint application for recognition. If both parties to the tribal court action agree to the application, use the Joint Application for Recognition of a Tribal Court Order Dividing Retirement Plan or Other Deferred Compensation (form FL-540).

Use this form to ask the court to recognize a tribal court order that establishes a right to child support payments, spousal support payments, or marital property rights for a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, and assigns all or part of the benefits to an alternative payee.

You can make this application in the superior court of the county in which either party to the tribal court action resides. (Code Civ. Proc., § 1733.1(c).) **You must attach a certified copy of the tribal court order.**

Note: Recognition of this tribal court order based on this application does not give a court of this state jurisdiction to modify or enforce the tribal court order.

1. Applicant (*name*):
 Mailing Address:
 Telephone Number:
 Email Address:

2. Respondent (Non-Applicant) (*name*):
 Mailing Address:
 Telephone Number:
 Email Address:

3. Tribal court that issued the order (*name*):
 Mailing Address:
 Telephone Number:
 Email Address:

4. Applicant states that
 - a. applicant and respondent are parties to the underlying action in, or applicant is a beneficiary of the order made against the respondent by the tribal court on (*date*) .
 - b. applicant has tried to have the respondent to agree to the filing of a joint application under Code of Civil Procedure section 1733.1(a), but the respondent has not agreed or is unwilling or unable to proceed.
 - c. A certified copy of the tribal court order to be recognized is attached to this form.

APPLICANT: RESPONDENT:	CASE NUMBER:
---------------------------	--------------

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF APPLICANT)

Date: _____

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF ATTORNEY FOR APPLICANT (if any))

CERTIFICATION OF TRIBAL COURT REPRESENTATIVE

5. I am a representative of the *(name of tribal court)* tribal court and hold the position of *(insert title of position)*. In that capacity I am authorized to and hereby certify that the attached is a copy of the order issued by the *(name of tribal court)* tribal court on *(date)*. The order was made in compliance with the tribal court's rules and procedures. The order is final.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF AUTHORIZED TRIBAL COURT REPRESENTATIVE)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Civil Law and Family Law: Request to Enter Default Forms Under the Servicemembers Civil Relief Act

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms CIV-100, CIV-105, FL-130, FL-130(A), FL-165, and FL-620

Committee or other entity submitting the proposal:
 Civil and Small Claims Advisory Committee & Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): John Henzl, 5-7607, john.henzl@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
 Annual agenda approved by Rules Committee on (date): 11/2/2021 (both), 11/16/2021 (Amended, Civil)
 Project description from annual agenda: Civil & Small Claims: Develop form recommendations as appropriate. In any civil action where the defendant does not make an appearance, 50 U.S. Code § 3931 requires the plaintiff to file an affidavit stating whether the defendant is in military service or not and include necessary facts to support the affidavit. Alternatively, the affidavit may state that the plaintiff is unable to determine whether or not the defendant is in military service. Current forms CIV-100 and CIV-105 do not allow plaintiffs to include necessary relevant facts or state that they are unable to determine whether or not the defendant is in military service and therefore must be revised.

F&J: In consultation with the Civil and Small Claims Advisory Committee, update federal statutory references in item 5, Declaration of nonmilitary status, on the Request to Enter Default (Family Law-Uniform Parentage) (FL-165) and item 3 Request to Enter Default Judgment (Governmental) (FL-620) and consider whether the current affidavit language is legally sufficient. Because the legal accuracy of the forms is in question, the committee needs to act to correct these forms

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)
 This proposal:
 - includes forms that have been translated.
 - includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
 - includes forms that staff will request be translated.
- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

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INVITATION TO COMMENT SPR22-12

Title	Action Requested
Civil Law and Family Law: Request to Enter Default Forms Under the Servicemembers Civil Relief Act	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms CIV-100, CIV-105, FL-130, FL-130(A), FL-165, and FL-620	January 1, 2023
Proposed by	Contact
Civil and Small Claims Advisory Committee	Sarah Abbott, 415-865-7687
Hon. Tamara L. Wood, Chair	sarah.abbott@jud.ca.gov
Family and Juvenile Law Advisory Committee	John Henzl, 415-865-7607
Hon. Stephanie E. Hulse, Cochair	john.henzl@jud.ca.gov
Hon. Amy M. Pellman, Cochair	Gabrielle D. Selden, 415-865-8085
	gabrielle.selden@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee jointly propose revising six forms to comply with the Servicemembers Civil Relief Act and reflect the act's current title and legal citation. The proposed revisions are intended to address concerns by judicial officers that the act requires, but the forms do not include, a declaration as to how the petitioner/plaintiff ascertained the respondent's/defendant's nonmilitary status before requesting entry of judgment by way of default in the legal proceeding. The joint proposal would ensure that any changes to civil and family law forms are consistent to the extent appropriate.

Background

The Servicemembers Civil Relief Act (SCRA)¹ (formerly known as the Servicemembers Civil Relief Act of 2003 and the Soldiers' and Sailors' Civil Relief Act of 1940) is a federal law that provides certain rights and protections for members of the U.S. military on active duty. It

¹ See 50 U.S.C. § 3901 et seq.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

addresses issues such as rental agreements, security deposits, prepaid rent, evictions, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosures, civil judicial proceedings, automobile leases, life insurance, health insurance, and income tax payments.² In California, similar protections are afforded to persons determined to be in military service, as defined in section 402(f) of the California Military and Veterans Code.

Section 3931 of the SCRA provides protections for servicemembers against default judgments in any civil action, including child custody proceedings, in which the defendant does not make an appearance. In pertinent part, section 3931(b)(1) provides:

In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

Further, section 3931(b)(4) specifies that the plaintiff may satisfy the requirements for the affidavit as follows:

The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

The Proposal

Declaration under SCRA section 3931(b)

Each form in the proposal currently includes a short statement by the petitioner/plaintiff declaring that respondent/defendant is not in military service and, therefore, is not entitled to the benefits of the SCRA. However, none of the forms provides a way for the petitioner/plaintiff to show necessary facts to support the declaration of nonmilitary status (that is, how the petitioner/plaintiff knows that the nonresponding party is *not* in military service).

To comply with section 3931(b) of the SCRA, the committees propose that the Judicial Council revise the specific item in each form that is noted below:

- Item 8 of *Request for Entry of Default (Application to Enter Default)* (form CIV-100);
- Item 9 of *Request for Entry of Default (Fair Debt Buying Practices Act)* (form CIV-105);

² In addition, effective December 1, 2015, the SCRA was relocated within the United States Code. It was previously cited as 50 U.S.C. App. §§ 501–597b. The current citation is 50 U.S.C. §§ 3901–4043.

- Item 5 of *Request to Enter Default (Family Law—Uniform Parentage)* (form FL-165); and
- Item 3 of *Request to Enter Default Judgment (Governmental)* (form FL-620).

The committees propose that each item be replaced with new language that would include a fillable field for the petitioner/plaintiff to indicate how they know the nonresponding party or parties are not in the military service. Except for the way a nonresponding party is referenced in civil and family law forms, the language would be as follows:

Declaration of nonmilitary status (*required for a judgment*).

The respondent is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that respondent is not in the U.S. military service because (*specify below*):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [*insert link to a page on the self-help website, which is being developed*].

Additionally, as illustrated above, the committees propose that the forms include information that could help the petitioner/plaintiff answer the question about the military status of a nonresponding party. The new “Note” box would include a link to the search engine maintained by the U.S. Secretary of Defense, Defense Manpower Data Center, which can be used to check a person’s military status if some basic information is known, such as their date of birth or Social Security number.³ In addition, the box would include a link to proposed new online content on the California Courts website that is being designed concurrently with this proposal. The new content would:

- Include information intended to help a party understand how to obtain a judgment by way of default if the nonappearing party is in U.S. military service or their military status is unknown;
- Explain how to use the federal government search engine to determine military status;
- Explain how the federal and state codes define military service; and
- Potentially include other information based on public comments in response to the proposal.

Update title and citation to SCRA

The proposal would also update the title and citation of the SCRA, as needed, in two forms: *Appearance, Stipulations, and Waivers* (form FL-130) and *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act of 2003* (form FL-130(A)).

³ See Servicemembers Civil Relief Act (SCRA) Website, <https://scra.dmdc.osd.mil/scra/#/home>.

Alternatives Considered

The committees reviewed federal and state law to understand the responsibilities of the courts, the parties, and the attorneys appointed to represent a nonresponding respondent/defendant who is on active duty in the U.S. military. The committees concluded that the forms need to be revised to more accurately reflect the law, so they did not consider the option of taking no action.

The committees also reviewed how some local California courts and courts in other jurisdictions (for example, San Diego County, Alaska, and North Carolina) address these cases in their rules and forms.⁴ Based on this research, the committees identified additional forms that could potentially be developed for use in California courts in proceedings where the SCRA provides protections. For example, there are currently no statewide rules or a form for the petitioner/plaintiff to use to obtain a default judgment when the other party *is* in the military or the other party's military status is unknown. These situations could require that an attorney be appointed to represent the military servicemember or that the petitioner/plaintiff post a bond to move forward with the proceeding. The committees considered whether to expand the scope of the proposal to include new statewide forms similar to those used in some local courts or other jurisdictions to address the procedure for having the court appoint an attorney, as well as the scope of the attorney's work in the case.

The committees decided not to expand the scope of this proposal. Instead, they decided to ask commenters for their input about whether the Judicial Council should develop forms or materials for statewide use under the SCRA in the areas previously described. Further, the committees determined that staff could work in the upcoming year to connect with the self-help centers in the courts to gather information on how different courts handle these situations. Based on comments received and information learned, in a future cycle the committees may consider proposing adoption of additional forms.

Fiscal and Operational Impacts

The impact to the courts may include costs to copy the revised forms, update forms packets, and educate court professionals about the SCRA requirements.

⁴ The Alaska courts, for example, use the following forms:

- *Default Application for Divorce, Custody, or Legal Separation* ([form SHC-400](#));
- *Affidavit of Attorney Appointed Under Servicemembers Civil Relief Act* ([form CIV-661](#));
- *Information Sheet for Attorneys Appointed Under the Servicemembers Civil Relief Act* ([form CIV-662](#)); and
- *Information Sheet for Parties Seeking Default Under the Servicemembers Civil Relief Act* ([form CIV-663](#)).

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?
- Would it be helpful for the Judicial Council to develop a statewide set of forms to address the appointment of counsel and other requirements under the SCRA when the nonappearing respondent/defendant is in the U.S. military service or their military status is unknown? If so, are there particular processes or forms currently in effect that the commenter believes would be effective?

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 3 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. Forms CIV-100, CIV-105, FL-130, FL-130(A), FL-165, and FL-620, at pages 6–16
2. Link A: Servicemembers Civil Relief Act,
<http://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter50&edition=prelim>
3. Link B: Military and Veterans Code sections 400–409.15,
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.5.&article=

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL V. 3/15/2022
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff/Petitioner: Defendant/Respondent:	
REQUEST FOR (Application) <input type="checkbox"/> Entry of Default <input type="checkbox"/> Judgment	CASE NUMBER:
For use only in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.)	

1. On the complaint or cross-complaint filed
 - a. on (date):
 - b. by (name):
 - c. Enter default of defendant (names):
 - d. I request a judgment under Civil Code section 1788.60 and Code of Civil Procedure section 585 against defendant (names):

(Testimony may be required. Check with the clerk regarding whether a hearing date is needed.)

e. <input type="checkbox"/> Default was previously entered on (date):			
2. Judgment to be entered.	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint*	\$	\$	\$
b. Interest	\$	\$	\$
c. Costs (see page 3)	\$	\$	\$
d. Attorney fees	\$	\$	\$
e. TOTALS	\$	\$	\$

(* Must be established by business records, authenticated through a sworn declaration, submitted with this application. (Civ. Code, §§ 1788.58(a)(4), 1788.60(a).))

3. This action is not barred by the applicable statute of limitations (Civ. Code, § 1788.56).
4. **Requirements for the complaint.**
 - a. The complaint alleges ALL of the following (Civ. Code, §§ 1788.58, 1788.60):
 - (1) That the plaintiff is a debt buyer;
 - (2) A short, plain statement regarding the nature of the underlying debt and the consumer transaction from which it is derived;
 - (3) That the plaintiff is EITHER the sole owner of the debt OR has the authority to assert the rights of all owners of the debt;
 - (4) The debt balance at charge-off and an explanation of the amount and nature of, and reason for, all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
 - (5) The date of the default OR the date of the last payment;
 - (6) The name and address of the charge-off creditor at the time of charge-off in sufficient form so as to reasonably identify the charge-off creditor, and the charge-off creditor's account number associated with the debt;

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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4. a. (7) The name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt;
- (8) The names and addresses of all persons or entities that purchased the debt after charge-off, including the plaintiff debt buyer, in sufficient form so as to reasonably identify each such purchaser; and
- (9) That the plaintiff has complied with Civil Code section 1788.52.
- b. A copy of the contract or other document described in Civil Code section 1788.52(b) is attached to the complaint.

5. **Documentation requirements for default judgment.** ALL of the following documents are submitted with this request for default judgment (Civ. Code, § 1788.60(a)–(c)):
 - a. A copy of the contract or other document evidencing the debtor's agreement to the debt, authenticated through a sworn declaration. See Civil Code section 1788.52(b) regarding documentation, including for revolving credit accounts.
 - b. Business records, authenticated through a sworn declaration, to establish:
 - (1) That the plaintiff is EITHER the sole owner of the debt OR has the authority to assert the rights of all owners of the debt;
 - (2) The debt balance at charge-off, and an explanation of the amount and nature of, and reason for, all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
 - (3) The date of the default OR the date of the last payment;
 - (4) The name and address of the charge-off creditor at the time of charge-off in sufficient form so as to reasonably identify the charge-off creditor, and the charge-off creditor's account number associated with the debt;
 - (5) The name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt; and
 - (6) The names and addresses of all persons or entities that purchased the debt after charge-off, including the plaintiff debt buyer, in sufficient form so as to reasonably identify each such purchaser.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

FOR COURT USE ONLY	(1) <input type="checkbox"/> Default entered as requested on <i>(date)</i> :
	(2) <input type="checkbox"/> Default NOT entered as requested <i>(state reason)</i> :
	Clerk, by _____, Deputy

6. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant did did **not** for compensation give advice or assistance with this form. If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- | | |
|--|---|
| <ol style="list-style-type: none"> a. Assistant's name: b. Street address, city, and zip code: | <ol style="list-style-type: none"> c. Telephone no.: d. County of registration: e. Registration no.: f. Expires on <i>(date)</i>: |
|--|---|

7. **Declaration under Code Civ. Proc., § 585.5** (for entry of default under Code Civ. Proc., § 585(a)). This action
 - a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
 - b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
 - c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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8. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was
- a. **not mailed** to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (*names*):
 - b. **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
 - (1) Mailed on (*date*):
 - (2) To (*specify names and addresses shown on the envelopes*):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 6, 7, and 8 are true and correct.

Date: _____

_____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF DECLARANT)

9. **Declaration of nonmilitary status (required for a judgment).**
 No defendant/respondent named in item 1c is in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that no defendant/respondent named in item 1c is in the U.S. military service because (*specify below*):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [\[insert link to a page on the self-help website, which is being developed\]](#).

10. **Memorandum of costs (required if money judgment requested).** Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):
- a. Clerk's filing fees \$
 - b. Process server's fees \$
 - c. Other (*specify*): \$
 - d. \$
 - e. **TOTAL** \$
 - f. Costs and disbursements are waived.
 - g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing items 9 and 10 are true and correct.

Date: _____

_____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF DECLARANT)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

8

Print this form

Save this form

Clear this form

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL V. 3/15/2022
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff/Petitioner: Defendant/Respondent:	
REQUEST FOR <input type="checkbox"/> Entry of Default <input type="checkbox"/> Clerk's Judgment (Application) <input type="checkbox"/> Court Judgment	CASE NUMBER: _____
Not for use in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.); (see form CIV-105)	

1. TO THE CLERK: On the complaint or cross-complaint filed
 - a. on (date):
 - b. by (name):
 - c. Enter default of defendant (names):
 - d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)
 - e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). *(Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)*
 - (3) for default previously entered on (date):

2. **Judgment to be entered.**

	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint	\$	\$	\$
b. Statement of damages*			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

- g. **Daily damages** were demanded in complaint at the rate of: \$ _____ per day beginning (date): _____
 (* *Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.*)
3. (Check if filed in an unlawful detainer case.) **Legal document assistant or unlawful detainer assistant** information is on the reverse (complete item 4).
- Date: _____

_____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)
FOR COURT USE ONLY (1) <input type="checkbox"/> Default entered as requested on (date): (2) <input type="checkbox"/> Default NOT entered as requested (state reason):	Clerk, by _____, Deputy	

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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4. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant did did not for compensation give advice or assistance with this form. If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- | | |
|--|----------------------------|
| a. Assistant's name: | c. Telephone no.: |
| b. Street address, city, and zip code: | d. County of registration: |
| | e. Registration no.: |
| | f. Expires on (date): |

5. **Declaration under Code Civ. Proc., § 585.5** (for entry of default under Code Civ. Proc., § 585(a)). This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was

- a. **not mailed** to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (*names*):
- b. **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
 - (1) Mailed on (date):
 - (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

7. **Memorandum of costs** (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees \$
- b. Process server's fees \$
- c. Other (specify): \$
- d. \$
- e. **TOTAL** \$ _____

- f. Costs and disbursements are waived.
- g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing **item 7** is true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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8. **Declaration of nonmilitary status** (required for a judgment).

No defendant/respondent named in item 1c is in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that no defendant/respondent named in item 1c is in the U.S. military service because (specify below):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [insert link to a page on the self-help website, which is being developed].

I declare under penalty of perjury under the laws of the State of California that the foregoing item 8 is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

PARTY WITHOUT ATTORNEY or ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY Draft Not approved by the Judicial Council v. 3/2/22
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
APPEARANCE, STIPULATIONS, AND WAIVERS	CASE NUMBER:

1. **Appearance by respondent** (you must choose one):
 - a. By filing this form, I make a general appearance.
 - b. I have previously made a general appearance.
 - c. I am a member of the military services of the United States of America. I have completed and attached to this form *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act* (form FL-130(A)).

2. **Agreements, stipulations, and waivers** (choose all that apply):
 - a. The parties agree that this cause may be decided as an uncontested matter.
 - b. The parties waive their rights to notice of trial, a statement of decision, a motion for new trial, and the right to appeal.
 - c. This matter may be decided by a commissioner sitting as a temporary judge.
 - d. The parties have a written agreement that will be submitted to the court, or a stipulation for judgment will be submitted to the court and attached to *Judgment (Family Law)* (form FL-180).
 - e. None of these agreements or waivers will apply unless the court approves the stipulation for judgment or incorporates the written settlement agreement into the judgment.
 - f. This is a parentage case, and both parties have signed an *Advisement and Waiver of Rights Re: Determination of Parental Relationship* (form FL-235) or its equivalent.

3. **Other** (specify):

Date: _____		
_____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF PETITIONER)
Date: _____		
_____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF RESPONDENT)
Date: _____		
_____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____		
_____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR RESPONDENT)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**DECLARATION AND CONDITIONAL WAIVER OF RIGHTS
 UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT**
 Attachment to *Appearance, Stipulations, and Waivers* (form FL-130)

Notice to Servicemember

The Servicemembers Civil Relief Act (50 U.S.C. §§ 3901–4043) is a federal law that provides protections for military members when they enter active duty. You may obtain a copy of the act from the public law library or from the website of the United States Department of Justice at www.justice.gov.

By signing this conditional waiver and attaching it to *Appearance, Stipulations, and Waivers* (form FL-130), I declare that I am entitled to the benefits of the **Servicemembers Civil Relief Act (SCRA)**, and:

1. To permit the court to decide this cause as an uncontested matter and enter a judgment that incorporates the terms of the written agreement made between the petitioner and me (a copy of which is attached to this form), I make a knowing, intelligent, and voluntary conditional waiver of the right to seek to set aside a default judgment entered against me in this matter, as provided by **section 3918 of the SCRA**.
2. This waiver is conditioned as follows:
 - a. The waiver applies only to a default judgment that incorporates the terms and conditions of the written agreement between the petitioner and me that is titled (*specify*):
 - (1) Stipulation for Judgment
 - (2) Marital Settlement Agreement
 - (3) Other (*specify*):
 - b. The court must enter a judgment in this case that incorporates only the terms and conditions of the above written agreement without any change; and
 - c. Should the court enter a judgment that changes the above written agreement in any way, then I do not waive any of my rights under the SCRA, including my right to seek to set aside the judgment at any time.
3. This conditional waiver was executed during or after a period of military service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME) _____
 (SIGNATURE OF RESPONDENT)

Attention: Clerk of the Court
By law, a servicemember must not be charged a fee to file *Appearance, Stipulations, and Waivers* (form FL-130).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL v. 3/02/2022
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
REQUEST TO ENTER DEFAULT	CASE NUMBER:

1. **To the clerk:** Please enter the default of the respondent who has failed to respond to the petition.
2. A completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) is attached is not attached.
 A completed *Property Declaration* (form FL-160) is attached is not attached because (check at least one of the following):
 - (a) there have been no changes since the previous filing.
 - (b) the issues subject to disposition by the court in this proceeding are the subject of a written agreement.
 - (c) there are no issues of child, spousal, or partner support or attorney fees and costs subject to determination by the court.
 - (d) the petition does not request money, property, costs, or attorney fees. (Fam. Code, § 2330.5.)
 - (e) there are no issues of division of community property.
 - (f) this is an action to establish parental relationship.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF [ATTORNEY FOR] PETITIONER)

3. **Declaration**
- (a) No mailing is required because service was by publication or posting and the address of the respondent remains unknown.
 - (b) A copy of this *Request to Enter Default*, including any attachments and an envelope with sufficient postage, was provided to the court clerk, with the envelope addressed as follows (address of the respondent's attorney or, if none, the respondent's last known address):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF DECLARANT)

FOR COURT USE ONLY
<input type="checkbox"/> <i>Request to Enter Default</i> mailed to the respondent or the respondent's attorney on (date): <input type="checkbox"/> Default entered as requested on (date): <input type="checkbox"/> Default not entered. Reason:
Clerk, by _____, Deputy

CASE NAME <i>(Last name, first name of each party)</i> :	CASE NUMBER:
--	--------------

4. Memorandum of costs

- a. Costs and disbursements are waived.
- b. Costs and disbursements are listed as follows:
- | | |
|---|-----------------|
| (1) <input type="checkbox"/> Clerk’s fees | \$ |
| (2) <input type="checkbox"/> Process server’s fees | \$ |
| (3) <input type="checkbox"/> Other <i>(specify)</i> : | \$ |
| | \$ |
| | \$ |
| | \$ |
| TOTAL | \$ |

c. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief, the foregoing items of cost are correct and have been necessarily incurred in this cause or proceeding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

5. Declaration of nonmilitary status *(required for a judgment)*.
 The respondent is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).
 I know that respondent is not in the U.S. military service because *(specify below)*:

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [\[insert link to a page on the self-help website, which is being developed\]](#).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

GOVERNMENTAL AGENCY (under Family Code, §§ 17400 and 17406): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
REQUEST TO ENTER DEFAULT JUDGMENT	CASE NUMBER: _____

1. More than 30 days have passed since service of the summons, complaint, and copy of the proposed judgment.
2. To my knowledge no answer or other responsive pleading has been filed.
3. **Declaration of nonmilitary status (required for a judgment).**
 The respondent/defendant is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).
 I know that respondent/defendant is not in the U.S. military service because (specify below):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent/defendant is in the military service, or their military status is unknown, the respondent/defendant is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see *[insert link to a page on the self-help website, which is being developed]*.

4. The local child support agency requests that default and judgment be entered under Family Code section 17430.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF DECLARANT)

FOR COURT USE ONLY

(1) Default entered as requested on (date): _____

(2) Default not entered as requested. (State reason): _____

By: _____

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Juvenile Law: Short-Term Residential Therapeutic Program Placement

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV 240; approve form JV 459(A); revise forms JV 235, JV 236, JV 237, JV 238, JV 239, JV-320, JV 421, JV 430, JV 432, JV 433, JV 435, JV 437, JV 438, JV 440, JV 442, JV 443, JV 445, JV 446, JV 455, JV 457, JV 461(A), JV 462, JV 642, JV 667, JV 672, JV 674, and JV 678

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Daniel Richardson; 415-865-7619; daniel.richardson@jud.ca.gov
 Karis Daggs; 415-865-7704; karis.daggs@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda: Monitor implementation of the Family First Prevention Services Act (FFPSA), which reforms federal child welfare financing streams, Title IV-E and Title IV-B of the Social Security Act, to provide services to families who are at risk of entering the child welfare system. Budget trailer bill legislation enacted in 2021, with an effective date of October 1, 2021 enacted key changes to court processes for approving placements in Short Term Residential Therapeutic Programs that required rule and form changes to implement. Those changes were approved by the Judicial Council at its October 1, 2021 meeting, and will circulate for public comment in the 2022 Winter rules and forms cycle for future revisions as well as to implement additional legislative clarifications.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

This proposal is circulating for comment a second time. It circulated for comment in the Spring 2021 prior to Assembly Bill 153 (the bill related to this proposal) was signed into law. The proposal updates the rules and forms that were finalized after the comment period as AB 153 was signed into law after the comment period of the last rules cycle. Proposal addresses the implementation of Assembly Bill 153 which implements part IV of the federal Family First Prevention Services Act. Additional updates required by AB 153 that were not made in the last rules cycle due to time constraints are addressed in the multiple status review forms in this proposal.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-13

<p>Title Juvenile Law: Short-Term Residential Therapeutic Program Placement</p> <p>Proposed Rules, Forms, Standards, or Statutes Amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678</p> <p>Proposed by Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulse, Cochair Hon. Amy M. Pellman, Cochair</p>	<p>Action Requested Review and submit comments by May 13, 2022.</p> <p>Proposed Effective Date January 1, 2023</p> <p>Contact Daniel Richardson, 415-865-7619 daniel.richardson@jud.ca.gov</p> <p>Karis Daggs, 415-865-7704 Karis.daggs@jud.ca.gov</p>
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Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes that the Judicial Council amend three rules and adopt, approve, and revise Judicial Council forms, effective January 1, 2023, to finalize the implementation of Assembly Bill 153 (Stats. 2021, ch. 86). AB 153 implements part IV of the federal Family First Prevention Services Act, which requires participating states to create a process of judicial review for each placement of a foster youth in a congregate care placement. This is the second time the proposal is circulating for public comment. The proposal initially circulated for public comment in spring 2021, before AB 153 was signed into law. Additional requirements created by AB 153 for status review hearings that were not addressed in the previous proposal are incorporated into this proposal.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Background

In 2018, the federal Family First Prevention Services Act (FFPSA) was signed into law.¹ Part IV of the legislation addresses steps that participating states must take to safely reduce the inappropriate use of congregate care for children. The federal legislation requires that, for congregate care placements to be eligible for federal title IV-E funding, each placement of a foster youth in a congregate care setting must be reviewed and approved by a “family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently.” The act requires that participating states must implement its provisions no later than October 1, 2021.

California, which relies on federal funding to fund its short-term residential therapeutic program (STRTP) placements, elected to implement the requirements of part IV of the FFPSA to ensure that these placements remain eligible for federal funding. To meet the deadline of October 1, 2021, the California Department of Finance introduced budget trailer bill language in early 2021 that would implement part IV of the FFPSA and thus bring California into compliance with the federal requirements. The trailer bill language was amended into Assembly Bill 153 (Committee on Budget; Stats. 2021, ch. 86),² which was signed into law on July 16, 2021. The requirements created by AB 153 are the subject of this proposal.

Prior Circulation

In the spring rules cycle of 2021, the committee took the unusual step of circulating the initial version of this proposal for comment based on the trailer bill language. This was done to ensure juvenile courts would not be forced to implement legislation effective October 1, 2021, without rules and forms in place. The committee was also aware that the trailer bill language required the Judicial Council to adopt rules of court and develop or amend appropriate forms, as necessary, and that courts would be faced with a brand-new process for any new placement in a STRTP starting on October 1. If the committee had waited to circulate the proposal for comment until after the legislation had been finalized, rules and forms would not have been in place when the legislation became effective.

The proposal was revised after the comment period to comply with the final version of AB 153. The final version of the proposal was not circulated for public comment and is therefore being circulated in this cycle to meet the requirement that each proposal circulate for public comment.

The Proposal

AB 153 requires the Judicial Council to adopt and amend rules of court and develop appropriate forms for the implementation of several of its provisions. The proposal would conform the rules and forms to additional new requirements created by AB 153 that were not addressed in the last rules cycle. In addition, proposed changes to the process for reviewing STRTP placements would

¹ Pub. L. No. 115-123 (Feb. 9, 2018) 132 Stat. 254. The FFPSA was included as a provision in the Bipartisan Budget Act of 2018, www.congress.gov/115/plaws/publ123/PLAW-115publ123.pdf.

² The bill is accessible at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB153.

improve efficiency and promote compliance with the requirements of AB 153 and federal legislation.

The following actions are proposed:

- Amend three California Rules of Court:
 - Rule 5.618, Placement in short-term residential therapeutic program;
 - Rule 5.697, Disposition hearing for a nonminor; and
 - Rule 5.903, Nonminor dependent status review hearing.
- Adopt a new Judicial Council form: *Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing* (JV-240).
- Approve a new Judicial Council form: *Status Review Attachment: Sexual and Reproductive Health Services (Welf. & Inst. Code, §§ 366(a)(1)(F), 727.2(e)(7))* (JV-459(A)).
- Revise 27 Judicial Council forms:
 - *Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program* (JV-235)
 - *Input on Placement in Short-Term Residential Therapeutic Program* (JV-236)
 - *Proof of Service—Short-Term Residential Therapeutic Program Placement* (JV-237)
 - *Notice of Hearing on Placement in Short-Term Residential Therapeutic Program* (JV-238)
 - *Order on Placement in Short-Term Residential Therapeutic Program* (JV-239)
 - *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (JV-320)
 - *Findings and Orders After Six-Month Status Review Hearing (Welf. & Inst. Code, § 366.21(e))* (JV-430)
 - *Six-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(e))* (JV-432)
 - *Six-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(e))* (JV-433)
 - *Findings and Orders After 12-Month Permanency Hearing (Welf. & Inst. Code, § 366.21(f))* (JV-435)
 - *Twelve-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(f))* (JV-437)
 - *Twelve-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(f))* (JV-438)
 - *Findings and Orders After 18-Month Permanency Hearing (Welf. & Inst. Code, § 366.22)* (JV-440)
 - *Eighteen-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.22)* (JV-442)
 - *Eighteen-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.22)* (JV-443)

- *Findings and Orders After Postpermanency Hearing—Parental Rights Terminated; Permanent Plan of Adoption (Welf. & Inst. Code, § 366.3) (JV-445)*
- *Findings and Orders After Postpermanency Hearing—Permanent Plan Other Than Adoption (Welf. & Inst. Code, § 366.3) (JV-446)*
- *Findings and Orders After 24-Month Permanency Hearing (Welf. & Inst. Code, § 366.25) (JV-455)*
- *Twenty-four-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.25) (JV-457)*
- *Dispositional Attachment: Nonminor Dependent (JV-461(A))*
- *Findings and Orders After Nonminor Dependent Status Review Hearing (JV-462)*
- *Initial Appearance Hearing—Juvenile Delinquency (JV-642)*
- *Custodial and Out-of-Home Placement Disposition Attachment (JV-667)*
- *Findings and Orders After Six-Month Prepermanency Hearing—Delinquency (JV-672)*
- *Findings and Orders After Permanency Hearing—Delinquency (JV-674)*
- *Findings and Orders After Postpermanency Hearing—Delinquency (JV-678)*

Rules of court

Rule 5.618

Rule 5.618 was created in the 2021 spring rules cycle after AB 153 was signed into law. The rule sets a procedural framework for the court’s review of a STRTP placement. The committee has reviewed the rule and proposed the rule be revised in several ways.

Removal of form references. The committee elected to propose that many of the forms associated with the STRTP review hearing be optional. The forms are fixtures in the current version of rule 5.618 and are integral to the process for the court to receive input and objections to the STRTP placement, and for the process to approve the placement without a hearing.³ But with the forms now being proposed to be optional, the rule has been updated to remove references in the rule to the forms and replace them with more generic language to allow for a proof of service or filing that are not on Judicial Council forms.

Notice to parties. The list of individuals required to receive notice has been updated to include a nonminor dependent’s guardian ad litem, the county counsel, the district attorney, the social worker or probation officer, and a nonminor dependent’s legal guardian if they are receiving reunification services. In addition, a child’s Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem has been added to the list for those situations described in rule 5.662 in which an attorney is not appointed for a child. And finally, a nonminor dependent’s guardian ad litem if one has been appointed consistent with Code of Civil Procedure section 372 and

³ Rule 5.618(f) requires that the placing agency has verified through the JV-237 proof of service form that they served the report 10 court days before the hearing on all parties; subdivision (f) also requires that to approve the placement without a hearing, that no party has objected to the placement through form JV-236 within five court days of receiving the report. In addition, subdivision (f) requires that local rules meet the same requirements. Subdivision (b) of the rule also requires that form JV-235 be served on the parties to satisfy the requirement that the parties be notified of the request for review, and that form JV-236 be served on the parties at the same time.

Probate Code sections 810–813 has also been added to the list of individuals required to receive notice (rule 5.618(b)).

Submission of the report. Subdivision (d)(1) was updated to require the social worker or probation officer to “submit” the report to the court, as opposed to “file” the report with the court. This change was made to reflect the language in sections 361.22(c)(1) and 727.12(c)(1).

Parties who can object. The list of parties who can object to the placement has been updated to include the district attorney on the case, and the Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem and a nonminor dependent’s guardian ad litem as discussed above (rule 5.618(e)(5)). These additions are all considered parties to the case. The committee elected to give only parties the ability to object and therefore prevent the court from approving the placement without a hearing, as parties are the ones who could be aggrieved by the court’s decision.

Code of Civil Procedure section 1013(a). A comment was received in last year’s rules cycle questioning whether the rule’s timeline for an objection from a party would be subject to Code of Civil Procedure section 1013(a).⁴ An adequate response to that question was not provided in the last cycle. Like many other juvenile rules, an abbreviated timeline required responses be received without the benefit of the extensions of Code of Civil Procedure section 1013(a).⁵

The last sentence of Code of Civil Procedure section 1013(a) states, “This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.” Because the statute allows for exceptions in a rule of court, the committee proposes that rule 5.618(f)(1)(C) be updated to clarify that “[t]he requirements of Code of Civil Procedure section 1013(a) do not apply to this subdivision.” An advisory comment was also added to the rule, indicating that the reason for the exception to Code of Civil Procedure section 1013(a) is based on the exigency required by the timelines of Welfare and Institutions Code sections 361.22 and 727.12⁶ and the need for a prompt resolution of the youth’s status in a STRTP placement.

⁴ “[A]ny 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, if the place of address and the place of mailing is within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States.” (Code Civ. Proc., § 1013(a)).

⁵ For example, for a hearing to review a child’s removal from their school of origin, rule 5.651(e)(2)(A)(i) requires the request for a hearing by the child’s attorney be filed within 2 court days of receiving notice of the placement change. For a hearing to review an out-of-county placement, a parent has 7 calendar days to object and request a hearing after receiving notice of the placement change. The court must hold a hearing not later than 5 calendar days after the objection is received and prior to the placement. (Welf. & Inst. Code, § 361.2(h).) A request for review of a presumptive transfer waiver determination must be made within 7 court days of the petitioner’s being noticed of the placing agency’s determination on the request for waiver of presumptive transfer. A hearing can be set no later than 5 court days after the request for a hearing was filed. (Cal. Rules of Court, rule 5.647(b)(3) & (c)(1).)

⁶ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

Rules 5.903 and 5.697

These rules are proposed to be amended because each rule lists the items required for the report for the hearing, and rule 5.903 lists required findings and orders. These requirements have both been changed by AB 153. The committee recommends that each rule be revised to refer to the statutory requirements for these items, as opposed to creating a duplicate list of the statutes' requirements. Doing so will ensure that the rule will not have to be updated each time there is a legislative change. Those portions of the rule that are contained in the statute were removed and replaced with a reference to the applicable Welfare and Institutions Code section; however, the requirements of rule 5.903 first recommended by the Family and Juvenile Law Advisory committee and adopted by the Judicial Council in 2011 that are not in statute will remain in the rule. A similar update was not required for rule 5.708 (General review hearing requirements) because the rule already cross-references the statute.⁷

Forms related to the STRTP review

New form JV-240

One of the most important features of rule 5.618 is its fulfillment of the statutory mandate that the rule include a process to approve a STRTP placement without a hearing.⁸ In last year's rules cycle, the committee paid careful attention to creating this process. A process was created that requires the report to be served 10 court days before the hearing, and if no party objects within five court days of receiving the report, the court may approve the placement and vacate the hearing date.

The rule, however, does not currently require that any notice be provided that a request for approval without a hearing is being made. Forms that are distributed to parties provide information that the placement could be approved if no party objects.⁹ But for parties and for the court it may be difficult to determine when approval without a hearing is being requested.

To make sure parties are clearly aware that a request is being made to approve the placement without a hearing, the committee is recommending the adoption of new mandatory form, *Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing* (form JV-240), attached on page 37, and recommending that rule 5.618(f)(1)(B) be amended to require that the form be served on parties along with the report.

Mandatory versus optional: forms JV-235, JV-236, JV-237, and JV-239

The committee elected to propose forms JV-235, JV-236, and JV-237 be made optional and that JV-239 remain mandatory (JV-238 would remain optional). Based on the experience gained by

⁷ Rule 5.708 requires that reports include "[a] factual discussion of each item listed in sections 366.1 and 366.21(c)," so the updates by AB 153 are reflected by the reference to the statute.

⁸ See §§ 361.22(h), 727.12(h).

⁹ The current version of the request for review (form JV-235) does provide parties notice that the placing agency will be requesting approval of the placement without a hearing in item 4. JV-235 and JV-236 also provide advisements to parties that the placement could be approved without a hearing if certain conditions are met.

courts, having the forms mandatory worked initially, but had become onerous after more experience in holding these hearings had been gained. Form JV-239 is recommended to remain mandatory to ensure that correct findings and orders are made.

Modifications to STRTP review forms

In addition to several technical edits, the following modifications are proposed for the forms addressing the court's review of a STRTP placement. All changes are highlighted on the attached forms found on pages 35-36.

Level of care versus placement. Form JV-239, the court's findings and orders form, is updated to reflect one of the minor discrepancies between sections 361.22 and 727.12. Section 361.22(e)(3) requires the court to determine whether the STRTP *level of care* is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or nonminor dependent. Section 727.12(e)(3), however, requires this determination to be made as to the specific STRTP. This difference could be significant in some situations, and the form has been updated in item 7 to reflect this distinction.

Placement address. The request for review (form JV-235) may not provide enough specificity as to which specific placement is being reviewed, as it requires the name of the placement only. This could cause an issue when a STRTP is part of an agency that has multiple homes. Including the address of the STRTP in the identifying information in the form would therefore provide the level of specificity needed. If the placement is confidential under section 308, the form indicates that the information can be provided by using [form JV-287](#). This proposal requests specific comment on this issue.

List of reasons for court's determination. Sections 361.22(e)(6) and 727.12(e)(6) require the court to "[m]ake a finding, either in writing or on the record, of the basis for its determinations pursuant to this subdivision." The committee elected to include a list of typical reasons for the court's determination on the form JV-239 that the court can check to meet this requirement. Item 10 on form JV-239 has been updated with a list of typical reasons for the court's determination to approve or disapprove the placement.

Form JV-236 introductory paragraph. The introductory paragraph was updated to provide additional clarification on the review of the placement without a hearing. A reference to proposed new form JV-240 was added, alerting parties that they will receive this notice if a request is made to approve the placement without a hearing. A similar reference was added to form JV-235.

Forms related to status review hearings

The following discussion addresses updates to 22 status review forms to implement new requirements under AB 153 and other changes to improve consistency with the Welfare and Institutions Code and among forms.

The forms are being circulated for comment a second time because they were updated after the comment period in the last rules cycle and the requirements of AB 153 were not all addressed in that cycle due to time constraints.¹⁰

AB 153 created two new sets of findings that the court will need to consider at status review hearings (see section 366(a)(1)(F) and (G)). These new subdivisions both require that on or before January 1, 2023, “the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.”

Sexual and reproductive health services. AB 153 created a requirement at status review hearings that the court review the placing agency’s responsibility to provide sexual and reproductive health information (section 366(a)(1)(F)). The finding is not required for every foster youth, but is required “[f]or a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, or a nonminor dependent.”

Because these findings are not required for every foster youth, and because the required findings are lengthy, the committee recommends that a new form be created for use as an attachment, to be used for those hearings at which the findings are required.¹¹ The proposed *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) is attached on page 110.

To indicate to the court when the attachment is required, the status review forms have the following new item added:

- For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

Education findings. AB 153 amended section 366 to require the court to consider new information and make findings related to the provisions of support for foster youth as they pursue secondary education. The following findings from section 366(a)(1)(G)(i) must be addressed by the court:

For a child who is 16 years of age or older or for a nonminor dependent, whether the social worker or probation officer has, pursuant to the requirements of

¹⁰ One form from the spring cycle (JV-410) is not circulating for comment because no further updates were made to the form after the comment period, and it does not require additional AB 153 updates. This form will be updated with technical amendments consistent with issues discussed below and included in the final report to the Judicial Council, but the committee determined it does not require re-circulation under rule 10.22(d)(2) because the changes are minor substantive change that are unlikely to create controversy.

¹¹ Because the finding will always be required for a nonminor dependent, the full list of findings are being included on forms related to nonminor dependent status review (forms JV-461(A) and JV-462).

paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

Because this finding is required at a status review hearing, it will need to be included in most of the forms in this proposal. The finding is proposed to appear as follows:

- a. The child is 16 years of age or older:
 - (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) The name of the support person(s) to assist the child is: _____ . The relationship(s) to the child is: _____ .
 - (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (a) stated on the record.
 - (b) as follows: [*Comment field*]
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

Additional forms added to proposal. Incorporated in this proposal are four additional forms that were not part of the proposal in the 2021 spring rules cycle. These additions were required because the findings of AB 153 would be required for status review hearings for cases in reunification whether the youth was returned home or remained in foster care.¹² Status review forms for cases in reunification are divided into multiple attachments to address the different possible outcomes during reunification, with a parent form that includes the findings that would be required regardless of whether the youth returns home or not. These parent forms are included in this proposal so that the AB 153 findings can be added to them.¹³

¹² The STRTP review hearings that led to the initial expansion of forms in the proposal are only required to be made when the youth *remains* placed in the STRTP, implicating only those forms in which the youth remains in foster care; however, the reproductive health rights findings and education findings would be required whether the minor remains in foster care or not.

¹³ The additional forms include:

- *Findings and Orders After Six-Month Status Review Hearing (Welf. & Inst. Code, § 366.21(e)) (JV-430);*
- *Findings and Orders After 12-Month Permanency Hearing (Welf. & Inst. Code, § 366.21(f)) (JV-435);*
- *Findings and Orders After 18-Month Permanency Hearing (Welf. & Inst. Code, § 366.22) (JV-440); and*
- *Findings and Orders After 24-Month Permanency Hearing (Welf. & Inst. Code, § 366.25) (JV-455).*

Other form revisions

In addition to the AB 153 findings mentioned above, the forms are being updated to promote consistency in several respects and with other substantive updates. The issues that follow are being addressed across all the forms.

Statutory citations. All forms are being updated to make the format of statutory citations consistent. A full citation is provided in the statutory reference at the bottom of the form, for example, “Welfare and Institutions Code, §.” The rest of the form uses the abbreviated citation “Welf. & Inst. Code, §.” If a code section cited in the form is not spelled out with a full citation at the bottom of the form, then that code section is spelled out in full, for example, “Family Code section.”¹⁴

Court’s signature. The court’s signature line is being updated to be consistent across the forms. The signature line will designate the judicial officer’s status as “ Judge Temporary Judge Referee Commissioner.” Many current forms use this approach, while others use “Judge” or “Judicial Officer.”

Gender references. Gender references are being removed consistent with the Judicial Council’s commitment to use nonbinary language in its forms. The committee determined, however, that references to “mother” and “father” are still necessary because the Welfare and Institutions Code uses these designations and they often have legal implications, and that, therefore, the Legislature should address this issue first. But forms are being updated with an additional “Other” option where a list of parents is provided, to allow for the inclusion of nonbinary parents and same-sex parents.

Appearance by child. The section on the forms addressing the child’s appearance at the hearing who is 10 years old or older is being updated to reflect the requirements of section 349(d), ensuring proper notice and giving the court the option to continue the hearing to ensure the child can be present, or make a finding that it is not in the best interests of the child to continue the hearing.

In addition, substantive legal issues have been addressed in the form revisions, including the following issues:

Return home at postpermanency hearing. A suggestion was received from a stakeholder in 2020 noting that form JV-446 does not include an option to return the child home at a postpermanency hearing. Section 366.3 includes several provisions that indicate return to a parent is a germane issue at a postpermanency hearing.¹⁵ Section 366.3(f) also indicates there is a presumption that

¹⁴ These changes are also being made to the forms related to the STRTP review process discussed in this proposal. An exception was made, however, in the forms that were providing instructions to parties. In those situations, the code section was spelled out in full as “Welfare and Institutions Code section.”

¹⁵ Section 366.3 also requires the court to consider several findings that contemplate the minor could be a candidate to return to their home, including the following required findings:

- Whether continued placement remains necessary;

continued care is in the best interests of the child and goes on to state that this presumption can be overcome if the parents prove by a preponderance of the evidence that further efforts at reunification are in the child’s best interests.

The committee considered this issue and recommended that the form be updated to provide for these possible outcomes. The following findings are recommended to be added to form JV-446 as items 11 and 38:

11. Continued out-of-home placement is no longer necessary. The child is ordered immediately returned to the home of the mother father legal guardian.
 - a. Family maintenance services are ordered for six months.
 - b. Custody of the child under the custody order and final judgment entered this day. Visitation with the child will be as stated in the *Visitation Order-Juvenile* (form JV-205). The clerk of the juvenile court must file with the family court a completed *Custody Order-Juvenile-Final Judgment* (form JV-200) and *Visitation Order-Juvenile* (form JV-205).

38. The mother father nonbinary parent have proved by a preponderance of the evidence that further efforts at reunification are the best alternative for the child. Further reunification services to return the child to a safe home environment are ordered to the parent for a period of six months.

Sibling under three and termination of services at six months. Forms related to the disposition hearing and six-month reunification hearing are updated to comply with the requirements of 361.5(a)(1)(C) when reunification services are terminated at the six-month review hearing for a sibling group that includes a child who was under the age of three at removal. According to the recent case *W.P. v. Superior Court* (2018) 20 Cal.App.5th 1196, section 361.5(a)(1)(C) requires that to terminate services at the six-month review, the siblings must have been removed at the same time and remain placed together.¹⁶ Forms related to the disposition hearing and the six-month status review were updated with this information (forms JV-415, JV-432, and JV-433).

-
- The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care; and
 - The likely date by which the child may be returned to, and safely maintained in, the *home* (§ 366.3(e)(1), (7) & (8)).

A court must also consider all permanency planning options for the child, “including whether the child should be *returned to the home of the parent*” (§ 366.3(h), italics added).

¹⁶ “*For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services for some or all of the sibling group may be limited as set forth in subparagraph (B). ... (§ 361.5, subd. (a)(1)(C).)*” 20 Cal.App.5th at p. 1202, italics added.

The changes include adding language that the sibling group was “removed at the same time” and “are placed together.”

In addition, form JV-432, *Six-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(e))*, addressing the continuation of services for this classification of youth at the six-month review, has been updated. The current version of the form requires a finding of a substantial probability of return to continue services to the 12-month review for a child under three years of age or member of a sibling group at removal. However, section 366.21(e)(3) requires that to terminate services in this situation, the court must first find by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan.¹⁷ If the parent then proves a substantial probability of return, the court must continue services. The form has been updated to reflect these requirements.

Important individuals. The findings in form JV-446, item 23, related to the identification of important individuals to the child, have been updated to reflect the requirement for this finding that a child be 10 years of age *and* has been in out-of-home placement for six months or longer, reflecting the statutory language of section 366.3(e)(2). The current version of the form indicates the findings are required if the child is age 10 or older. In other forms, the language that the child has been in out-of-home placement for six months was removed, because the language is not in section 366.21, 366.22, or 366.25, and would be superfluous when holding a 12-month, 18-month, or 24-month reunification review hearing.

In addition, discrepancies in the finding have been noted in the code, depending on the hearing and the case status. For instance, sections 366.21(g)(5)(B), 366.22(a)(3), and 366.25(a)(3) require “reasonable efforts” to maintain relationships to individuals important to the child when the court is terminating reunification services, while section 366.3(e)(2) does not require a reasonable efforts finding.¹⁸ And section 366(a)(1)(B) requires the finding be made in the context of the court’s reasonable efforts finding.¹⁹ The finding is addressed in 10 status review forms.

¹⁷ § 366.21(e)(3): “If the child was under three years of age on the date of the initial removal, or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under three years of age on the date of initial removal or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.”

¹⁸ The current version of form JV-446 already includes the requirements of section 366.3(e)(2) and does not need to be updated (see item 23). But language has been added to clarify the findings are required if the child is 10 years of age or older.

¹⁹ The court must determine “[t]he extent of the agency’s compliance with the case plan in making reasonable efforts, or, in the case of a child 16 years of age or older with another planned permanent living arrangement, the ongoing and intensive efforts, to return the child to a safe home and to complete any steps necessary to finalize the

Division of Juvenile Justice (DJJ) commitment. The committee recommends that item 9 on form JV-667, *Custodial and Out-of-Home Placement Disposition Attachment*, addressing the court’s order placing the minor in the DJJ, be removed. Under Senate Bill 823 (Stats. 2020, ch. 337, §§ 23, 24),²⁰ section 607 was repealed and replaced with a new section 607, prohibiting the intake of wards into DJJ starting July 1, 2021.

Indian Child Welfare Act (ICWA) inquiry in wardship proceeding. The committee proposes that *Initial Appearance Hearing—Juvenile Delinquency* (form JV-642) be updated to address inquiry requirements under ICWA. The Supreme Court, in *In re W.B.* (2012) 55 Cal.4th 30, clarified that ICWA notice is only required in circumscribed situations in a delinquency proceeding involving a youth in foster care or at risk of entering foster care, but “California law requires the court to *inquire* about a child’s Indian status at the outset of all juvenile proceedings.”²¹ The committee therefore recommended that a similar format for ICWA inquiry contained in JV-410 (items 9 and 10),²² the detention form for dependency cases, be included on form JV-642.

Reasonable efforts to locate a missing child. The committee elected to include additional short, modified findings in status review forms for when the child is missing from placement. The following language is proposed on forms where a reasonable efforts finding is required:

- The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.

Although not explicitly required in statute, the committee recommends including these modified findings to ensure that when courts make a reasonable efforts finding, or determines that placement is necessary and appropriate, they take into account the child’s status as missing when doing so. Delinquency status review forms in this proposal already include this modified language, which has been on those forms since their inception in 2012.²³

In addition, the committee also recommends similar modified findings on status review forms, addressing those situations in which the youth is in custody, as follows:

permanent placement of the child, *including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child’s siblings who are important to the child, consistent with the child’s best interests*” (italics added).

²⁰ The bill is accessible at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB823.

²¹ 55 Cal.4th at p. 40. As to notice, the court held “[a] delinquency court must ensure that *notice* is given and other ICWA procedures are complied with *only* when (1) exercising “dual status” jurisdiction over an Indian child (see *post*, at pp. 46–47); (2) placing an Indian child outside the family home for committing a “status offense” (§§ 601–602; see *post*, at p. 42); or (3) placing an Indian child initially detained for “criminal conduct” (§ 602; see *post*, at pp. 42–43) outside the family home for reasons based entirely on harmful conditions in the home.” *Ibid*.

²² Form JV-410, *Findings and Orders After Detention Hearing (Welf. & Inst. Code, § 319)*, <https://www.courts.ca.gov/documents/jv410.pdf>.

²³ Forms JV-672, JV-674, and JV-678.

- The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement □ was □ was not appropriate.

As mentioned, these modified findings will help ensure that courts take into account the child's status when making these important findings; these additions will not take much additional space on forms.

Advisement of appellate rights. The committee recommends removing an information box on appellate rights contained at the end of several forms in this proposal. The information box relates to a former subdivision (a) of rule 5.590, which did not require that parents be mailed an advisement of appellate rights if they were not present at the hearing. The boxes were added to the forms to make parents aware that they would not be advised of appellate rights if they did not appear at the hearing. Rule 5.590 was revised effective January 1, 2020, to require the mailing of the appellate advisement if the parent was not present; therefore, the information box on the forms is no longer necessary.²⁴

Ongoing and intensive efforts. Forms related to the termination of reunification services include a finding that ongoing and intensive efforts (O&I) were provided if the child is placed in another planned permanent living arrangement (APPLA). The committee recommends that this finding be removed.

The O&I finding is required for a youth over the age of 16 and placed in an APPLA. An APPLA can be ordered at a hearing where reunification services are terminated if there is a compelling reason for not setting a section 366.26 hearing, but in these situations, those code sections addressing reunification review hearings do not require the court to make the O&I finding the same day the APPLA is ordered.²⁵ The reasonable efforts and O&I findings are backward-looking findings, meaning that the court is considering the efforts of the agency for the prior six months. A court would not be able to review O&I efforts when the permanent plan of APPLA is being ordered the same day.²⁶

Out-of-state residential facilities. One of AB 153's principal objectives was to curtail and eventually eliminate the placement of foster youth in out-of-state residential facilities.²⁷ Starting January 1, 2023 (the same date this proposal would become effective), AB 153 requires all out-

²⁴ Forms JV-430, JV-435, and JV-440.

²⁵ Sections 366.21, 366.22, and 366.25 do not address O&I efforts, but do require the court to list barriers to achieving the permanent plan as of the hearing date. Section 366(a) requires a finding of O&I efforts if the permanent plan is APPLA, but as discussed above, when APPLA is ordered the same day, there cannot be an expectation of a review of that finding for the preceding six months the case was in reunification.

²⁶ Forms JV-440, JV-455, and JV-674.

²⁷ See Assem. Bill 153, § 2.

of-state residential facilities (OSRF) be decertified and all foster youth be returned to California.²⁸

Family Code section 7911 subdivision (d) precludes the possibility of a placement in an OSRF starting on the effective date of this proposal. The committee therefore recommends that forms be updated to eliminate the option of placement in an OSRF. The four delinquency forms in this proposal include findings related to OSRF and the committee recommends these be removed.²⁹ Keeping the findings on the forms might signal to courts that these placements would still be permissible.

Alternatives Considered

The committee considered circulating the proposal for comment in the previous rules cycle of winter 2021–22, immediately after the spring rules cycle. However, the committee determined that the proposal should circulate in the spring 2022 cycle to allow more time for the proposal to benefit from the experience gained in juvenile courts implementing the rules and forms of the earlier proposal. In addition, there was only a three-month difference in the effective date if the proposal went out in the spring cycle (the effective date for the winter cycle would have been September 1, 2022; the spring cycle effective date is January 1, 2022).

There were several issues that the committee considered in the course of the formation of this proposal. An issue of discussion was whether the forms should be mandatory or optional. Some committee members felt that the forms should remain mandatory because the process remains very new and filings are required to be made on an abbreviated timeline. But the majority of committee members preferred to make the forms optional, with the exception of the findings and orders form (JV-239) and the proposed new form JV-240.

The committee also considered how the new finding related to the court’s oversight of secondary education services should appear on the forms. The committee considered the more detailed version that is displayed on the forms and in this report, but also considered a shorter finding that essentially tracked the language in the statute. The committee, however, preferred to have the forms generate more engagement by the court in identifying the individual who would be assisting the youth.

The committee also considered whether the postpermanency form should include findings returning the child to the home of the parents. There was a discussion as to whether the child’s custody status could be changed without a section 388 petition, as the court in these situations had previously made findings that return home would be detrimental. But the committee unanimously agreed that return home is an option at a postpermanency hearing given the language of section 366.3.

²⁸ Fam. Code, § 7911(d).

²⁹ Forms JV-667, JV-672, JV-674, and JV-678.

The committee considered as well whether the new required findings in section 366(a)(1)(F) and (G) discussed above would be required when a child was returned home at a reunification review hearing. Status review forms for cases in reunification are divided into multiple attachments to address the different possible outcomes during reunification, with a parent form that includes the findings that would be required regardless of whether the youth returns home or not. The committee determined that findings would be required in both situations, so the findings were added to the parent forms related to reunification review hearings.

Fiscal and Operational Impacts

The committee anticipates that courts will incur additional costs when a hearing under rule 5.618 is held, but this is the result of the implementation of AB 153 rather than the proposal. This proposal may achieve judicial economy as the new requirements created by AB 153 will be contained in forms, providing courts with a quick reference for the new requirements of AB 153. A uniform procedure for hearings reviewing STRTP placements as proposed can also effect judicial economy and save costs for courts and litigants. Courts may be able to save time by using the procedure created in this proposal as opposed to having to create their own procedures for these hearings.

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 form JV-235 include the placement address?
- Should form JV-446 address the return of the minor to the home of the parent or legal guardian?
- Should the forms related to the juvenile court's review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional?
- Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process?
- Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires?

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 3 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. Cal. Rules of Court, rules 5.618, 5.697, and 5.903, at pages 18–28
2. Forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-240, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-459(A), JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678, at pages 29–139

Rules 5.618, 5.697, and 5.903 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 5.618. Placement in short-term residential therapeutic program (§§ 361.22,**
2 **727.12)**

3
4 **(a) Applicability**

5
6 This rule applies to the court’s review under section 361.22 or 727.12 following the
7 placement of a child or nonminor dependent in a short-term residential therapeutic
8 program.

9
10 **(b) Service of request for hearing**

11
12 The social worker or probation officer must use *Placing Agency’s Request for*
13 *Review of Placement in Short-Term Residential Therapeutic Program* (form JV-
14 ~~235~~) to request a hearing notify the following parties that a hearing is requested
15 under section 361.22(b)(1) or 727.12(b)(1), and serve a copy of the form and a
16 blank copy of *Input on Placement in Short-Term Residential Therapeutic Program*
17 (form JV-236) within five calendar days of each placement of a child or nonminor
18 dependent in a short-term residential therapeutic program on:

- 19
20 (1) The child’s parents and their attorneys of record, if parental rights have not
21 been terminated, or a nonminor dependent’s parents and their attorneys of
22 record, if the parent is receiving family reunification services;
23
24 (2) The child’s legal guardians, if applicable, and their attorneys of record or a
25 nonminor dependent’s legal guardians and their attorneys of record, if the
26 legal guardian is receiving family reunification services;
27
28 (3) The attorney of record for the child or nonminor dependent, or their CAPTA
29 guardian ad litem as defined by rule 5.662, and the child, if older than 10
30 years of age, or the nonminor dependent;
31
32 (4) The child’s or nonminor dependent’s Indian tribe and any Indian custodian,
33 in the case of an Indian child, and their attorneys of record; ~~and~~
34
35 (5) The district attorney if the youth is a ward of the juvenile court;
36
37 ~~(5)~~(6) For a child or nonminor dependent under section 300 or 450 jurisdiction, the
38 child’s or nonminor dependent’s Court Appointed Special Advocate
39 volunteer, if applicable; and
40
41 (7) A nonminor dependent’s guardian ad litem if one has been appointed

1 consistent with Code of Civil Procedure section 372 and Probate Code
2 sections 810–813.

3
4 **(c) Setting the hearing**

5
6 The court must set a hearing under section 361.22(d) or 727.12(d) after receiving a
7 request for a hearing to be held within 45 days of the start of the short-term
8 residential therapeutic program placement. The court must provide notice of the
9 hearing to the following:

- 10
11 (1) The child’s parents and their attorneys of record, if parental rights have not
12 been terminated, or a nonminor dependent’s parents and their attorneys of
13 record, if the parent is receiving family reunification services;
14
15 (2) The child’s legal guardians, if applicable, and their attorneys of record or a
16 nonminor dependent’s legal guardians and their attorneys of record, if the
17 legal guardian is receiving family reunification services;
18
19 (3) The attorney of record for the child or nonminor dependent, or their CAPTA
20 guardian ad litem as defined by rule 5.662, and the child if older than 10
21 years of age, or the nonminor dependent;
22
23 (4) A nonminor dependent’s guardian ad litem if one has been appointed
24 consistent with Code of Civil Procedure section 372 and Probate Code
25 sections 810–813;
26
27 ~~(4)~~(5) The child’s or nonminor dependent’s Indian tribe and any Indian custodian,
28 in the case of an Indian child, and their attorneys of record; ~~and~~
29
30 (6) The social worker or probation officer;
31
32 (7) The district attorney if the youth is a ward of the juvenile court;
33
34 (8) The county counsel; and
35
36 ~~(5)~~(9) The child’s or nonminor dependent’s Court Appointed Special Advocate
37 volunteer, if applicable.

38
39 **(d) Report for the hearing**

- 40
41 (1) The ~~report described in~~ social worker or probation officer must submit a
42 report to the court that includes the information required by section 361.22(c)

1 or 727.12(c) ~~must be filed with the court~~ no later than seven calendar days
2 before the hearing.

3
4 (2) The report must be served on the individuals listed in (c) of this rule no later
5 than seven calendar days before the hearing.

6
7 (3) The documentation required by section 361.22(c)(1)(A) or 727(c)(1)(A) must
8 not contain information that is privileged or confidential under existing state
9 law or federal law or regulation without the appropriate waiver or consent.

10
11 **(e) Input on placement**

12
13 (1) The following parties who object to the placement may inform the court of
14 the objection by filing *Input on Placement in Short-Term Residential*
15 *Therapeutic Program* (form JV-236), or by use of another method:

16
17 (A) The child's parents and their attorneys of record, if parental rights have
18 not been terminated, or a nonminor dependent's parents and their
19 attorneys of record, if the parent is receiving family reunification
20 services;

21
22 (B) The child's legal guardians, if applicable, and their attorneys of record
23 or a nonminor dependent's legal guardians and their attorneys of
24 record, if the legal guardian is receiving family reunification services;

25
26 (C) The attorney of record for the child or nonminor dependent, or their
27 CAPTA guardian ad litem as defined by rule 5.662, and the child if
28 older than 10 years of age, or the nonminor dependent; ~~and~~

29
30 (D) A nonminor dependent's guardian ad litem if one has been appointed
31 consistent with Code of Civil Procedure section 372 and Probate Code
32 sections 810–813;

33
34 ~~(D)~~(E) The child's or nonminor dependent's Indian tribe and any Indian
35 custodian, in the case of an Indian child, and their attorneys of record;
36 and

37
38 (F) The district attorney if the youth is a ward of the juvenile court.

39
40 (2) ~~Form JV-236 may be used to~~ The individuals listed in (1) and other
41 individuals with an interest in the child or nonminor may use form JV-236 or
42 another method to provide input to the court on the child's or nonminor's

1 placement in the short-term residential therapeutic program ~~by the individuals~~
2 ~~listed in (1) and other individuals with an interest in the child or nonminor.~~

3
4 (3) Input from a Court Appointed Special Advocate volunteer can also be by a
5 court report under local rule.

6
7 (4) Local county practice and local rules of court determine the procedures for
8 completing, filing, and ~~noticing~~ servicing form JV-236, except as otherwise
9 provided in this rule.

10
11 **(f) Approval without a hearing**

12
13 (1) After the court receives a request for review, the court may approve the
14 placement without a hearing if the following conditions are met:

15
16 (A) The service requirements of (b) were met;

17
18 (B) No later than five court days before the hearing date, the placing
19 agency has filed ~~*Proof of Service—Short Term Residential Therapeutic*~~
20 ~~*Program Placement (JV-237)*~~ a proof of service verifying that the
21 parties listed in (e)(1) were served, no later than 10 court days before
22 the hearing date, a copy of the report described in section 361.22(c) or
23 727.12(c) and a completed *Notice of Request for Approval of Short-*
24 *Term Residential Therapeutic Program Without a Hearing (form JV-*
25 *240) no later than 10 court days before the hearing date;*

26
27 (C) No party listed in (e)(1) has notified the court of their objection to the
28 placement within 5 court days of receiving the report described in
29 section 361.22(c) or 727.12(c). Code of Civil Procedure section
30 1013(a) does not apply to this deadline; and

31
32 (D) Based on the information before the court, the court intends to approve
33 the placement consistent with section 361.22(e) or 727.12(e) and (g) of
34 this rule.

35
36 (2) If the court approves the placement without a hearing, it must notify the
37 individuals in (c) of the court's decision to approve the placement and vacate
38 the hearing set under section 361.22(d)(1) or 727.12(d)(1).

39
40 (3) Nothing in this subdivision precludes the court from holding a hearing when
41 no objection to the placement is received.
42

1 (4) Notwithstanding (1)–(3), the court may approve the placement without a
2 hearing under a local rule of court if the local rule is adopted under the
3 procedures in rule 10.613 and meets the following requirements:
4

5 (A) The rule ensures that prior to the hearing date, the placing agency has
6 filed a proof of service form JV-237 verifying that the parties listed in
7 (e)(1) were served, no later than 10 court days before the hearing date,
8 a copy of the report described in section 361.22(c) or 727.12(c) and
9 form JV-240 no later than 10 court days before the hearing date;
10

11 (B) The rule ensures the court does not approve the placement until all the
12 parties listed in (e)(1), after receiving the report, have been given an
13 opportunity to indicate to the court their position on the placement
14 through form JV-236; and
15

16 ~~(C) The rule ensures the court’s approval is consistent with section~~
17 ~~361.22(e) or 727.12(e) and (g) of this rule; and~~
18

19 ~~(D)~~(C) The rule ensures that the approval occurs no later than 60 days
20 from the start of the placement.
21

22 **(g) Conduct of the hearing**
23

24 (1) In addition to the report described in section 361.22(c) or 727.12(c), the court
25 may consider all evidence relevant to the court’s determinations ~~of~~ required
26 under section 361.22(e)(2), (3) and (4) or 727.12(e)(2), (3) and (4) and
27 whether the placement in the short-term residential therapeutic program is
28 consistent with the child’s or nonminor dependent’s best interest.
29

30 (2) The court must make the ~~findings~~ determinations in section 361.22(e)(2) and
31 (3) or 727.12(e)(2) and (3) by a preponderance of the evidence.
32

33 (3) The court must approve or disapprove the placement based on the
34 determinations in section ~~366.22~~ 361.22(e)(2), (3) and (4) or 727.12(e)(2), (3)
35 and (4) and whether it appears that the child’s or nonminor dependent’s best
36 interest will be promoted by the placement.
37

38 (4) If the court continues the hearing for good cause, including for an evidentiary
39 hearing, in no event may the hearing be continued beyond 60 days after the
40 start of the placement.
41

42 **Advisory Committee Comment**
43

1 The exception to Code of Civil Procedure section 1013(a) in subdivision (f)(1)(C) was created
2 due to the exigency required by the timelines of sections 361.22 and 727.12 and the need for a
3 prompt resolution of the youth's status in a short-term residential therapeutic program placement.
4
5

6 **Rule 5.697. Disposition hearing for a nonminor (Welf. & Inst. Code, §§ 224.1, 295,**
7 **303, 358, 358.1, 361, 361.6, 366.31, 390, 391)**

8
9 (a)–(d) ***

10
11 (e) **Social study (§§ 358, 358.1)**

12
13 The petitioner must prepare a social study of the nonminor if the court proceeds to
14 a disposition hearing. The social study must include a discussion of all matters
15 relevant to disposition and a recommendation for disposition.
16

17 (1) The petitioner's social study must include the following information:

18
19 (A)–(G) ***

20
21 (H) ~~The nonminor's plans to remain under juvenile court jurisdiction,~~
22 ~~including the criteria in section 11403(b) that the nonminor meets or~~
23 ~~plans to meet. All other relevant requirements of sections 358 and~~
24 ~~358.1.~~

25
26 (I) ~~The efforts made by the social worker to help the nonminor meet the~~
27 ~~criteria in section 11403(b). The requirements of section 366.31(b).~~

28
29 (J) ~~The efforts made by the social worker to comply with the nonminor's~~
30 ~~Transitional Independent Living Case Plan, including efforts to finalize~~
31 ~~the permanent plan and prepare the nonminor for successful adulthood.~~
32 ~~If the court will make the findings in (h)(3)(C) at the disposition~~
33 ~~hearing, the requirements of section 366.31(d) if reunification services~~
34 ~~pursuant to section 361.3 are recommended, or information addressing~~
35 ~~the required judicial determinations of section 366.31(e).~~

36
37 (K) ~~The continuing necessity for the nonminor's placement and the facts~~
38 ~~supporting the conclusion reached.~~

39
40 (L) ~~The appropriateness of the nonminor's current foster care placement.~~
41

1 ~~(M) Progress made by the nonminor toward meeting the Transitional~~
2 ~~Independent Living Case Plan goals and the need for any modifications~~
3 ~~to assist the nonminor in attaining the goals.~~

4
5 ~~(N) Verification that the nonminor was provided with the information,~~
6 ~~documents, and services required under section 391.~~

7
8 ~~(O) For a placement made on or after October 1, 2021, the information~~
9 ~~specified in section 361.22(c), if the nonminor has been placed in a~~
10 ~~short term residential therapeutic program.~~

11
12 (2) ***

13
14 ~~(f)–(g) ***~~

15
16 **(h) Findings and orders (§§ 358, 358.1, 361, 361.6, 390)**

17
18 ***

19
20 ~~(1)–(2) ***~~

21
22 (3) ***

23
24 ~~(A)–(B) ***~~

25
26 (C) The following findings and orders must be ~~considered~~ made either at
27 the nonminor disposition hearing held under this rule and section
28 358(d), or at a nonminor dependent status review hearing under rule
29 5.903 and section 366.31 held within 60 days of the nonminor
30 disposition hearing:

31
32 (i) The findings and orders ~~contained in~~ required by rule
33 5.903(e)(1)(A) ~~(P)~~;

34
35 ~~(ii) The orders contained in rule 5.903(e)(2)(A)(i) and (ii); and~~

36
37 ~~(iii)~~ (ii) For a nonminor dependent whose case plan is court-ordered
38 family reunification services, a determination of the following:

39
40 a.–b. ***

1 **Rule 5.903. Nonminor dependent status review hearing (§§ 224.1(b), 295, 366.1,**
2 **366.3, 366.31)**

3
4 **(a)–(c) *****

5
6 **(d) Reports**

7
8 (1) The social worker or probation officer must submit a report to the court that
9 includes ~~information regarding~~ the required information in section 366.31(b),
10 (d), (f) or (h), as applicable, and section 391(c). For a nonminor dependent
11 with a permanent plan of another planned permanent living arrangement, the
12 report must include a factual discussion of each item listed in section
13 366.31(e). The following additional information must also be included:

14
15 ~~(A) The continuing necessity for the nonminor dependent's placement and~~
16 ~~the facts supporting the conclusion reached;~~

17
18 ~~(B) The appropriateness of the nonminor dependent's current foster care~~
19 ~~placement;~~

20
21 ~~(C) The nonminor dependent's plans to remain under juvenile court~~
22 ~~jurisdiction including the criteria in section 11403(b) that he or she~~
23 ~~meets;~~

24
25 ~~(D) The efforts made by the social worker or probation officer to help the~~
26 ~~nonminor dependent meet the criteria in section 11403(b);~~

27
28 ~~(E) Verification that the nonminor dependent was provided with the~~
29 ~~information, documents, and services as required under section 391(e);~~

30
31 ~~(F)~~(A) How and when the Transitional Independent Living Case Plan
32 was developed, including the nature and the extent of the nonminor
33 dependent's participation in its development, and for the nonminor
34 dependent who has elected to have the Indian Child Welfare Act
35 continue to apply, the extent of consultation with the tribal
36 representative;

37
38 ~~(G) The efforts made by the social worker or probation officer to comply~~
39 ~~with the nonminor dependent's Transitional Independent Living Case~~
40 ~~Plan, including efforts to finalize the permanent plan and prepare him~~
41 ~~or her for independence;~~
42

1 ~~(H)(B)~~ Progress made toward meeting the Transitional Independent
2 Living Case Plan goals and the need for any modifications to assist the
3 nonminor dependent in attaining the goals;

4
5 ~~(I)~~—The efforts made by the social worker or probation officer to maintain
6 relationships between the nonminor dependent and individuals who are
7 important to him or her, including the efforts made to establish and
8 maintain relationships with caring and committed adults who can serve
9 as a lifelong connection;

10
11 ~~(J)~~—The efforts made by the social worker or probation officer to establish
12 or maintain the nonminor dependent's relationship with his or her
13 siblings who are under the juvenile court's jurisdiction as required in
14 section 366(a)(1)(D);

15
16 ~~(K)~~—For a nonminor dependent whose case plan is continued court-ordered
17 family reunification services, the information required in section
18 366.31(d); and

19
20 ~~(L)~~—For a nonminor who has returned to the home of the parent or former
21 legal guardian, whether continued juvenile court jurisdiction is
22 necessary and the facts in support of that conclusion.

23
24 ~~(2)–(3)~~ ***

25
26 **(e) Findings and orders**

27
28 The court must consider the safety of the nonminor dependent, and ~~the following~~
29 ~~judicial findings and orders must be made and included in the written court~~
30 ~~documentation of the hearing~~ make the judicial findings and issue the orders
31 required by section 366.31(d), (e), or (f), as applicable, along with the following
32 judicial findings and orders, and include them in the written court documentation
33 for the hearing:

34
35 (1) *Findings*

36
37 (A) Whether notice was given as required by law;

38
39 ~~(B)~~—Whether the nonminor dependent's continuing placement is necessary;

40
41 ~~(C)~~—Whether the nonminor dependent's current placement is appropriate;

1 ~~(D)~~(B) Whether the Transitional Independent Living Case Plan includes
2 a plan for the nonminor dependent to satisfy one or more of the criteria
3 in section 11403(b);

4
5 ~~(E)~~(C) The specific criteria in section 11403(b) the nonminor dependent
6 satisfied since the last hearing held under this rule;

7
8 ~~(F)~~(D) The specific criteria in section 11403(b) it is anticipated the
9 nonminor dependent will satisfy during the next six months;

10
11 ~~(G)~~(E) Whether reasonable efforts were made and assistance provided
12 by the social worker or probation officer to help the nonminor
13 dependent establish and maintain compliance with section 11403(b);

14
15 ~~(H)~~(F) Whether the nonminor dependent was provided with the
16 information, documents, and services as required under section 391(e);

17
18 ~~(I)~~(G) Whether the Transitional Independent Living Case Plan was developed
19 jointly by the nonminor dependent and the social worker or probation
20 officer, reflects the living situation and services that are consistent in
21 the nonminor dependent's opinion with what he or she needs to gain
22 independence, and sets out the benchmarks that indicate how both will
23 know when independence can be achieved;

24
25 ~~(J)~~(H) For the nonminor dependent who has elected to have the Indian
26 Child Welfare Act continue to apply, whether the representative from
27 his or her tribe was consulted during the development of the
28 Transitional Independent Living Case Plan;

29
30 ~~(K)~~ — Whether reasonable efforts were made by the social worker or
31 probation officer to comply with the Transitional Independent Living
32 Case Plan, including efforts to finalize the nonminor dependent's
33 permanent plan and prepare him or her for independence;

34
35 ~~(L)~~(I) Whether the Transitional Independent Living Case Plan includes
36 appropriate and meaningful independent living skill services that will
37 assist him or her with the transition from foster care to independent
38 living;

39
40 ~~(M)~~(J) Whether the nonminor dependent signed and received a copy of
41 his or her Transitional Independent Living Case Plan;

42

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~~(N)~~(K) The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals and any modifications needed to assist in attaining the goals; and

~~(O)~~ Whether reasonable efforts were made by the social worker or probation officer to maintain relationships between the nonminor dependent and individuals who are important to him or her, including the efforts made to establish and maintain relationships with caring and committed adults who can serve as lifelong connections;

~~(P)~~ Whether reasonable efforts were made by the social worker or probation officer to establish or maintain the nonminor dependent's relationship with his or her siblings who are under the juvenile court's jurisdiction as required in section 366(a)(1)(D);

~~(Q)~~ For a nonminor dependent whose case plan is continued court-ordered family reunification services, the findings required in section 366.31(d); and

~~(R)~~(L) For a nonminor who has returned to the home of the parent or former legal guardian, whether continued juvenile court jurisdiction is necessary.

(2) ***

Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-235.v9.032122.ja**

The youth has been placed in a short-term residential therapeutic program and the placing agency below requests the court set a hearing to review the placement consistent with Welf. & Inst. Code, § 361.22 or 727.12.

1 Agency requesting review: _____
Name and title of person filing the form: _____

Address: _____
Phone: _____

Fill in court name and street address:

Superior Court of California, County of

2 The child or nonminor dependent was placed at the following short-term residential therapeutic program:

The placement is confidential; the following information is submitted through form JV-287.

Name: _____
Address: _____
on (date): _____

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

3 The agency listed in 1 requests that the court set a hearing under Welf. & Inst. Code, § section 361.22 or 727.12 to review the placement of the child or nonminor dependent in the short-term residential therapeutic program.

Court fills in case number when form is filed.

Case Number:

4 **To the parent, guardian, child or nonminor dependent, and the child's Indian tribe or Indian custodian in the case of an Indian child: If you do not agree with the placement of the youth in the short-term residential therapeutic program, you may inform the court of your objection.** To do so, you must file your objection with the court prior to the hearing. You may use form JV-236, *Input on Placement in Short-Term Residential Therapeutic Program* to file your objection, or file an objection without using form JV-236. It is recommended that you consult with your attorney if, you have one, on the best way to make your objection known to the court. The court will set a hearing and will inform you when the hearing will occur. Before the hearing, you will receive a report from the social worker or probation officer that will explain why the placement was made and how it serves the needs of the child or nonminor dependent. The report is described in Welfare and Institutions Code section 361.22(c) (dependency), or 727.12(c) (delinquency).

The agency may request that the court approve the placement without a hearing. The agency will inform you of this request by sending form JV-240, *Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing*, to you when it sends you the report. If the agency is seeking approval without a hearing, your objection must be filed with the court within five court days of when you receive the report for the hearing. If no objections are received, the court may approve the placement without a hearing.

Date: _____

Type or print your name

Sign your name

Input on Placement in Short-Term Residential Therapeutic Program

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-236.v9.032122.ja

If you do not agree with the placement of the child or nonminor dependent in a short-term residential therapeutic program, or if you would like to provide input on the placement without objecting to the placement, you may inform the court of your objection or input by using this form. Only a party to the case can object to the placement, while anyone with an interest in the child or nonminor dependent can use the form to provide their input. When you receive the report, the agency may also send you form JV-240, Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing, which will indicate that the agency is requesting that the court approve the placement without a hearing. In this case, the court may approve the placement and cancel the hearing if you do not file your objection within five court days of receiving the report. If you file the objection within this time frame, the hearing will be held in court. You should, however, also consult with your attorney because there may be a local court rule that has a different timeline for your objection. If the hearing is kept on calendar, you should work with your attorney to determine when the form is required to be filed.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

Court fills in case number when form is filed.

Case Number:

1 My contact information (if confidential, use form JV-287):

- a. Name:
b. Address:
c. City/State/Zip:
d. Phone:
e. E-mail:

2 Relationship to the child or nonminor dependent :

- a. Self
b. Parent or legal guardian
c. Indian custodian
d. Attorney for parent, legal guardian, or Indian custodian
e. Attorney for child or nonminor dependent
f. The child's or nonminor's Indian tribe
g. District attorney
h. Other:

3 The child or nonminor dependent was placed in a short-term residential therapeutic program on (date):

4 I am a party to the case or attorney listed in item 2a through 2g:

- a. I received the report from the social worker or probation officer addressing the child's or nonminor dependent's placement in the short-term residential therapeutic program on (date):
b. I have not received the report.

5 I am a party to the case listed in item 2a through 2g and I object to the child's/nonminor dependent's placement in the short-term residential therapeutic program. (If no objections are received from any of the parties to the case, the court may approve the placement without holding a hearing).

6 I oppose the placement because:



7 I do not oppose the placement, but I want to tell the court the following:

Lined area for writing response to item 7.

8 Check here if you need space for any of the items. Write the item number and the additional information here. If you need more space, attach a sheet or sheets of paper.

Lined area for writing response to item 8.

Date: _____

Type or print your name

Sign your name

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-237.v6.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S/NONMINOR'S NAME: CHILD'S/NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME:	
Proof of Service—Short-Term Residential Therapeutic Program Placement	CASE NUMBER:

I served a copy of:

- The request for review described in Welf. & Inst. Code, § 361.22(b)(1) or 727.12(b)(1) AND a blank copy of *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236), AND/OR
- The report as described in Welf. & Inst. Code, § 361.22(c) or 727.12(c) for a hearing on (date): _____
- Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing* (form JV-240) if requesting approval of the placement without a hearing.

on the following persons or entities by

- personally delivering a copy to the person served, OR
- by delivering a copy to a competent adult at the usual place of residence or business of the person served and thereafter mailing a copy by first-class mail to the person served at the place where the copy was delivered, OR
- by placing a copy in a sealed envelope and depositing the envelope directly in the U.S. mail with postage prepaid, or at my place of business for same-day collection or mailing with the U.S. mail following our ordinary business practices with which I am readily familiar, OR
- by delivering a copy by electronic means at the electronic service address indicated below (*electronic service must comply with Welf. & Inst. Code, § 212.5*):

- | | |
|---|---|
| 1. a. <input type="checkbox"/> The child (if 10 years of age or older) or the nonminor dependent
(1) Name:
(2) Mailing, in-person, or electronic service address:
(3) Date of service:
(4) Method of service: | 1. b. <input type="checkbox"/> Attorney or Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem
(1) Name
(2) Mailing, in-person, or electronic service address:
(3) Date of service:
(4) Method of service: |
| 2. a. <input type="checkbox"/> Parent/Legal Guardian
(1) Name:
(2) Mailing, in-person, or electronic service address:
(3) Date of service:
(4) Method of service: | 2. b. <input type="checkbox"/> Attorney
(1) Name
(2) Mailing, in-person, or electronic service address:
(3) Date of service:
(4) Method of service: |
| 3. a. <input type="checkbox"/> Parent/Legal Guardian
(1) Name:
(2) Mailing, in-person, or electronic service address:
(3) Date of service:
(4) Method of service: | 3. b. <input type="checkbox"/> Attorney
(1) Name
(2) Mailing, in-person, or electronic service address:
(3) Date of service:
(4) Method of service: |

CHILD'S/NONMINOR'S NAME:	CASE NUMBER:
--------------------------	--------------

4. a. The child's or nonminor dependent's Indian tribe
- (1) Name:
 - (2) Mailing, in-person, or electronic service address:
 - (3) Date of service:
 - (4) Method of service:

4. b. Attorney
- (1) Name
 - (2) Mailing, in-person, or electronic service address:
 - (3) Date of service:
 - (4) Method of service:

5. a. Indian custodian
- (1) Name:
 - (2) Mailing, in-person, or electronic service address:
 - (3) Date of service:
 - (4) Method of service:

5. b. Attorney
- (1) Name
 - (2) Mailing, in-person, or electronic service address:
 - (3) Date of service:
 - (4) Method of service:

6. CASA volunteer
- a. Name:
 - b. Mailing, in-person, or electronic service address:
 - c. Date of service:
 - d. Method of service:

7. Other (*specify*):
- a. Name:
 - b. Mailing, in-person, or electronic service address:
 - c. Date of service:
 - d. Method of service:

8. Other (*specify*):
- a. Name:
 - b. Mailing, in-person, or electronic service address:
 - c. Date of service:
 - d. Method of service:

9. Other (*specify*):
- a. Name:
 - b. Mailing, in-person, or electronic service address:
 - c. Date of service:
 - d. Method of service:

10. At the time of service I was at least 18 years of age. If service was made in person, by mail, or electronic service, I am not a party to this matter. I am a resident of or employed in the county where the service occurred. My residence or business mailing address, or my electronic service address, is (*specify*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Type or print your name

Sign your name

JV-238

Notice of Hearing on Placement in Short-Term Residential Therapeutic Program

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-238.v7.022222.ja

1 The court received the request for review as defined in Welf. & Inst. Code, § 361.22(b) or 727.12(b), filed on (date): _____

- 2 Notice requirements were met. The request for hearing and *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236) have been served, consistent with Welf. & Inst. Code, § 361.22(b)(2) or 727.12(b)(2) and rule 5.618(b) of the California Rules of Court.
- Notice requirements were not met. The social worker or probation officer is ordered to serve the request for hearing and *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236) as required in Welf. & Inst. Code, § 361.22(b)(2) or 727.12(b)(2) and rule 5.618(b) of the California Rules of Court.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's/nonminor's name and date of birth:

Child's/nonminor's name:

Date of birth:

3 **Notice of Hearing**

The court will hold a hearing on the request for review of the child or nonminor's placement in the short-term residential therapeutic program. (The hearing must be set or be held at a regularly scheduled hearing within 45 days of the start of the placement.)

Court fills in case number when form is filed.

Case Number:

Hearing Date	→ Date: _____	Time: _____	Name and address of court: _____
	Dept.: _____	Room: _____	_____

Date: _____

Judge
 Temporary Judge
 Referee
 Commissioner

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-239.v10.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S/NONMINOR'S NAME: CHILD'S/NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME:	
Order on Placement in Short-Term Residential Therapeutic Program	CASE NUMBER:

1. a. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 b. Judicial officer: _____
 c. Parties and attorneys present: _____

2. The court reviews the placement without a hearing. The requirements in rule 5.618(f)(1) of the California Rules of Court have been met.
 The court reviews the placement without a hearing after the conditions required by local rule (*specify local rule number*) created under rule 5.618(f)(4) of the California Rules of Court have been met.

THE COURT FINDS AND ORDERS

3. The court has read and considered the following:
 a. The report described in Welf. & Inst. Code § 361.22(c) or 727.12(c) filed on (date): _____
 b. *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236) filed by: _____ on (date): _____
 c. *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236) filed by: _____ on (date): _____
 d. CASA report dated: _____
 e. Other: _____
 f. Other: _____
4. Notice requirements were met. The following items were served within the time prescribed by law: the request for review as defined in Welf. & Inst. Code, § 361.22(b) or 727.12(b); *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236); the report as described in Welf. & Inst. Code, § 361.22(c) or 727.12(c); and if approval of the placement without a hearing is being requested, *Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing* (form JV-240).
 Notice requirements were not met. The following items were not served within the time prescribed by law:
5. The court on its own motion finds that a continuance that will not result in the hearing being held more than 60 days after the start of the placement is not contrary to the interest of the child or nonminor, and good cause exists for the continuance as set forth below:

CHILD'S/NONMINOR'S NAME:	CASE NUMBER:
--------------------------	--------------

- 6. The needs of the child or nonminor dependent
 - a. can be met through placement in a family-based setting.
 - b. cannot be met through placement in a family-based setting. The placement in a short-term residential therapeutic program does does not provide the most effective and appropriate care setting for the child or nonminor dependent in the least restrictive environment.
- 7. a. For a youth under Welf. & Inst. Code, § 300 or 450 jurisdiction: A short-term residential therapeutic program level of care is is not consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or nonminor dependent.
- b. For a youth under Welf. & Inst. Code, § 602 jurisdiction: The short-term residential therapeutic program is is not consistent with the short- and long-term mental and behavioral health goals and permanency plan for the minor or nonminor dependent.
- 8. In the case of an Indian child, there is is not clear and convincing evidence of good cause to depart from the placement preferences set forth in Welf. & Inst. Code, § 361.31.
- 9. The short-term therapeutic residential program identified in the placing agency's request for review as defined in Welf. & Inst. Code, § 361.22(b) or 727.12(b), filed on _____, is:
 - approved.
 - disapproved. The social worker or probation officer is ordered to transition the child or nonminor dependent to a placement setting that is consistent with the determinations in items 6, 7 and 8 within 30 days.
- 10. The basis for the court's determination in item 9 has been stated on the record or is stated in writing here:
 - a. Based on the court's determinations in items 6, 7, and 8.
 - b. The placement does does not promote the child's or nonminor dependent's best interests.
 - c. The child or nonminor dependent's needs can be meet in a lower level of care placement.
 - d. Another lower level of care placement is available and willing to accept the child or nonminor dependent.
 - e. The child or nonminor dependent has left the placement and has yet to be located.
 - f. Other:

11. Other orders:

12. Next hearing date: _____ Time: _____ Dept.: _____ Room: _____

Date: _____

JUDGE
 TEMPORARY JUDGE
 COMMISSIONER
 REFEREE

Notice of Request for Approval of Short-Term Residential Therapeutic Program Without a Hearing

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-240.v5.022222.ja**

You are receiving this notice because a request is being made to approve the placement of the child or nonminor dependent in the short-term residential therapeutic program indicated below without holding a hearing. The hearing date indicated below has been set, but that hearing may be canceled if no party to the case makes an objection to the placement. To object to the placement, you can use *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236), or consult with your attorney, if you have one, to ensure that your objection is received by the court in a different format.

Fill in court name and street address:

Superior Court of California, County of

1 Agency requesting review: _____
Name and title of person filing the form: _____
Address: _____
Phone: _____

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

2 The child or nonminor dependent was placed at the following short-term residential therapeutic program:
(name): _____
on (date): _____

Court fills in case number when form is filed.

Case Number:

3 After meeting the requirements of rule of court 5.618(f) of the California or local rule _____, the placing agency in item 1 is requesting that the court consider approving the placement without a hearing.

4 **If you do not file an objection to the placement indicated above within 5 court days of receiving the report for the hearing, the court may approve the placement without a hearing.** To do so, you may make your objection using *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236) and filing it with the court or by filing an objection without using form JV-236. It is recommended that you consult with your attorney, if you have one, on the best way to make your objection known to the court. The report for the hearing is described in Welf. & Inst. Code § 361.22(c) or 727.12(c).

Date: _____

Type or print your name

Sign your name

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-320.v6.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
ORDERS UNDER WELFARE AND INSTITUTIONS CODE SECTIONS 366.24, 366.26, 727.3, 727.31		CASE NUMBER:

Child's name:	Age:
Date of birth:	
Parent's name (if known):	
Parent's name (if known):	
Parent's name (if known):	

1. a. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 b. Judicial officer: _____
 c. Parties and attorneys present: _____

2. The court has read and considered the assessment prepared under Welf. & Inst. Code, § 361.5(g), 366.21(i), 366.22(c), 366.25(b), or 727.31(b) and the report and recommendation of the
 social worker probation officer and other evidence.
3. The court has considered the wishes of the child, consistent with the child's age, and all findings and orders of the court are made in the best interest of the child.

THE COURT FINDS AND ORDERS

4. a. Notice has been given as required by law.
 b. This case involves an Indian child, and the court finds that notice has been given to the parents, Indian custodian, Indian child's tribe, and the Bureau of Indian Affairs (BIA) in accordance with Welf. & Inst. Code, § 224.3; the original certified mail receipts, return cards, copies of all notices, and any responses to those notices are in the court file.
5. **For a child 10 years of age or older who is not present:**
- a. The child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
- b. The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present and was not given an opportunity to be present and
- (1) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (2) it is in the best interest of the child not to continue the hearing.

CHILD'S NAME:	CASE NUMBER:
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6. The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.
7. The court previously made a finding denying or terminating reunification services, under **Welf. & Inst. Code, § 361.5, 366.21, 366.22, 366.25, 727.2, or 727.3**, for
- parent (*name*):
- parent (*name*):
- parent (*name*):
8. a. The court finds, by clear and convincing evidence, that it is likely the child will be adopted.
- b. The child is an Indian child or there is reason to know that the child is an Indian child, and
- (1) The court has heard and considered all relevant, admissible evidence, including:
- (A) Qualified expert witness testimony provided by _____ ; and
(*Name of Witness*)
- (B) Evidence regarding the prevailing social and cultural practices of the child's tribe; and
- (2) The court finds beyond a reasonable doubt that continued physical custody by the mother father
 Indian custodian other (*name and relationship to child*):
 other (*name and relationship to child*): _____ is likely to result in
 serious emotional or physical damage to the child.
9. The parental rights of
- a. parent (*name*):
- b. parent (*name*):
- c. parent (*name*):
- d. alleged fathers (*names*):
- e. unknown mother all unknown fathers
- are terminated, adoption is the child's permanent plan, and the child is referred to the California Department of Social Services or a local licensed adoption agency for adoptive placement.
- f. **The adoption is likely to be finalized by (*date*):**
(If item 9 is completed, skip items 10–16 and go directly to item 17.)
10. This case involves an Indian child. The parental rights of
- a. parent (*name*):
- b. parent (*name*):
- c. parent (*name*):
- d. Indian custodians (*names*):
- e. alleged fathers (*names*):
- f. unknown mother all unknown fathers
- are modified in accordance with the tribal customary adoption order of the (*specify*): _____ tribe,
 dated _____ and comprising _____ pages, which is accorded full faith and credit and fully incorporated herein.
 The child is referred to the California Department of Social Services or a local licensed adoption agency for tribal customary
 adoptive placement in accordance with the tribal customary adoption order.
(If item 10 is completed, skip items 11–16 and go directly to item 17.)
11. The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of giving the child a stable and permanent home through legal guardianship. Removal of the child from the custody of this relative would be detrimental to the child's emotional well-being. *(If item 11 is checked, skip items 12–14 and go directly to item 15 (guardianship).)*
12. Termination of parental rights would be detrimental to the child for the following reasons: *(If item 12 is checked, check the applicable reasons below, skip items 13–14, and go directly to item 15 (guardianship) or 16 (continued foster care).)*
- a. The parents or guardians have maintained regular visitation and contact with the child, and the child would benefit from continuing the relationship.
- b. The child is 12 years of age or older and objects to termination of parental rights.

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12. c. The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- d. The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment. Removal of the child from the physical custody of the foster parent or Indian custodian would be detrimental to the emotional well-being of the child.

NOTE: Do not check item 12d if the child is either:

- (1) under the age of 6; or
- (2) a member of a sibling group, at least one member of which is under the age of 6, that is or should be placed together.

- e. There would be substantial interference with the child's sibling relationship.
- f. The child is an Indian child, and there are compelling reasons for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:
- (1) Termination of parental rights would substantially interfere with the child's connection to the tribal community or the child's tribal membership rights.
 - (2) The child's tribe has identified guardianship or another permanent plan for the child.

13. Termination of parental rights would not be detrimental to the child, but the child is difficult to place for adoption and there is no identified or available prospective adoptive parent for the child because the child (*check the applicable reason or reasons below and complete item 14*):

- a. is a member of a sibling group that should stay together.
- b. has a diagnosed medical, physical, or mental disability.
- c. is 7 years of age or older.

14. a. Termination of parental rights is not ordered at this time. Adoption is the permanent plan, and efforts are to be made to locate an appropriate adoptive family. A report to the court is due by (*date, not to exceed 180 days from the date of this order*):

(Do not check item 14a for a tribal customary adoption. If item 14a is checked, provide for visitation in items 14b and 14c, as appropriate, skip items 15 and 16, and go directly to item 17.)

- b. Visitation between the child and
- parent (*name*):
 - parent (*name*):
 - legal guardian (*name*):
 - other (*name*):
- is scheduled as follows (*specify*):

c. Visitation between the child and (*names*):
is detrimental to the child's physical or emotional well-being and is terminated.

15. The child's permanent plan is legal guardianship.

(*Name*):

is appointed guardian of the child's person and estate. The clerk is ordered to issue *Letters of Guardianship* once the appointed guardian has signed the required oath or affirmation. This appointment is not effective until letters have issued.

(Do not check item 15 for a tribal customary adoption. If item 15 is checked, provide for visitation in items 15a and 15b, as appropriate, complete item 15c or 15d, then skip item 16 and go directly to item 17.)

- a. Visitation between the child and
- parent (*name*):
 - parent (*name*):
 - legal guardian (*name*):
 - other (*name*):
- is scheduled as follows (*specify*):

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15. b. Visitation between the child and *(names)*:
is detrimental to the child's physical or emotional well-being and is terminated.
- c. Dependency Wardship jurisdiction is terminated.
(If the child is a dependent and the appointed guardian is a relative or nonrelative extended family member whose home has been approved as a resource family home for at least six months, the court must terminate dependency unless the guardian objects or the court makes a finding of exceptional circumstances.)

The juvenile court retains jurisdiction over the guardianship under Welf. & Inst. Code, § 366.4 or 728(f).

- d. Dependency Wardship jurisdiction is not terminated. Dependency or wardship jurisdiction is likely to be terminated by *(date)*: _____.
16. The court orders the permanent plan of
- a. Permanent placement with a fit and willing relative, subject to the periodic review of the juvenile court under Welf. & Inst. Code, § 366.3.
- b. Placement in foster care with a permanent plan of:
- (1) returning home;
 - (2) adoption;
 - (3) legal guardianship; or
 - (4) placement with a fit and willing relative.
- c. for a child 16 years and older, another planned permanent living arrangement.
The barriers to achieving the child's permanent plan in items 16b and 16c are *(specify)*:

The child, if 10 years of age or older, has identified the following individuals, other than the child's siblings, who are important to the child *(specify)*:

The child's permanent plan is likely to be achieved by *(date)*:
(If item 16a is checked, provide for visitation in items 16b and 16c, as appropriate, and go to item 17.)

- d. Visitation between the child and
 parent *(name)*:
 parent *(name)*:
 legal guardian *(name)*:
 other *(name)*:
is scheduled as follows *(specify)*:
- e. Visitation between the child and *(names)*:
is detrimental to the child's physical or emotional well-being and is terminated.
17. The child is an Indian child. The court finds that the child's permanent plan complies with the placement preferences because:
- a. The permanent plan is not adoption, and *(choose one)*:
- (1) The child is placed with a member of the child's extended family, as defined by Welf. & Inst. Code, § 224.1(c); or
 - (2) A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or

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- 17. a. (3) A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- (4) A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe or an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- (5) The child is placed in accordance with the preferences established by the tribe; or
- (6) The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
- b. The permanent plan is adoption, and (*choose one*):
 - (1) The child is placed with a member of the child's extended family; or
 - (2) A diligent search was made for a placement with a member of the child's extended family, those efforts are documented in detail in the record, and the child is placed with other members of the child's tribe; or
 - (3) An diligent search was made for a placement with a member of the child's extended family or other member of the child's tribe, those efforts are documented in detail in the record, and the child is placed with another Indian family; or
 - (4) The child is placed in accordance with the preferences established by the tribe; or
 - (5) The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in detail in the record.

- 18. The child's placement is necessary.
- 19. The child's placement is appropriate.
- 20. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted pursuant to Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.
- 21. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
- 22. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
- 23. The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent plan.
- 24. The child is an Indian child, and active efforts, as detailed in the record, were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. If active efforts were made, those efforts have proved successful unsuccessful.
- 25. Child is 14 years of age or older:
 - a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

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26. The child remains a dependent ward of the court. (Do NOT check **this item** if item 15c is checked.)

27. All prior orders not in conflict with this order remain in full force and effect.

28. Other (specify):

29. Next hearing date: _____ Time: _____ Dept.: _____ Room: _____
- a. Continued hearing under **Welf. & Inst. Code, § 366.26** for receipt of report on attempts to locate an appropriate adoptive family
 - b. Continued hearing under **Welf. & Inst. Code, § 366.24(c)(6)** for receipt of the tribal customary adoption order
 - c. Six-month postpermanency review
 - d. Other (specify):

30. The
- a. Parent (name):
 - b. Parent (name):
 - c. **Parent (name):**
 - d. Indian custodian (name):
 - e. Child
 - f. Other (name):
 - g. **Other (name):**
- have been advised of their appeal rights under **California** Rules of Court, rule 5.590.

Date: _____

▶

JUDGE
 TEMPORARY JUDGE
 COMMISSIONER
 REFEREE

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**DISPOSITIONAL ATTACHMENT:
REMOVAL FROM CUSTODIAL PARENT—PLACEMENT WITH NONPARENT
(Welf. & Inst. Code, §§ 361, 361.2)**

1. The child is a person described by Welf. & Inst. Code, § 300 (check all that apply)
- | | | | | |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| <input type="checkbox"/> 300(a) | <input type="checkbox"/> 300(c) | <input type="checkbox"/> 300(e) | <input type="checkbox"/> 300(g) | <input type="checkbox"/> 300(i) |
| <input type="checkbox"/> 300(b) | <input type="checkbox"/> 300(d) | <input type="checkbox"/> 300(f) | <input type="checkbox"/> 300(h) | <input type="checkbox"/> 300(j) |
- and is adjudged a dependent of the court.**

Circumstances justifying removal from custodial parent

2. There is clear and convincing evidence of the circumstances stated in Welf. & Inst. Code, § 361 regarding the persons specified below (check all that apply):
- | | 361(c)(1) | 361(c)(2) | 361(c)(3) | 361(c)(4) | 361(c)(5) |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. <input type="checkbox"/> Mother | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. <input type="checkbox"/> Presumed father | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. <input type="checkbox"/> Biological father | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. <input type="checkbox"/> Legal guardian | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. <input type="checkbox"/> Indian custodian | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f. <input type="checkbox"/> Other (specify): | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g. <input type="checkbox"/> Other (specify): | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
3. The child is an Indian child or there is reason to know that the child is an Indian child, and
- a. qualified expert witness testimony was provided by _____ ; and
- b. evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
- c. there was clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
- | | | |
|---|--|---|
| <input type="checkbox"/> Mother | <input type="checkbox"/> Biological father | <input type="checkbox"/> Legal guardian |
| <input type="checkbox"/> Presumed father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> Other (specify): | | |
4. Reasonable efforts were were not made to prevent or eliminate the need for removal from the home.
5. The child is an Indian child or where there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
- b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
- c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
- d. these efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
- e. the active efforts have proved successful unsuccessful.
6. **Based on the facts stated on the record, continuance in the home is contrary to the child's welfare and physical custody is removed from (check all that apply)**
- | | | |
|---|--|---|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> legal guardian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> other (specify): | | |
| <input type="checkbox"/> other (specify): | | |

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Family finding and engagement

7. a. The county agency has exercised due diligence to identify, locate, and contact the child's relatives.
- b. The county agency has not exercised due diligence to identify, locate, and contact the child's relatives.
- (1) The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.
- (2) The county agency must submit a report to the court on or before *(date)*: detailing the diligent efforts made and the results of such efforts.

Case plan development

8. a. The county agency solicited and integrated into the case plan the input of the child mother father representative of child's identified Indian tribe other *(specify)*:
 other *(specify)*:
- b. The county agency did not solicit and integrate into the case plan the input of the child mother father representative of child's identified Indian tribe other *(specify)*:
 other *(specify)*:
and the agency is ordered to do so and submit an updated case plan within 30 days of the date of this hearing.
- c. The county agency did not solicit and integrate into the case plan the input of the child mother father representative of child's identified Indian tribe other *(specify)*:
 other *(specify)*:
and the county agency is not required to do so because these persons are unable, unavailable, or unwilling to participate.

Custody and placement

9. The mother presumed father biological father did not reside with the child at the time the petition was filed and does does not desire custody of the child.
- a. By clear and convincing evidence, placement with the following parent would be detrimental to the safety, protection, or physical or emotional well-being of the child:
 Mother Presumed father Biological father
- b. The factual basis for the findings in this item is stated on the record.
10. **The care, custody, control, and conduct of the child is under the supervision of the county agency for placement**
- a. in the approved home of a relative.
- b. in the approved home of a nonrelative extended family member.
- c. the approved home of a resource family, as defined in Welf. & Inst. Code, § 16519.5 or a home that is pending approval under section 16519.5(e)(1).
- d. with a foster family agency for placement in a foster family home.
- e. in a suitable licensed community care facility.
- f. in a short-term residential therapeutic program. A hearing to review the placement under Welf. & Inst. Code, § 361.22 was held on or is set for *(date)*:
11. **Placement with the child's relative, (name):**
has been independently considered by the court and is denied for the reasons stated on the record.
12. The child is an Indian child or there is reason to know the child is an Indian child. Currently *(choose one)*:
- a. the child is placed with a member of the child's extended family as defined by section 1903 of title 25 of the United States Code; or
- b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. a diligent search was made for a placement with a member of the child's extended family, or a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. a diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

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12. e. the child is placed in accordance with the preferences established by the tribe; or
 f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

13. **The child's out-of-home placement is necessary.**

14. **The child's current placement is appropriate.**

15. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.

16. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.

17. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.

- a. The matter is continued to the date and time indicated in form JV-415, item 18 for a written oral report by the county agency on the progress made in locating an appropriate placement.
 b. Other (*specify*):

18. For a child placed in short-term residential therapeutic program, the court has considered the evidence and documentation submitted under **Welf. & Inst. Code, § 366.1(f)** when determining the continuing necessity for and appropriateness of the placement.

19. **The child is placed outside the state of California and that out-of-state placement**

- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 b. is not the most appropriate placement for the child and is not in the best interest of the child.
 The matter is continued to the date and time indicated in form JV-415, item 18 for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
 (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 (3) other (*specify*):

Reunification services

20. **Provision of reunification services to the biological father** will will not benefit the child.

21. **The mother is incarcerated** and is seeking to participate in the Department of Corrections and Rehabilitation community treatment program.

- a. Participation in the program is is not in the child's best interest.
 b. The program is is not suitable to meet the needs of the mother and child.

22. **The following person is incarcerated:**

mother legal guardian other (*specify*):
 presumed father Indian custodian other (*specify*):
 and reasonable reunification services are

- a. granted.
 b. denied, because, by clear and convincing evidence, providing reunification services would be detrimental to the child.

23. **As provided in Welf. & Inst. Code, § 361.5(b), by clear and convincing evidence**

- a. the mother legal guardian other (*specify*):
 presumed father Indian custodian other (*specify*):

is a person described in **Welf. & Inst. Code, § (choose all that apply)**

361.5(b)(3) 361.5(b)(7) 361.5(b)(9) 361.5(b)(11) 361.5(b)(13) 361.5(b)(16)
 361.5(b)(4) 361.5(b)(8) 361.5(b)(10) 361.5(b)(12) 361.5(b)(15) 361.5(b)(17)

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23. a. and reunification services are

- (1) granted, because by clear and convincing evidence reunification is in the best interest of the child.
- (2) denied.

b. The mother legal guardian other (specify):
 presumed father Indian custodian other (specify):

is a person described in Welf. & Inst. Code, § 361.5(b)(1), and a reasonably diligent search has failed to locate the person. Reunification services are denied.

c. The mother legal guardian other (specify):
 presumed father Indian custodian other (specify):

is a person described in Welf. & Inst. Code, § 361.5(b)(2), and reunification services are

- (1) granted.
- (2) denied, because the person, even with the provision of services, is unlikely to be capable of adequately caring for the child within the statutory time limits.

d. The mother legal guardian other (specify):
 presumed father Indian custodian other (specify):

is a person described in Welf. & Inst. Code, § 361.5(b)(5), and reunification services are

- (1) granted, because
 - (a) reunification services are likely to prevent reabuse or neglect.
 - (b) the failure to try reunification will be detrimental to the child because the child is closely and positively bonded to the person.
- (2) denied.

e. The mother legal guardian
 presumed father Indian custodian
 other person who is a legal parent of the child (name):
 other (specify):

is a person described in Welf. & Inst. Code, § 361.5(b)(6), and reunification services are

- (1) granted, because by clear and convincing evidence reunification is in the best interest of the child.
- (2) denied, because the child or the child's sibling suffered severe sexual abuse or the infliction of severe physical harm by the person, and it would not benefit the child to pursue reunification with that person.
- (3) The factual basis for the findings in this item is stated on the record.

f. The mother legal guardian other (specify):
 presumed father Indian custodian other (specify):

is a person described in Welf. & Inst. Code, § 361.5(b)(14). The court advised the person of any right to services and the possible consequences of a waiver. The person executed *Waiver of Reunification Services (Juvenile Dependency)* (form JV-195), and the court accepts the waiver, the person having knowingly and intelligently waived the right to services. Reunification services are denied.

g. **The county agency must provide reunification services**, and the following must participate in the reunification services stated in the case plan:

Mother Biological father Presumed father Other (specify):
 Indian custodian Legal guardian Other (specify):

24. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (specify):

Efforts

25. The county agency has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete any steps necessary to finalize the permanent placement of the child.

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26. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Siblings

27. The child does not have siblings under the court's jurisdiction.
28. The child has siblings under the court's jurisdiction. *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

29. The mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.
30. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
31. a. The child's educational needs are are not being met.
 b. The child's physical needs are are not being met.
 c. The child's mental health needs are are not being met.
 d. The child's developmental needs are are not being met.
32. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (date):
33. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 28 or other concerns are:
 a. stated in the social worker's report.
 b. specified here:
34. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 30:
 a. Social worker.
 b. Parent (name):
 c. Surrogate parent (name):
 d. Educational representative (name):
 e. Other (name):

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35. The child's education placement has changed since the date the child was physically removed from the home.
- a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
- b. The child is enrolled in school.
- c. The child is attending school.
36. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
- (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) The name of the support person(s) to assist the child is:
The relationship(s) to the child is:
- (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (a) stated on the record.
- (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
37. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
38. **Child 14 years of age or older**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
- (1) stated on the record.
- (2) as follows:

Advisements

39. Child under the age of three years or member of a sibling group who were removed at the same time and remain placed together at the six-month review hearing, as described in Welf. & Inst. Code, § 361.5(a)(1)(C).
- a. **Failure to participate regularly and make substantive progress in court-ordered treatment programs may result in the termination of reunification services** for all or some members of the sibling group at the hearing scheduled on a date within six months from the date the child entered foster care under Welf. & Inst. Code, § 366.21(e).

Six-month hearing date:

- b. **At the six-month hearing** under Welf. & Inst. Code, § 366.21(e), the court will consider the following factors in deciding whether to limit reunification services to six months for all or some members of the sibling group:

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39. b. • whether the sibling group was removed from parental care as a group;
 • the closeness and strength of the sibling bond;
 • the ages of the siblings;
 • the appropriateness of maintaining the sibling group;
 • the detriment to the child if sibling ties are not maintained;
 • the likelihood of finding a permanent home for the sibling group;
 • whether the sibling group is currently placed in the same preadoptive home or has a concurrent plan goal of legal permanency in the same home;
 • the wishes of each child whose age and physical and emotional condition permits a meaningful response; and
 • the best interest of each child in the sibling group.
- c. **At the six-month hearing under Welf. & Inst. Code, § 366.21(e)**, if the child is not returned to the custody of a parent, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**
40. **Child three years of age or older who is not a member of a sibling group as described in Welf. & Inst. Code, § 361.5(a)(1)(C).** The court informed all parties present at the time of the hearing and further advises all parties that, because the child was three years of age or older with no siblings under the age of three years at the time of initial removal, if the child is not returned to the custody of a parent at the Welf. & Inst. Code, § 366.21(f) permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child.**

Twelve-month permanency hearing date:

41. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, the court found that reunification services were not to be provided to the child's parents, legal guardian, or Indian custodian under Welf. & Inst. Code, § 361.5(b).
- c. The county agency and the licensed county adoption agency or the California Department of Social Services acting as an adoption agency will prepare and serve an assessment report as described in Welf. & Inst. Code, § 361.5(g).
- d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.695(g)(10) of the California Rules of Court to any party not present.
- e. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who had relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code section 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
- (1) (name):
- (2) (name):
- (3) (name):
- (4) (name):
- f. **The likely date** by which the permanent plan will be achieved is (*specify date*):

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-430.v4.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER 6-MONTH STATUS REVIEW HEARING (Welf. & Inst. Code, § 366.21(e))	CASE NUMBER:

1. Six-month status review hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

	Present	Attorney (name):	Present	Appointed today
h. Party (name):				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence:

- a. Report of social worker dated:
- b. Report of CASA volunteer dated:
- c. Case plan dated:
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For a child 10 years of age or older who is not present**
 - (1) The child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

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3. b. (2) The child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing or the child wished to be present and was not given an opportunity to be present and
- (a) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (b) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.
6. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. The court has informed and advised the

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- other (*specify*):

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement.
- child mother father representative of child's identified Indian tribe
- other (*specify*): other (*specify*):
- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.
- child mother father representative of child's identified Indian tribe
- other (*specify*): other (*specify*):
- c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.
- child mother father representative of child's identified Indian tribe
- other (*specify*): other (*specify*):

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Efforts

10. The county agency

- a. has
- b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:

- a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
- b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
- c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
- d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
- e. The active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Siblings

- 13. **The child does not have siblings under the court's jurisdiction.**
- 14. **The child has siblings under the court's jurisdiction. Sibling Attachment: Contact and Placement (form JV-403) is attached and incorporated by reference.**

Health and education

- 15. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Findings and Orders Limiting Right to Make Educational Decisions for the Child, Appointing Educational Representative, and Determining Child's Educational Needs* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- 16. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

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17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on _____.

18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are:

a. stated in the social worker's report.

b. specified here: _____

19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:

a. Social worker.

b. Parent (*name*): _____

c. Surrogate parent (*name*): _____

d. Educational representative (*name*): _____

e. Other (*name*): _____

20. The child's education placement has changed since the last review hearing.

a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.

b. The child is enrolled in school.

c. The child is attending school.

21. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

22. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):

(1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(2) The name of the support person(s) to assist the child is: _____ The relationship(s) to the child is: _____

(3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services

(a) stated on the record.

(b) as follows: _____

b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

23. **Child 14 years of age or older:**

a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.

c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services

(1) stated on the record.

(2) as follows: _____

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24. Placement and services are ordered as stated in (check appropriate boxes and attach indicated forms):

- a. Six-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.21(e)) (form JV-431), which is attached and incorporated by reference.
- b. Six-Month Prepermanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(e)) (form JV-432), which is attached and incorporated by reference.
- c. Six-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(e)) (form JV-433), which is attached and incorporated by reference.

25. Contact with the child is ordered as stated in (check appropriate box and attach indicated form):

- a. Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person (form JV-400).
- b. Visitation Attachment: Sibling (form JV-401).
- c. Visitation Attachment: Grandparent (form JV-402).

26. All prior orders not in conflict with this order remain in full force and effect.

27. Other findings and orders:

- a. See attached.
- b. (Specify):

28. The next hearing is scheduled as follows:

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. 12-month permanency hearing (Welf. & Inst. Code, § 366.21(f))
- c. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- d. Nonminor dependent status review (Welf. & Inst. Code, § 366.31)
- e. Other (specify):

29. The petition is dismissed. Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____



<input type="checkbox"/> JUDGE	<input type="checkbox"/> TEMPORARY JUDGE	<input type="checkbox"/> COMMISSIONER	<input type="checkbox"/> REFEREE
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CHILD'S NAME:

CASE NUMBER:

6-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.21(e))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. **The child's current placement is appropriate.**

4. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, §366.1(f) when determining the continuing necessity for and appropriateness of the placement.

5. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.

- a. The matter is continued to the date and time indicated in form JV-430, item 26, for a written oral report by the county agency on the progress made in locating an appropriate placement.

- b. Other (*specify*):

6. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.

7. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.

8. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*):

- a. The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. The child is placed in accordance with the preferences established by the tribe; or
- f. The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

9. **The child is placed outside the state of California and that out-of-state placement**

- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-430, item 26, for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (*specify*):

CHILD'S NAME:	CASE NUMBER:
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Reunification services

10. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
- a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family member, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.

11. Continuation of services for a child under the age of three years at the time of initial removal and their sibling group if the siblings were removed from the home at the same time as described in Welf. & Inst. Code, § 361.5(a)(1)(C), and who remain placed together:

- a. Services are continued as described in item 12; OR
- b. The court finds by clear and convincing evidence that the parent or legal guardian failed to participate regularly and make substantive progress in a court-ordered treatment plan, but reunification services are continued because:
 - (1) Having considered the relevant evidence, including the following factors:
 - i. Whether there has been significant progress in resolving the problems that led to the removal;
 - ii. Whether the capacity and ability to complete the objectives of the treatment plan and to provide for the child's safety, protection, physical and emotional health, and special needs has been demonstrated; and
 - iii. Whether there has been consistent and regular contact and visitation with the child.

The court finds there is a substantial probability that the child may be returned to the

- mother
- biological father
- Indian custodian
- presumed father
- legal guardian
- other (specify):
- other (specify):

within six months of the date of this hearing or within 12 months of the date the child entered foster care, whichever is sooner.

- (2) Reasonable services have not been provided to the
 - mother
 - biological father
 - Indian custodian
 - presumed father
 - legal guardian
 - other (specify):
 - other (specify):

12. Reunification services are continued for the

- mother
- biological father
- Indian custodian
- presumed father
- legal guardian
- other (specify):
- other (specify):

- a. as previously ordered.
- b. as modified
 - (1) on the record.
 - (2) in the case plan.

13. **The likely date** by which the child may be returned to and safely maintained in the home or placed for adoption, tribal customary adoption, legal guardianship, placed with a fit and willing relative or in another planned permanent living arrangement is (specify date):

CHILD'S NAME:	CASE NUMBER:
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Important individuals

14. **Child 10 years of age or older and has been in out-of-home placement for six months or longer.**
- a. The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
 - b. The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

15. The mother biological father Indian custodian
 presumed father legal guardian other (*specify*):
 other (*specify*):
- is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

16. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26 **that may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan, modification of parental rights and the adoption of the child and other members of the sibling group.**

Twelve-month permanency hearing date:

CHILD'S NAME:	CASE NUMBER:
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**SIX-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.21(e))**

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**
3. **The child's current placement is appropriate.**
4. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.
5. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in form JV-430, item 26, for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (specify):
6. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
7. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
8. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (choose one):
- a. The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. The child is placed in accordance with the preferences established by the tribe; or
- f. The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
9. **The child is placed outside the state of California and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-430, item 28, for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (specify):

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Reunification services

10. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
- a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and:
- a. Qualified expert witness testimony was provided by _____ ; and
 - b. Evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - c. There was clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
 - mother biological father legal guardian
 - presumed father Indian custodian
 - other (specify): _____
 - other (specify): _____

12. Reunification services terminated: Child under age of three years at time of removal or member of sibling group

- a. The child was under the age of three years on the date of the initial removal from the home.
- b. The child and the child's siblings listed below form a sibling group in which one child in the sibling group was under the age of three years at the time of the initial removal, and all children in the sibling group were removed from parental custody at the same time and are placed together.
 - (1)
 - (2)
 - (3)
 - (4)
 - (5)
 - (6)
- c. By clear and convincing evidence the
 - mother biological father Indian custodian
 - presumed father legal guardian other (specify): _____
 - other (specify): _____

failed to participate regularly and make substantive progress in a court-ordered treatment plan and there is not a substantial probability of return within six months. Reunification services are terminated.
- d. Scheduling a hearing under Welf. & Inst. Code, § 366.26 for this child and some or all members of the sibling group is in the child's best interest. The factual basis for this finding is stated on the record.

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13. **Reunification services terminated: Child of any age**

a. Reunification services are terminated for the
 mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):
because the child was initially removed from the person indicated under Welf. & Inst. Code, § 300(g) and, by clear and convincing evidence,

- (1) the person's whereabouts remain unknown.
- (2) the person has not had contact or visited with the child for six months.

b. Reunification services are terminated for the
 mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):
because, by clear and convincing evidence, that person has been convicted of a felony indicating parental unfitness.

c. Reunification services are terminated for the
 mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):
because it is determined that the person is deceased.

14. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.

Important individuals

15. **Child in out-of-home placement for six months or longer**

- a. The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
- b. The county agency has **not** made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
- c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

16. The mother biological father other (specify):
 presumed father legal guardian other (specify):
is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

CHILD'S NAME:	CASE NUMBER:
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Setting for selection of permanent plan

17. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
 - c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.21(i).
 - d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ (Juvenile Dependency)* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
 - e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
 - f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
 - (1) (name):
 - (2) (name):
 - (3) (name):
 - (4) (name):
 - g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is (*specify date*):
18. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.
- a. The child's permanent plan is permanent placement with (*name*): _____ a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is (*specify date*): _____

CHILD'S NAME:	CASE NUMBER:
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18. b. The child remain in foster care with a permanent plan of *(specify)*:
- (1) Return home.
 - (2) Adoption.
 - (3) Tribal customary adoption.
 - (4) Legal guardianship.
 - (5) Placement with a fit and willing relative.
 - (6) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to:

<input type="checkbox"/> return home	<input type="checkbox"/> establish legal guardianship
<input type="checkbox"/> place for adoption	<input type="checkbox"/> place with a relative
<input type="checkbox"/> other <i>(specify)</i> :	

The likely date by which the child's permanent plan will be achieved is *(specify date)*:

- c. The court finds that the barriers to achieving the child's permanent plans are *(describe)*:

19. **For children 16 years of age or older placed in another planned permanent living arrangement:**

- a. The court asked the child where he or she wants to live and the child provided the following information *(describe)*:

- b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe)*:

- c. The compelling reasons why the other permanent plan options are not in the child's best interests are *(describe)*:

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-435.v3.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER 12-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.21(f))	CASE NUMBER:

1. Twelve-month permanency hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

	Present	Attorney (name):	Present	Appointed today
h. Party (name):				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence:

- a. Report of social worker dated:
- b. Report of CASA volunteer dated:
- c. Case plan dated:
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For child 10 years of age or older who is not present
 - (1) The child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

CHILD'S NAME:	CASE NUMBER:
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3. b. (2) The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present and was not given an opportunity to be present and
- (a) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (b) it is in the best interest of the child not to continue the hearing.
4. The child is an Indian child or there is reason to know the child is an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.
6. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. **The court has informed and advised the**

- | | | | |
|--|--|--|--------------------------------|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> child |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> alleged father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> other (<i>specify</i>): | | <input type="checkbox"/> other (<i>specify</i>): | |

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- other (*specify*): other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement.
- | | | | |
|--|---------------------------------|--|--|
| <input type="checkbox"/> child | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> representative of child's identified Indian tribe |
| <input type="checkbox"/> other (<i>specify</i>): | | <input type="checkbox"/> other (<i>specify</i>): | |
- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.
- | | | | |
|--|---------------------------------|--|--|
| <input type="checkbox"/> child | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> representative of child's identified Indian tribe |
| <input type="checkbox"/> other (<i>specify</i>): | | <input type="checkbox"/> other (<i>specify</i>): | |
- c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.
- | | | | |
|--|---------------------------------|--|--|
| <input type="checkbox"/> child | <input type="checkbox"/> mother | <input type="checkbox"/> father | <input type="checkbox"/> representative of child's identified Indian tribe |
| <input type="checkbox"/> other (<i>specify</i>): | | <input type="checkbox"/> other (<i>specify</i>): | |

CHILD'S NAME:	CASE NUMBER:
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Efforts

10. The county agency

- a. has
- b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

- 11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
 - a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Siblings

- 13. **The child does not have siblings under the court's jurisdiction.**
- 14. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

- 15. a. **A limitation on the right of the parents to make educational decisions for the child is not necessary.** The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- 16. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.
- 17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (date):

CHILD'S NAME:	CASE NUMBER:
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18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are:
- a. stated in the social worker's report.
 - b. specified here:
19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
- a. Social worker.
 - b. Parent (*name*):
 - c. Surrogate parent (*name*):
 - d. Educational representative (*name*):
 - e. Other (*name*):
20. The child's education placement has changed since the last review hearing.
- a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - b. The child is enrolled in school.
 - c. The child is attending school.
21. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services (form JV-459 (A))* has been completed and is attached.
22. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
- (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) The name of the support person(s) to assist the child is: _____ . The relationship(s) to the child is: _____ .
 - (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (a) stated on the record.
 - (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
23. **Child 14 years of age or older:**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

CHILD'S NAME:	CASE NUMBER:
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24. **Placement and services are ordered as stated in** (check appropriate boxes and attach indicated forms):

- a. *Twelve-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.21(f))* (form JV-436), which is attached and incorporated by reference.
- b. *Twelve-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(f))* (form JV-437), which is attached and incorporated by reference.
- c. *Twelve-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(f))* (form JV-438), which is attached and incorporated by reference.

25. **Contact with the child is ordered as stated in** (check appropriate box and attach indicated form):

- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. *Visitation Attachment: Sibling* (form JV-401).
- c. *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders:**

- a. See attached.
- b. (Specify):

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. 18-month permanency hearing (Welf. & Inst. Code, § 366.22)
- c. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- d. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- e. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- f. Other (specify):

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____

<input type="checkbox"/> JUDGE	<input type="checkbox"/> TEMPORARY JUDGE	<input type="checkbox"/> COMMISSIONER	<input type="checkbox"/> REFEREE
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CHILD'S NAME:

CASE NUMBER:

TWELVE-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.21(f))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**
3. **The child's current placement is appropriate.**
4. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.
5. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (specify):
6. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
7. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
8. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (choose one):
- a. The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. The child is placed in accordance with the preferences established by the tribe; or
- f. The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

CHILD'S NAME:	CASE NUMBER:
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9. **The child is placed outside the state of California and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child.
 The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):

Reunification services

10. a. **There is substantial probability that the child may be returned** to the
- | | | |
|--|--|--|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> other (<i>specify</i>): |
| <input type="checkbox"/> other (<i>specify</i>): | | |
- by the date set for the 18-month permanency hearing under Welf. & Inst. Code, § 366.22 because the person has
- (1) made significant progress in resolving the problems that led to the removal;
 - (2) demonstrated the capacity and ability to complete the objectives of the treatment plan and to provide for the safety, protection, physical and emotional health, and special needs of the child; and
 - (3) consistently and regularly contacted and visited the child.
- b. Reasonable services have not been provided to the
- | | | |
|--|--|--|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> other (<i>specify</i>): |
| <input type="checkbox"/> other (<i>specify</i>): | | |

11. Reunification services are continued for the
- | | | |
|--|--|--|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> other (<i>specify</i>): |
- a. as previously ordered.
 - b. as modified
 - (1) on the record.
 - (2) in the case plan.

12. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (*specify date*):

Important individuals

13. **Child 10 years of age or older**
- a. The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

CHILD'S NAME:	CASE NUMBER:
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Health

14. The mother biological father Indian custodian
 presumed father legal guardian other (*specify*):
is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

15. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the 18-month permanency hearing set on a date within 18 months from the date the child was initially removed from their home, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26 **that may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

Eighteen-month permanency hearing date:
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CHILD'S NAME:	CASE NUMBER:
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**TWELVE-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.21(f))**

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
2. **Reunification services are terminated.**
3. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
 - a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.
4. The child is an Indian child or there is reason to know that the child is an Indian child, and
 - a. Qualified expert witness testimony was provided by (*name*): _____ ; and
 - b. Evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - c. There was clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

<input type="checkbox"/> mother	<input type="checkbox"/> biological father	<input type="checkbox"/> legal guardian
<input type="checkbox"/> presumed father	<input type="checkbox"/> Indian custodian	
<input type="checkbox"/> other (<i>specify</i>):		

Placement

5. **The child's out-of-home placement is necessary.**
6. **The child's current placement is appropriate.**
7. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
8. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
9. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
10. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
 - a. The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - b. Other (*specify*):

CHILD'S NAME:	CASE NUMBER:
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11. There has been a change in the child's placement and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*):
- a. The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
 - b. A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - c. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - d. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - e. The child is placed in accordance with the preferences established by the tribe; or
 - f. The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

12. **The child is placed outside the state of California and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child.
The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):

13. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.

Important individuals

14. **For a child who is 10 years of age or older**
- a. The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. The county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

15. The mother biological father other (*specify*):
 presumed father legal guardian other (*specify*):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

CHILD'S NAME:	CASE NUMBER:
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Selection of permanent plan

16. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

a. The child's permanent plan is permanent placement with (name): _____ a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is (specify date): _____

b. The child remains in foster care with a permanent plan of (specify):

(1) Return home.

(2) Adoption.

(3) Tribal customary adoption.

(4) Legal guardianship.

(5) Placement with a fit and willing relative.

(6) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to:

return home

establish legal guardianship

place for adoption

place with a relative

other (specify): _____

The likely date by which the child's permanent plan will be achieved is (specify date): _____

c. The court finds that the barriers to achieving the child's permanent plans are (describe): _____

17. **For children 16 years of age or older placed in another planned permanent living arrangement:**

a. The court asked the child where he or she wants to live and the child provided the following information (describe): _____

b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (describe): _____

c. The compelling reasons why the other permanent plan options are not in the child's best interest are (describe): _____

CHILD'S NAME:	CASE NUMBER:
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18. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
 - c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.21(i).
 - d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
 - e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to **their** usual place of residence or business only.
 - f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under **Family** Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
 - (1) (name):
 - (2) (name):
 - g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is (*specify date*):

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-440.v3.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER 18-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.22)	CASE NUMBER:

1. Eighteen-month permanency hearing

- a. Date: _____
- b. Department: _____
- c. Judicial officer (name): _____
- d. Court clerk (name): _____
- e. Court reporter (name): _____
- f. Bailiff (name): _____
- g. Interpreter (name and language): _____

	Present	Attorney (name):	Present	Appointed today
h. Party (name):				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name): _____
 - (2) Other (name): _____
 - (3) Other (name): _____

2. The court has read and considered and admits into evidence:

- a. Report of social worker dated: _____
- b. Report of CASA volunteer dated: _____
- c. Case plan dated: _____
- d. Other (specify): _____
- e. Other (specify): _____

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For child 10 years of age or older who is not present
 - (1) The child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

CHILD'S NAME:	CASE NUMBER:
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3. b. (2) The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present and was not given an opportunity to be present and
- (a) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (b) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.
6. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. The court has informed and advised the

- | | | | |
|--|--|---|--------------------------------|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> child |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> alleged father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> other (<i>specify</i>): | <input type="checkbox"/> other (<i>specify</i>): | | |

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- other (*specify*): other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on **their** own behalf.

Case plan development

9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement.
- child mother father representative of child's identified Indian tribe
- other (*specify*): other (*specify*):
- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.
- child mother father representative of child's identified Indian tribe
- other (*specify*): other (*specify*):

CHILD'S NAME:	CASE NUMBER:
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9. c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.
- child
 mother
 father
 representative of child's identified Indian tribe
 other (specify): _____ other (specify): _____

Efforts

10. The county agency

- a. has
- b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
- a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Siblings

13. The child does not have siblings under the court's jurisdiction.
14. The child has siblings under the court's jurisdiction. Sibling Attachment: Contact and Placement (form JV-403) is attached and incorporated by reference.

Health and education

15. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

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15. b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
16. a. The child's educational needs are are not being met.
 b. The child's physical needs are are not being met.
 c. The child's mental health needs are are not being met.
 d. The child's developmental needs are are not being met.
17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*:
18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 17 or other concerns are:
 a. stated in the social worker's report.
 b. specified here:
19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 19:
 a. Social worker.
 b. Parent *(name)*:
 c. Surrogate parent *(name)*:
 d. Educational representative *(name)*:
 e. Other *(name)*:
20. The child's education placement has changed since the last review hearing.
 a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 b. The child is enrolled in school.
 c. The child is attending school.
21. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
22. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
 (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 (2) The name of the support person(s) to assist the child is: _____ The relationship(s) to the child is:
 (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 (a) stated on the record.
 (b) as follows:
 b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

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23. **Child 14 years of age or older:**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

24. **Placement and services are ordered as stated in** *(check appropriate boxes and attach indicated forms):*
- a. *Eighteen-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.22)* (form JV-441), which is attached and incorporated by reference.
 - b. *Eighteen-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.22)* (form JV-442), which is attached and incorporated by reference.
 - c. *Eighteen-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.22)* (form JV-443), which is attached and incorporated by reference.

25. **Contact with the child is ordered as stated in** *(check appropriate box and attach indicated form):*
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. *Visitation Attachment: Sibling* (form JV-401).
 - c. *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders:**
- a. See attached.
 - b. *(Specify):*

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. Twenty-four-month permanency hearing (Welf. & Inst. Code, § 366.25)
- c. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- d. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- e. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- f. Other *(specify):*

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____

▶

JUDGE
 TEMPORARY JUDGE
 COMMISSIONER
 REFEREE

CHILD'S NAME:	CASE NUMBER:
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**EIGHTEEN-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.22)**

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
2. **Reunification services are terminated.**
3. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
 - a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.
4. The child is an Indian child or there is reason to know that the child is an Indian child, and
 - a. Qualified expert witness testimony was provided by (name): _____ ; and
 - b. Evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - c. There was clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

<input type="checkbox"/> mother	<input type="checkbox"/> biological father	<input type="checkbox"/> legal guardian
<input type="checkbox"/> presumed father	<input type="checkbox"/> Indian custodian	<input type="checkbox"/> other (specify):
<input type="checkbox"/> other (specify):		

Placement

5. **The child's out-of-home placement is necessary.**
6. **The child's current placement is appropriate.**
7. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
8. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
9. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
10. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
 - a. The matter is continued to the date and time indicated in form JV-440, item 27, for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - b. Other (specify):

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11. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*):
- The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
 - A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - The child is placed in accordance with the preferences established by the tribe; or
 - The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

12. **The child is placed outside the state of California and that out-of-state placement**

- continues to be the most appropriate placement for the child and is in the best interest of the child.
- does not continue to be the most appropriate placement for the child and is not in the best interest of the child.
The matter is continued to the date and time indicated in form JV-440, item 28, for a written oral report by the county agency on the progress made toward
 - returning the child to California and locating an appropriate placement within California.
 - locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - Other (*specify*):

13. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.

Important individuals

14. **For a child who is 10 years of age or older**

- The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
- The county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
- To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - as stated on the record.
 - as follows:

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Health

15. The mother biological father other (specify):
 presumed father legal guardian other (specify):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Selection of permanent plan

16. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

a. The child's permanent plan is permanent placement with (name): _____ a fit and willing relative.

The likely date by which the child's permanent plan will be achieved is (specify date): _____

b. The child remains in foster care with a permanent plan of (specify):

- (1) Return home.
- (2) Adoption.
- (3) Tribal customary adoption.
- (4) Legal guardianship.
- (5) Placement with a fit and willing relative.
- (6) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to:
 - return home establish legal guardianship
 - place for adoption place with a relative
 - other (specify): _____

The likely date by which the child's permanent plan will be achieved is (specify date): _____

c. The court finds that the barriers to achieving the child's permanent plans are (describe): _____

17. **If another planned permanent living arrangement ordered for children 16 years:**

a. The court asked the child where he or she wants to live and the child provided the following information (describe): _____

b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (describe): _____

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18. c. The compelling reasons why the other permanent plan options are not in the child's best interest are *(describe)*:

19. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
 - c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(c).
 - d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
 - e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
 - f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
 - (1) *(name)*:
 - (2) *(name)*:
 - g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(specify date)*:

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EIGHTEEN-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.22)

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. **The child's current placement is appropriate.**

4. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.

5. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.

6. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.

7. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.

a. The matter is continued to the date and time indicated in form JV-440, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.

b. Other (specify):

8. There has been a change in the child's placement and the child is an Indian child, or there is reason to know that the child is an Indian child. Currently (choose one):

- a. The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. The child is placed in accordance with the preferences established by the tribe; or
- f. The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

9. **The child is placed outside the state of California and that out-of-state placement**

- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-440, item 28, for a written oral report by the county agency on the progress made toward

- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (specify):

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Reunification services

10. By clear and convincing evidence, it is in the best interest of the child to provide additional reunification services to the.

- a. mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):

- (1) who is making significant and consistent progress in a substance abuse treatment program.
(2) who is recently discharged from incarceration, institutionalization, or the custody of the Department of Homeland Security and making significant and consistent progress in establishing a safe home for the child's return.
(3) who was a minor parent or a nonminor dependent parent at the time of the initial hearing and is making significant and consistent progress in establishing a safe home for the child's return.

and

b. There is a substantial probability that the child may be returned to the

- mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):

by the date set for the 24-month permanency hearing under Welf. & Inst. Code, § 366.25 because the person has

- (1) consistently and regularly contacted and visited the child;
(2) made significant and consistent progress in the prior 18 months in resolving the problems that led to the child's removal from the home; and
(3) demonstrated the capacity and ability to provide for the safety, protection, physical and emotional health, and special needs of the child and
(a) to complete the objectives of their substance abuse treatment plan as evidenced by reports from a substance abuse provider.
(b) to complete a treatment plan postdischarge from incarceration or institutionalization.

- c. The court finds reasonable reunification services have not been provided. Based on this finding and other relevant factors, including the likelihood of success of further reunification services and the child's need for a prompt resolution of dependency status, the court finds good cause under Welf. and Inst. Code section 352 to continue the 18-month status review to (specify date):

11. Reunification services are continued for the

- mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):

- a. as previously ordered.
b. as modified
(1) on the record.
(2) in the case plan.

12. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (specify date):

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Important individuals

13. **Child 10 years of age or older**
- a. The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. The county agency has **not** made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

14. The mother biological father Indian custodian
 presumed father legal guardian other (specify):
 other (specify):
- is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

15. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the 24-month permanency hearing set on a date within 24 months from the date the child was initially removed from their home, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. **That hearing may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

Twenty-four-month permanency hearing date:

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-445.v5.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING— PARENTAL RIGHTS TERMINATED; PERMANENT PLAN OF ADOPTION (Welf. & Inst. Code, § 366.3)	CASE NUMBER:

1. Postpermanency hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

	Present	Attorney (name):	Present	Appointed today
h. <u>Party (name):</u>				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence:

- a. Report of social worker (dated):
- b. Report of CASA volunteer (dated):
- c. Case plan (dated):
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For child 10 years of age or older who is not present
 - (1) The child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

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3. b. (2) The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present and was not given an opportunity to be present and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (B) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.

Placement

6. **The child's out-of-home placement is necessary.**
7. **The child's current placement is appropriate.**
8. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(I) when determining the continuing necessity for and appropriateness of the placement.
9. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in item 32 for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other(*specify*):
12. **The child is placed outside the state of California and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in item 32 for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other(*specify*):

Case plan development

13. a. The child was actively involved in the case plan development, including the child's plan for permanent placement.
- b. The child was not actively involved in the case plan development, including the child's plan for permanent placement, and
- (1) the county agency is ordered to actively involve the child in the case plan development, including the plan for permanent placement, and to submit to the court an updated case plan within 30 days of the date of this hearing.
- (2) the county agency is not required to actively involve the child because the child is unable, unavailable, or unwilling to participate.

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14. **Child 12 years of age or older:**
- a. The child was given the opportunity to review the case plan, sign it, and receive a copy.
 - b. The child was not given the opportunity to review the case plan, sign it, and receive a copy, and
 - (1) the county agency is ordered to provide the child with the opportunity to review the case plan, sign it, and receive a copy. The county agency is further ordered to submit to the court within 30 days of the date of this hearing written confirmation that the child was provided with this opportunity.
 - (2) the county agency is not required to actively involve the child because the child is unable, unavailable, or unwilling to participate.

Efforts

15. **The county agency**

- a. has
- b. has not

complied with the case plan by making reasonable efforts, including whatever steps are necessary to make and to finalize the permanent placement of the child.

16. **Child not yet placed with prospective adoptive parent or a guardian**

- a. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.
- b. The child has identified the following as an individual important to him or her:
 - (1) *(name):*
 - (2) *(name):*
- c. The county agency has has not made efforts to identify individuals who are important to the child, consistent with the child's best interest.
- d. The county agency has has not made efforts to maintain the child's relationships with the individuals who are important to the child, consistent with the child's best interest.
- e. The county agency has has not made efforts to identify a prospective adoptive parent or a legal guardian for the child.
- f. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:
- g. To identify a prospective adoptive parent or a legal guardian for the child, the county agency must provide the service
 - (1) as stated on the record.
 - (2) as follows:

17. The services provided to the child have been

- a. adequate.
- b. not adequate.

Health and education

- 18. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

19. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*: .

CHILD'S NAME:	CASE NUMBER:
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20. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 18 or other concerns are:
- stated in the social worker's report.
 - specified here:
21. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
22. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
- An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - The name of the support person(s) to assist the child is: _____ . The relationship(s) to the child is: _____ .
 - An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - stated on the record.
 - as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
23. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 20:
- Social worker.
 - Surrogate parent (*name*):
 - Educational representative (*name*):
 - Other (*name*):
24. The child's education placement has changed since the last review hearing.
- The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - The child is enrolled in school.
 - The child is attending school.
25. **Child 14 years of age or older:**
- The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - stated on the record.
 - as follows:

CHILD'S NAME:	CASE NUMBER:
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Siblings

- 26. **The child does not have siblings under the court's jurisdiction.**
- 27. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.
- 28. The child has siblings. A postadoption sibling contact agreement has has not been developed. If not, the court has inquired into the status of the development of a voluntary postadoption sibling contact agreement.

Permanent plan

- 29. a. The permanent plan of adoption is appropriate and is ordered to continue as the permanent plan.
b. **The likely date** by which the child's adoption will be finalized is (*specify date*):
- 30. a. The permanent plan of tribal customary adoption is appropriate and is ordered to continue as the permanent plan.
b. **The likely date** by which the child's tribal customary adoption will be finalized is (*specify date*):
- 31. a. The child's permanent plan of adoption may or may not be appropriate, and the matter is ordered set for a hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(b).
b. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative (*specify date*):
- 32. **Contact with the child is ordered as follows** (*check appropriate box and attach indicated form*):
 - a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. *Visitation Attachment: Sibling* (form JV-401).
 - c. *Visitation Attachment: Grandparent* (form JV-402).
- 33. **All prior orders not in conflict with this order remain in full force and effect.**
- 34. **Other findings and orders:**
 - a. See attached.
 - b. (*Specify*):

35. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept:	Room:
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- a. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- b. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
- c. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- d. Other (*specify*):

36. Number of pages attached: _____

Date: _____

▶

<input type="checkbox"/> JUDGE	<input type="checkbox"/> TEMPORARY JUDGE	<input type="checkbox"/> COMMISSIONER	<input type="checkbox"/> REFEREE
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ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-446.v8.032322.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING— PERMANENT PLAN OTHER THAN ADOPTION (Welf. & Inst. Code, § 366.3)	CASE NUMBER:

1. Postpermanency hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

		Present			Present	Appointed today
h. <u>Party (name):</u>			<u>Attorney (name):</u>			
(1) Child:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence:

- a. Report of social worker (dated):
- b. Report of CASA volunteer (dated):
- c. Case plan (dated):
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For child 10 years of age or older who is not present:**
 - (1) The child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

CHILD'S NAME:	CASE NUMBER:
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3. b. (2) The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present and was not given an opportunity to be present and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (B) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.

6. Parentage

- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. The court has informed and advised the

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- other (*specify*):
- other (*specify*):

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian Indian custodian child
- presumed father alleged father other (*specify*):
- other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Placement

9. Continued out-of-home placement is in the best interest of the child.
10. The child's out-of-home placement is necessary.
11. Continued out-of-home placement is no longer necessary. The child is ordered immediately returned to the home of the mother father legal guardian other (*specify*):
- a. Family maintenance services are ordered for six months.
- b. The family is not in need of further services, and the person specified in item 2a is granted physical and legal custody of the child under the custody order and final judgment entered this day. Visitation with the child will be as stated in the *Visitation Order-Juvenile* (form JV-205). The clerk of the juvenile court must file with the family court a completed *Custody Order-Juvenile-Final Judgment* (form JV-200) and *Visitation Order-Juvenile* (form JV-205).

CHILD'S NAME:	CASE NUMBER:
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12. **The child's current placement is appropriate.**
13. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
14. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
15. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
16. **The child's current placement is not appropriate.** The county agency must locate an appropriate place for the child.
- a. The matter is continued to the date and time indicated in item 45 for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (*specify*):
17. **The child is placed outside the state of California and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in item 45 for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (*specify*):
18. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.

Case plan development

19. a. The child was actively involved in the case plan development, including the child's plan for permanent placement.
- b. The child was not actively involved in the case plan development, including the child's plan for permanent placement, and
- (1) the county agency is ordered to actively involve the child in the case plan development, including the plan for permanent placement, and to submit to the court an updated case plan within 30 days of the date of this hearing.
- (2) the county agency is not required to actively involve the child in the case plan development because the child was unable, unavailable, or unwilling to participate.
20. **Child 14 years of age or older:**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
- (1) stated on the record.
- (2) as follows:

CHILD'S NAME:	CASE NUMBER:
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21. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459 (A)) has been completed and is attached.

Efforts

22. The county agency

- a. has
- b. has not

compiled with the case plan by making reasonable efforts, including whatever steps are necessary to make and to finalize the permanent placement of the child.

23. The services provided to the child have been

- a. adequate.
- b. not adequate.

24. Child is 10 years of age or older and has been in an out-of-home placement for six months or longer

- a. The child has identified the following as an individual important to him or her:
 - (1) (name):
 - (2) (name):
- b. The county agency has has not made efforts to identify individuals who are important to the child, consistent with the child's best interest.
- c. The county agency has has not made efforts to maintain the child's relationships with the individuals who are important to the child, consistent with the child's best interest.
- d. The county agency has has not made efforts to identify a prospective adoptive parent or a legal guardian for the child.
- e. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:
- f. To identify a prospective adoptive parent or a legal guardian for the child, the county agency must provide the service
 - (1) as stated on the record.
 - (2) as follows:

Siblings

- 25. **The child does not have siblings under the court's jurisdiction.**
- 26. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.
- 27. The child has siblings. A postadoption sibling contact agreement has has not been developed. If not, the court has inquired into the status of the development of a voluntary postadoption sibling contact agreement.

Education

- 28. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

CHILD'S NAME:	CASE NUMBER:
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29. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 28 or other concerns are:
- a. stated in the social worker's report.
 - b. specified here:
30. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 29:
- a. Social worker.
 - b. Parent (*name*):
 - c. Surrogate parent (*name*):
 - d. Educational representative (*name*):
 - e. Other (*name*):
31. The child's education placement has changed since the last review hearing.
- a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - b. The child is enrolled in school.
 - c. The child is attending school.
32. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
- (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) The name of the support person(s) to assist the child is: _____ . The relationship(s) to the child is: _____ .
 - (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (a) stated on the record.
 - (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
33. **Child 12 years of age or older:**
- a. The child was given the opportunity to review the case plan, sign it, and receive a copy.
 - b. The child was not given the opportunity to review the case plan, sign it, and receive a copy, and
 - (1) the county agency is ordered to provide the child with the opportunity to review the case plan, sign it, and receive a copy. The agency is further ordered to submit to the court within 30 days of the date of this hearing written confirmation that the child was provided with this opportunity.
 - (2) the county agency is not required to give the child this opportunity because the child was unable, unavailable, or unwilling to participate.

Health

34. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (*date*): _____ .

CHILD'S NAME:	CASE NUMBER:
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35. The mother biological father Indian custodian
 presumed father legal guardian other (*specify*):
 other (*specify*):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Permanent plan

36. It is ordered that:

- a. The child's permanent plan is legal guardianship.
The likely date by which the child's permanent plan will be achieved is (*specify date*):
 - b. The child's permanent plan is permanent placement with a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is (*specify date*):
 - c. The child remains in foster care with a permanent plan of (*specify*):
 - (1) Return home.
 - (2) Adoption.
 - (3) Tribal customary adoption.
 - (4) Legal guardianship.
 - (5) Placement with a fit and willing relative.
 - (6) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to:

<input type="checkbox"/> return home	<input type="checkbox"/> establish legal guardianship
<input type="checkbox"/> place for adoption	<input type="checkbox"/> place with a relative
<input type="checkbox"/> other (<i>specify</i>):	
- The likely date** by which the child's permanent plan will be achieved is (*specify date*):

d. The court finds that the barriers to achieving the child's permanent plan are (*describe*):

37. For a child 16 years of age or older placed in another planned permanent living arrangement:

a. The placing agency has made the following ongoing and intensive efforts to return the child to a safe home or finalize the permanent plan:

b. The court asked the child where he or she wants to live and the child provided the following information (*describe*):

CHILD'S NAME:	CASE NUMBER:
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37. c. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe)*:

d. The compelling reasons why the other permanent plan options are not in the child's best interest are *(describe)*:

38. The mother father nonbinary parent has proved by a preponderance of the evidence that further efforts at reunification are the best alternative for the child. Further reunification services to return the child to a safe home environment are ordered to the parent for a period of six months. The case dated: _____ is appropriate and the mother father nonbinary parent is ordered to participate in the case plan.

39. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

40. The child's permanent plan identified in item 36 is appropriate and continues as the permanent plan.

41. a. The child's permanent plan identified in item 36 may not be appropriate, and the matter is ordered set for a hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.
- b. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(b).
- c. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
- d. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
- e. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).

- (1) *(name)*:
- (2) *(name)*:
- (3) *(name)*:
- (4) *(name)*:

CHILD'S NAME:	CASE NUMBER:
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42. **Contact with the child is ordered as stated in** (check appropriate box and attach indicated form):
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. *Visitation Attachment: Sibling* (form JV-401).
 - c. *Visitation Attachment: Grandparent* (form JV-402).

43. **All prior orders not in conflict with this order remain in full force and effect.**

44. **Other findings and orders:**
- a. See attached.
 - b. (*Specify*):

45. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept:	Room:
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- a. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
- b. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- c. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- d. Other (*specify*):

46. Number of pages attached: _____

Date: _____



<input type="checkbox"/> JUDGE	<input type="checkbox"/> TEMPORARY JUDGE	<input type="checkbox"/> COMMISSIONER	<input type="checkbox"/> REFEREE
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ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-455.v4.032122.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER 24-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.25)	CASE NUMBER:

1. Twenty-four-month permanency hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

	Present	Attorney (name):	Present	Appointed today
h. <u>Party (name):</u>				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence:

- a. Report of social worker dated:
- b. Report of CASA volunteer dated:
- c. Case plan dated:
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For child 10 years of age or older who is not present
 - (1) The child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

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- 3. b. (2) The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present and was not given an opportunity to be present and
 - (a) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
 - (b) it is in the best interest of the child not to continue the hearing.
- 4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
- 5. A Court Appointed Special Advocate is appointed for the child.

6. Parentage

- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
 - (1) alleged parent (*name*):
 - (2) alleged parent (*name*):
 - (3) alleged parent (*name*):

Advisements and waivers

7. The court has informed and advised the

- mother
- biological father
- legal guardian
- child
- presumed father
- alleged father
- Indian custodian
- other (*specify*):
- other (*specify*):

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

- 8. The mother
- biological father
- legal guardian
- child
- presumed father
- alleged father
- Indian custodian
- other (*specify*):
- other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on **their** own behalf.

Case plan development

- 9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement.
 - child mother father representative of child's identified Indian tribe
 - other (*specify*): other (*specify*):
- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.
 - child mother father representative of child's identified Indian tribe
 - other (*specify*): other (*specify*):

CHILD'S NAME:	CASE NUMBER:
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9. c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement. The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.
- child
 mother
 father
 representative of child's identified Indian tribe
 other (specify): _____
 other (specify): _____

Efforts

10. The county agency

- a. has
 b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
- a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Siblings

13. **The child does not have siblings under the court's jurisdiction.**
14. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

15. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Findings and Orders Limiting Right to Make Educational Decisions for the Child, Appointing Educational Representative, and Determining Child's Educational Needs* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

CHILD'S NAME:	CASE NUMBER:
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16. a. The child's educational needs are are not being met.
 b. The child's physical needs are are not being met.
 c. The child's mental health needs are are not being met.
 d. The child's developmental needs are are not being met.
17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*:
18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 17 or other concerns are:
 a. stated in the social worker's report.
 b. specified here:
19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 19:
 a. Social worker.
 b. Parent (*name*):
 c. Surrogate parent (*name*):
 d. Educational representative (*name*):
 e. Other (*name*):
20. The child's education placement has changed since the last review hearing.
 a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 b. The child is enrolled in school.
 c. The child is attending school.
21. **Child 14 years of age or older:**
 a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 (1) stated on the record.
 (2) as follows:
22. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
23. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
 (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 (2) The name of the support person(s) to assist the child is: _____ . The relationship(s) to the child is:
 (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

CHILD'S NAME:	CASE NUMBER:
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23. a. (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (a) stated on the record.
- (b) as follows:

- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

24. **Placement and services are ordered as stated in** (check appropriate boxes and attach indicated forms):

- a. *Twenty-Four-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.25)* (form JV-456), which is attached and incorporated by reference.
- b. *Twenty-Four-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.25)* (form JV-457), which is attached and incorporated by reference.

25. **Contact with the child is ordered as stated in** (check appropriate box and attach indicated form):

- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. *Visitation Attachment: Sibling* (form JV-401).
- c. *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders:**

- a. See attached.
- b. (Specify):

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- c. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- d. Nonminor dependent status review (Welf. & Inst. Code, § 366.31)
- e. Other (specify):

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____



JUDGE TEMPORARY JUDGE COMMISSIONER REFEREE

CHILD'S NAME:

CASE NUMBER:

**TWENTY-FOUR-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.25)**

1. By a preponderance of the evidence, the return of the child to **their** parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
2. **The child's out-of-home placement is necessary.**
3. **Reunification services are terminated.**
4. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record:
 - a. Affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. These efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. To the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. These efforts and the case plan have have not been developed and conducted to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
 - e. The active efforts have proved successful unsuccessful.
5. The child is an Indian child or there is reason to know that the child is an Indian child, and
 - a. Qualified expert witness testimony was provided by (*name*): _____ ; and
 - b. Evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - c. There was clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

<input type="checkbox"/> mother	<input type="checkbox"/> biological father	<input type="checkbox"/> legal guardian
<input type="checkbox"/> presumed father	<input type="checkbox"/> Indian custodian	
<input type="checkbox"/> other (<i>specify</i>):	<input type="checkbox"/> other (<i>specify</i>):	
6. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*):
 - a. The child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
 - b. A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - c. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - d. A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - e. The child is placed in accordance with the preferences established by the tribe; or
 - f. The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
7. **The child's current placement is appropriate.**

CHILD'S NAME:	CASE NUMBER:
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- 8. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.
- 9. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
- 10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
- 11. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
 - a. The matter is continued to the date and time indicated in form JV-455, item 27, for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - b. Other (*specify*):
- 12. **The child is placed outside the state of California and that out-of-state placement**
 - a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-455, item 27 for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):

Selection of permanent plan

- 13. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.
 - 14. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.
 - a. The child's permanent plan is permanent placement with (*name*): _____ a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is (*specify date*): _____
 - b. The child remains in foster care with a permanent plan of (*specify*):
 - (1) Return home.
 - (2) Adoption.
 - (3) Tribal customary adoption.
 - (4) Legal guardianship.
 - (5) Placement with a fit and willing relative.
 - (6) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to:

<input type="checkbox"/> return home	<input type="checkbox"/> establish legal guardianship
<input type="checkbox"/> place for adoption	<input type="checkbox"/> place with a relative
<input type="checkbox"/> other (<i>specify</i>): _____	
- The likely date** by which the child's permanent plan will be achieved is (*specify date*): _____
- c. The court finds that the barriers to achieving the child's permanent plans are (*describe*): _____

CHILD'S NAME:	CASE NUMBER:
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15. **If another planned permanent living arrangement ordered for a child 16 years of age or older:**

- a. The court asked the child where he or she wants to live and the child provided the following information (*describe*):

- b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (*describe*):

- c. The compelling reasons why the other permanent plan options are not in the child's best interest are (*describe*):

16. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
- c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.25(b).
- d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
- e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or, in the case of an Indian child, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
- f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
 - (1) (*name*):
 - (2) (*name*):
 - (3) (*name*):
 - (4) (*name*):
- g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is (*specify date*):

CHILD'S NAME:	CASE NUMBER:
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Important individuals

17. **Child is 10 years of age or older**
- a. The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
- b. The county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
- c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
- (1) as stated on the record.
- (2) as follows:

Health

18. The mother biological father Indian custodian
 presumed father legal guardian other (*specify*):
 other (*specify*):
- is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

CHILD'S NAME:	CASE NUMBER:
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**Status Review Attachment: Sexual and Reproductive Health Services
(Welf. & Inst. Code, §§ 366(a)(1)(F), 727.2(e)(7))**

For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, the social worker or probation officer has done all of the following:

- Verified that the child has received comprehensive sexual health education that meets the requirements of Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2 of the Education Code through the school system or has ensured that the child will receive the instruction.
- Informed the child that they may access age-appropriate, medically accurate information about reproductive and sexual health care, including but not limited to unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.
- Informed the child, in an age and developmentally appropriate manner, of the child's right to consent to sexual and reproductive health services and the child's confidentiality rights regarding those services.
- Informed the child how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.
- The social worker or probation officer is ordered to complete any of the above requirements that have not been completed.

NONMINOR'S NAME:

CASE NUMBER:

DISPOSITIONAL ATTACHMENT: NONMINOR DEPENDENT

1. Reasonable efforts were were not made to prevent or eliminate the need for the nonminor's removal from the home.
2. Placement and care are vested with the county agency.
3. The county agency has has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the department has has not been evaluated.
4. The nonminor dependent who is an Indian child has has not chosen to have the Indian Child Welfare Act apply to them as a nonminor dependent.
5. There was no inquiry or determination of whether the nonminor dependent was an Indian child before the nonminor dependent's 18th birthday.
 - a. The nonminor dependent would like an Indian Child Welfare Act determination. The county agency is ordered to comply with rule 5.481 of the California Rules of Court.
 - b. The nonminor dependent would not like an Indian Child Welfare Act determination.
6. Family reunification services are ordered under **Welf. & Inst. Code, § 361.6**.
 - a. The nonminor dependent and parents or guardians are in agreement with court-ordered family reunification services.
 - b. The provision of family reunification services is in the best interests of the nonminor dependent.
 - c. There is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing.
7. The nonminor dependent is placed in a short-term residential therapeutic program. A hearing to review the placement under **Welf. & Inst. Code, § 361.22** was held on or is set for (*specify date*):

THE COURT MUST CONSIDER THE FOLLOWING FINDINGS AND ORDERS AFTER THE NONMINOR DISPOSITION HEARING OR AFTER A NONMINOR DEPENDENT STATUS REVIEW HEARING WITHIN 60 DAYS

8. a. The nonminor dependent's continued placement is necessary.
b. The nonminor dependent's continued placement is no longer necessary.
9. a. The nonminor dependent's current placement is appropriate.
b. The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
10. For a nonminor dependent placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under **Welf. & Inst. Code, § 366.31(b)(4)** when determining the continuing necessity for and appropriateness of the placement.
11. The nonminor dependent's Transitional Independent Living Case Plan includes a plan to satisfy at least one of the criteria in **Welf. & Inst. Code, § 11403(b)** to remain in foster care under juvenile court jurisdiction as indicated below:
 - a. Attending high school or a high school equivalency certificate (GED) program.
 - b. Attending a college, community college, or vocational education program.
 - c. Attending a program or participating in an activity that will promote or help remove a barrier to employment.
 - d. Employed at least 80 hours per month.
 - e. The nonminor is incapable of attending a high school, high school equivalency certificate (GED) program, college, community college, vocational education program, or an employment program or activity, or working 80 hours per month because of a medical condition.
12. The county agency has has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in **Welf. & Inst. Code, § 11403(b)**.
13. The nonminor dependent was was not provided with the information, documents, and services required under **Welf. & Inst. Code, § 391**.
14. The Transitional Independent Living Case Plan was was not developed jointly by the nonminor dependent and the county agency.

NONMINOR'S NAME:	CASE NUMBER:
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15. The nonminor dependent has elected to have the Indian Child Welfare Act apply; the representative from their tribe was was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
16. The nonminor dependent's Transitional Independent Living Case Plan does does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what they need to achieve successful adulthood and sets out benchmarks that indicate how both the county agency and the nonminor dependent will know when independence can be achieved.
17. The nonminor dependent's Transitional Independent Living Case Plan does does not include appropriate and meaningful independent living skill services that will help the nonminor transition from foster care to successful adulthood.
18. The county agency has has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the nonminor's permanent plan and prepare them for independence.
19. For a permanent plan of another planned permanent living arrangement, the county agency has has not made ongoing and intensive efforts to finalize the permanent plan.
20. The nonminor dependent did did not sign and receive a copy of the Transitional Independent Living Case Plan.
21. The county agency has has not made reasonable efforts to maintain relations between the nonminor dependent and individuals who are important to the nonminor, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.
22. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been excellent satisfactory minimal.
- b. The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in their efforts to attain those goals were stated on the record.
23. The county agency has has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with siblings who are under juvenile court jurisdiction.
24. The likely date by which the nonminor dependent is anticipated to achieve successful adulthood is _____
25. The nonminor dependent's permanent plan is:
- to return home.
 - adoption.
 - tribal customary adoption.
 - placement with a fit and willing relative.
 - another planned permanent living arrangement.
 - Other (*specify*): _____
26. For a permanent plan of another planned permanent living arrangement
- the court has asked the nonminor dependent about their desired permanency outcome.
 - The court has considered the evidence before it and finds another planned permanent living arrangement is the best permanent plan because:
 - the nonminor is 18 or older.
 - Other (*specify*): _____
 - The compelling reasons why other permanent plan options are not in the nonminor's best interest are that
 - the nonminor wants to live independently.
 - Other (*specify*): _____
27. Family reunification services are ordered under **Welf. & Inst. Code, § 361.6**.
- The county agency has has not complied with the case plan by making reasonable efforts—or in the case of an Indian child, active efforts, as described in Welf. & Inst. Code, § 361.7—to create a safe home for the nonminor dependent to reside in or to complete whatever steps are necessary to finalize the permanent placement of the nonminor.

NONMINOR'S NAME:	CASE NUMBER:
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27. b. The extent of progress that the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care has been excellent satisfactory minimal none.

c. The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood is: on (date): _____

28. a. The social worker has done all of the following:

- Verified that the nonminor dependent has received comprehensive sexual health education that meets the requirements of Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2 of the Education Code through the school system or has ensured that the child will receive the instruction.
- Informed the nonminor dependent that they may access age-appropriate, medically accurate information about reproductive and sexual health care, including but not limited to unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.
- Informed the nonminor dependent, in an age and developmentally appropriate manner, of their right to consent to sexual and reproductive health services and their confidentiality rights regarding those services.
- Informed the nonminor dependent how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.

b. The social worker is ordered to complete any of the above requirements that have not been completed.

29. a. Pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):

- (1) An individual or individuals have been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) The name of the support person(s) to assist the nonminor dependent is: _____
The relationship(s) to the nonminor dependent is: _____
- (3) An individual or individuals have not been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) To assist the nonminor dependent in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (a) stated on the record.
 - (b) as follows: _____

b. The nonminor dependent has stated that they do not want to pursue postsecondary education, including career or technical education

30. It appears that juvenile court jurisdiction over the nonminor dependent may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court is ordered.

31. The nonminor dependent has elected not to remain in foster care. A hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court within 30 days is ordered.

32. Other findings and orders

- a. See [attachment 32a](#).
- b. (Specify): _____

NONMINOR'S NAME:	CASE NUMBER:
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33. The next hearings are scheduled as follows:

- a. Nonminor dependent status review hearing (Welf. & Inst. Code, § 366.31; Cal. Rules of Court, rule 5.903)

Hearing date:	Time:	Dept:	Room:
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- b. Hearing to consider termination of jurisdiction (Welf. & Inst. Code, § 391; Cal. Rules of Court, rule 5.555)

Hearing date:	Time:	Dept:	Room:
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- c. Other (*specify*):

Hearing date:	Time:	Dept:	Room:
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34. Number of pages attached: _____

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-462.v4.030122.ja	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
NONMINOR'S NAME: NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME:		
FINDINGS AND ORDERS AFTER NONMINOR DEPENDENT STATUS REVIEW HEARING		
CASE NUMBER:		
Judicial Officer:	Court Clerk:	Court Reporter:
Bailiff:	Other Court Personnel:	Interpreter: Language:

- | | | | |
|---------------------------------|--------------------------|------------------|--------------------------|
| 1. Parties (name): | Present | Attorney (name): | Present |
| a. Nonminor dependent: | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | <input type="checkbox"/> |
2. Tribal representative (name):
3. Others present in courtroom
- a. Other (specify):
- b. Other (specify):
- c. Other (specify):
- d. Other (specify):
4. **The court has read and considered and admits into evidence:**
- a. Report of social worker dated:
- b. Report of probation officer dated:
- c. Other (specify):
- d. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

5. Notice of the date, time, and location of the hearing was given as required by law.
6. The nonminor dependent's continued placement is necessary.
7. The nonminor dependent's continued placement is no longer necessary.
8. The nonminor dependent's current placement is appropriate.
9. The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
10. For a nonminor dependent placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.31(b)(4) or 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.

NONMINOR'S NAME:	CASE NUMBER:
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11. The nonminor dependent's Transitional Independent Living Case Plan does include a plan for **them** to satisfy at least one of the criteria in **Welf. & Inst. Code, § 11403(b)** to remain in foster care under juvenile court jurisdiction as indicated below:
- Attending high school or a high school equivalency certificate (GED) program.
 - Attending a college, a community college, or a vocational education program.
 - Attending a program or participating in an activity that will promote or help remove a barrier to employment.
 - Employed at least 80 hours per month.
 - The nonminor dependent is not able to attend a high school, a high school equivalency certificate (GED) program, a college, a community college, a vocational education program, or an employment program or activity or to work 80 hours per month due to a medical condition.
12. The county agency has has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in **Welf. & Inst. Code, § 11403(b)**.
13. The nonminor dependent was was not provided with the information, documents, and services as required under **Welf. & Inst. Code, § 391(c)**.
14. The Transitional Independent Living Case Plan was was not developed jointly by the nonminor dependent and the county agency.
15. For the nonminor dependent who has elected to have the Indian Child Welfare Act continue to apply, the representative from **their** tribe was was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
16. The nonminor dependent's Transitional Independent Living Case Plan does does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what he or she needs to achieve successful adulthood and set out benchmarks that indicate how both the county agency and nonminor dependent will know when successful adulthood can be achieved.
17. The nonminor dependent's Transitional Independent Living Case Plan does does not include appropriate and meaningful independent living skill services that will help the youth transition from foster care to successful adulthood.
18. The county agency has has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the youth's permanent plan and prepare **them** for independence.
19. The county agency has has not made ongoing and intensive efforts to finalize the permanent plan.
20. The nonminor dependent did did not sign and receive a copy of **their** Transitional Independent Living Case Plan.
21. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been excellent satisfactory minimal.
- b. The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in **their** efforts to attain those goals were stated on the record.
22. The county agency has has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the department has has not been evaluated.
23. The county agency has has not made reasonable efforts to maintain relations between the nonminor dependent and individuals who are important to **them**, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.
24. The county agency has has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with **their** siblings who are under juvenile court jurisdiction.
25. The likely date by which it is anticipated the nonminor dependent will achieve successful adulthood is:

NONMINOR'S NAME:	CASE NUMBER:
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26. It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court is ordered.
27. At a hearing under rule 5.555 of the California Rules of Court held on the date below, the juvenile court entered the findings and orders as recorded on the *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor* (form JV-367), and juvenile court jurisdiction is terminated under those findings and orders.
28. Juvenile court jurisdiction over the youth as a nonminor dependent is continued and
- a. The youth's permanent plan is:
- (1) Return home
 - (2) Adoption
 - (3) Tribal customary adoption
 - (4) Placement with a fit and willing relative
 - (5) Another planned permanent living arrangement
 - (6) Other (*specify*):
- b. For nonminors placed in another planned permanent living arrangement, the court has considered the evidence before it and finds that another planned permanent living arrangement is still the best permanent plan because:
- (1) The nonminor is 18 or older.
 - (2) Other (*specify*):
- The compelling reasons why other permanent plan options are not in the nonminor's best interest are:
- (1) The nonminor wants to live independently.
 - (2) Other (*specify*):
- c. Family reunification services are continued.
- d. The matter is continued for a hearing set under Welf. & Inst. Code, § 366.31, and rule 5.903 of the California Rules of Court within the next six months.

29. a. The social worker or probation officer has done all of the following:

- Verified that the nonminor dependent has received comprehensive sexual health education that meets the requirements of Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2 of the Education Code through the school system or has ensured that the child will receive the instruction.
- Informed the nonminor dependent that they may access age-appropriate, medically accurate information about reproductive and sexual health care including but not limited to unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.
- Informed the nonminor dependent, in an age and developmentally appropriate manner, of the child's right to consent to sexual and reproductive health services and the child's confidentiality rights regarding those services.
- Informed the nonminor dependent how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.

- b. The social worker or probation officer is ordered to complete any of the above requirements that have not been completed.

30. a. Pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):

- (1) An individual or individuals have been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) The name of the support person(s) to assist the nonminor dependent is:
The relationship(s) to the nonminor dependent is:
- (3) An individual or individuals have not been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.

NONMINOR'S NAME:	CASE NUMBER:
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30. a. (4) To assist the nonminor dependent in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (a) stated on the record.
- (b) as follows:
- b. The nonminor dependent has stated that they do not want to pursue postsecondary education, including career or technical education.
31. All prior orders not in conflict with this order remain in full force and effect.
32. Other findings and orders
- a. See attachment 32a.
- b. (Specify):
33. Additional findings and orders for nonminor dependent with case plan of continued family reunification services
- a. The agency has has not complied with the case plan by making reasonable efforts to create a safe home for the nonminor dependent to reside in and to complete whatever steps are necessary to finalize the permanent plan.
- b. The extent of progress made toward alleviating or mitigating the causes necessitating the current out-of-home placement has been
- (1) by the father:
- (2) by the mother:
- (3) by the nonminor:
- (4) other (specify):
- (5) other (specify):
- c. The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood is:
- d. (1) The nonminor can safely reside in the family home and may return to the family home.
- (a) The court maintains jurisdiction under Welf. & Inst. Code, § 303(a) and a review hearing under Welf. & Inst. Code, § 366.31 is ordered.
- (b) It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under Welf. & Inst. Code, § 391 and rule 5.555 of the California Rules of Court is ordered.
- (2) The nonminor cannot safely reside in the family home, and reunification services are continued.
- (a) The nonminor dependent and parent(s) of guardian(s) are in agreement with the continuation of reunification services.
- (b) Continued reunification services are in the best interest of the nonminor dependent.
- (c) There is a substantial probability that the nonminor dependent will be able to safely reside in the family home by the next review hearing.
- (d) The matter is continued for a review hearing under Welf. & Inst. Code, § 366.31 and rule 5.903 of the California Rules of Court within the next six months.
- (3) Reunification services are terminated (check all that apply).
- (a) The nonminor cannot safely reside in the family home.
- (b) The nonminor dependent and parent(s) or guardian(s) are not in agreement with the continuation of reunification services.
- (c) Continued reunification services are not in the best interest of the nonminor dependent.
- (d) There is not a substantial probability that the nonminor dependent will be able to safely reside in the family home by the next review hearing.
- (e) The time frame for court-ordered reunification services exceeds the time frames as set forth in Welf. & Inst. Code, § 361.5.

NONMINOR'S NAME:	CASE NUMBER:
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34. Additional findings and orders for nonminor residing in the home of a parent or former legal guardian
- a. (1) It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under **Welf. & Inst. Code, § 391** and rule 5.555 of the California Rules of Court is ordered.
- (2) Court supervision and juvenile court jurisdiction continues to be necessary. The court maintains jurisdiction under **Welf. & Inst. Code, § 303(a)**. The matter is continued for a review hearing under Welf. & Inst. Code, § 366.31 and rule 5.903 of the California Rules of Court within the next six months.
- b. The county agency has has not complied with the case plan by making reasonable efforts to maintain a safe family home for the nonminor.
- c. The county agency has has not complied with the nonminor's Transitional Independent Living Case Plan, including efforts to prepare the nonminor for successful adulthood.

35. The next hearings are scheduled as follows:

- a. Nonminor dependent status review hearing (Welf. & Inst. Code, § 366.31; Cal. Rules of Court, rule 5.903)

Hearing date:	Time:	Dept:	Room:
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- b. Hearing to consider termination of jurisdiction under rule 5.555 of the California Rules of Court.

Hearing date:	Time:	Dept:	Room:
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- c. Other (*specify*):

Hearing date:	Time:	Dept:	Room:
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36. Number of pages attached: _____

Date: _____



<input type="checkbox"/> JUDGE	<input type="checkbox"/> TEMPORARY JUDGE	<input type="checkbox"/> COMMISSIONER	<input type="checkbox"/> REFEREE
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CHILD'S NAME:	CASE NUMBER:
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INITIAL APPEARANCE HEARING—JUVENILE DELINQUENCY

Out-of-Custody Appearance In-Custody Appearance and Detention

THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:

- 1. Notice has been given as required by law.
- 2. The child's date of birth is *(specify)*:
- 3. The child is to remain out of custody pending the next hearing.
- 4. The child was taken into custody at: a.m. p.m. on *(specify date)*:
- 5. The petition or notice of probation violation was filed at: a.m. p.m. on *(specify date)*:
- 6. Counsel is appointed for the child as follows:
 Counsel is to represent the child until relieved by the court in accordance with California Rules of Court, rule 5.663.
- 7. The information on the face of the petition was confirmed corrected as follows:
- 8. a. The court inquired of the mother others *(names and relationships)*:
 as to the identities and addresses of all presumed or alleged fathers.
- b. The court finds *(name)*: to be the legal biological
 presumed alleged father.

9. Indian Child Welfare Act (ICWA) Inquiry

On the record, the court has

- a. asked each participant present at the hearing
 - whether the participant is aware of any information indicating that the child is a member or citizen or eligible for membership or citizenship in an Indian tribe or Alaska Native village and, if yes, the name of the tribe or village;
 - whether the residence or domicile of the child, either of the child's parents, or Indian custodian is on a reservation or in an Alaska Native village and, if yes, the name of the tribe or village;
 - whether the child is or was ever a ward of a tribal court, and, if yes, the name of the tribe or village; and
 - if the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native village, and if so, the name of the tribe or village.
- b. instructed the participants to inform the court if they receive any information indicating that the child is a member or citizen or eligible for membership or citizenship in a tribe or Alaska Native village.

10. ICWA Status

- a. The court finds there is no reason to believe or reason to know the child is an Indian child and ICWA does not apply; or
- b. The court finds there is reason to believe the child is an Indian child; and
 - (1) Probation has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e) and there is no reason to know that the child is an Indian child; or
 - (2) Probation is ordered to complete further inquiry as required by Welf & Inst. Code, §224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs, the California Department of Social Services, and/or others.
- c. The court finds that there is reason to know that the child is an Indian child; and
 - (1) Probation has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes of which the child may be a member or eligible for membership to verify the child's status; or
 - (2) Probation is required to exercise due diligence to identify and work with all of the tribes of which the child may be a member or eligible for membership to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court; and
 - (3) Probation must provide, as required by law, notice of the proceeding if the child is in foster care or at risk of entering foster care and the petition alleges only status offenses, or a hearing is set to terminate parental rights, or the child is in a foster care, preadoptive, or adoptive placement due to abuse or neglect in the child's home. Proof of such notice must be filed with the court.
 - (4) the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.

CHILD'S NAME:	CASE NUMBER:
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10. d. The court finds that the child is an Indian child and a member of the tribe.

11. The mother father legal guardian other (specify):
 were provided with a *Parental Notification of Indian Status* (form ICWA-020) and ordered to complete the form and submit it to the court before leaving the courthouse today.

12. The court advised the child and parent or legal guardian of (check all that apply)

- a. the contents of the petition.
- b. the nature and possible consequences of juvenile court proceedings.
- c. the purpose and scope of the initial hearing.
- d. the hearing rights described in rule:
- e. the reason the child was taken into custody.
- f. the parent or legal guardian's financial obligation and right to be represented by counsel.
- g. other:

13. Reading of the petition and advice of rights were waived by the child the child's counsel.

14. The prosecutor has requested that a hearing be set to determine whether the child should be transferred to the jurisdiction of the criminal court under *Welf. & Inst. Code, § 707*.

15. The child through counsel

- a. denied the allegations of the petition dated:
- b. asked the court to take no action on the petition at this time.

16. For the reasons stated on the record, the petition is dismissed in the interests of justice because the child does not need treatment or rehabilitation.

17. After inquiry, the court finds that the child understands the nature of the allegations and the direct consequences of admitting or pleading no contest to the allegations of the petition, and understands and waives the following hearing rights, which were explained (check all that apply):

- a. The right to have a hearing.
- b. The right to cross-examine and confront witnesses.
- c. The right to subpoena witnesses and present a defense.
- d. The right to remain silent.

18. a. The child through counsel

- (1) admitted the petition as filed as amended on (date):
- (2) pleaded no contest to the petition as filed as amended on (date):

- b. The child's counsel consents to the admission or plea of no contest.
- c. The admission or plea of no contest is freely and voluntarily made.
- d. There is a factual basis for the admission or plea of no contest.
- e. The court finds that the child was under 14 years old at the time of the offense but the child knew the wrongfulness of their conduct at the time the offense was committed.

19. a. The following allegations are admitted and found to be true:

Count number	<u>Statutory violation</u>	<u>Misdemeanor</u>	<u>Felony</u>	<u>To be specified at disposition</u>	<u>Enhancement (if applicable)</u>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

CHILD'S NAME:	CASE NUMBER:
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19. b. As to any offense that could be considered a misdemeanor or felony, the court is aware of and exercises its discretion to determine the offense, as stated in 18a.
- c. The following allegations are dismissed:
- | | |
|---------------------|----------------------------|
| <u>Count number</u> | <u>Statutory violation</u> |
|---------------------|----------------------------|

20. The child is described by section 601 602 of the Welf. & Inst. Code.

21. The maximum confinement time is:

22. The child's residence is in: _____ County.

23. The matter is transferred to: _____ County for disposition and further proceedings. *Juvenile Court Transfer Orders* (form JV-550) will be completed and transmitted immediately.

24. The child waives their right under *People v. Arbuckle* to have the disposition heard by this judicial officer.

CHILD IN CUSTODY

25. The court has considered the detention report prepared by probation
- and the following documents (*specify*):
 - and the testimony of (*name*):
 - and the examination by the court of (*name*):
 - and takes judicial notice of the entire court file.

26. The child is released from custody to the home of (*name, address, and relationship to child*):

- on home supervision on electronic monitoring
- the terms of which are stated in the attached *Terms and Conditions* (form JV-624).

27. The child is a dependent of the court under Welf. & Inst. Code, § 300 and is ordered released from custody. The child welfare services department must either ensure that the child's current caregiver take physical custody of the child or take physical custody of the child and place the child in a licensed or approved placement.

28. A prima facie showing has been made that the child's disposition is by Welf. & Inst. Code, § 601 or 602.

29. Based on the facts stated on the record, the child is detained in secure custody on the following grounds (*check all that apply*):
- a. The child has violated an order of the court.
 - b. The child has escaped from a court commitment.
 - c. The child is likely to flee the jurisdiction of the court.
 - d. It is a matter of immediate and urgent necessity for the protection of the child.
 - e. It is reasonably necessary for the protection of the person or property of another.

30. Based on the facts stated on the record, continuance in the child's home is contrary to the child's welfare.

31. Based on the facts stated on the record, there are no available services that would prevent the need for further detention.

32. Temporary placement and care is the responsibility of the probation department.

33. The child is placed in a short-term residential therapeutic program. A hearing to review the placement under Welf. & Inst. Code, § 727.12 will be set or is set for a date within 45 days of the start of the placement (*specify date*):

35. Probation is granted the authority to authorize medical, surgical, or dental care under Welf. & Inst. Code, § 739.

34. Probation is ordered to provide services that will assist with reunification of the child and the family.

CHILD'S NAME:	CASE NUMBER:
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36. The child and the parent or legal guardian have been advised that if the child cannot be returned home within the statutory timelines, a proceeding may be scheduled to determine an alternative permanent home, including an adoptive home after parental rights are terminated.
37. The mother father legal guardian is/are ordered to supply the names and contact information of adult relatives to probation so they can be notified of the child's removal and of their options to be included in the child's life.
38. The probation officer must file a case plan within 60 days.
39. Probation is authorized to release the minor at its discretion under the following circumstances:
40. The court accepts transfer from the County of:
41. Other orders:
42. Child Counsel waives time for *(check all that apply)*
 jurisdiction hearing disposition hearing other:
43. **The next hearings will be**
- | | | | |
|-------|-------|-------|------------------|
| Date: | Time: | Dept: | Type of hearing: |
| Date: | Time: | Dept: | Type of hearing: |
44. The child
- a. is ordered to return to court on the above date(s) and time(s).
- b. remains detained.
45. All prior orders not in conflict, including any terms and conditions of probation, remain in full force and effect.
46. All appointed counsel are relieved.

Date: _____

JUDGE
 TEMPORARY JUDGE
 COMMISSIONER
 REFEREE

Countersignature for detention orders *(if necessary)*: _____

Date: _____

JUDGE

CHILD'S NAME:	CASE NUMBER:
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CUSTODIAL AND OUT-OF-HOME PLACEMENT DISPOSITION ATTACHMENT

THE COURT FINDS AND ORDERS

1. The maximum time the child may be confined
 - a. in secure custody for the offenses sustained in the petition before the court is (*specify*):
 - b. in the petition before the court, with the terms of all previously sustained petitions known to the court aggregated, is (*specify*):

2. The child is committed to (*specify*): days months in juvenile hall
 - a. and is remanded forthwith. Continuance in the home is contrary to the child's welfare.
 - b. and is to report to (*name*): by a.m. p.m. on (*date*):
 - c. with credit for (*specify*): days served.

3. The welfare of the child requires that physical custody be removed from the parent or guardian. (*Check only if applicable*):
 - a. The child's parent or guardian has failed or neglected to provide, or is incapable of providing, proper maintenance, training, and education for the child.
 - b. The child has been on probation in the custody of the parent or guardian and has failed to reform.
 - c. Continuance in the home is contrary to the child's welfare.

4. Probation is granted the authority to authorize medical, surgical, or dental care under **Welf. & Inst. Code, § 739**.

5. Reasonable efforts to prevent or eliminate the need for removal
 - a. have been made.
 - b. have not been made.

6. The case plan as describe in **Welf. & Inst. Code, § 706.6** has been filed with the court filed within 60 days of the child's initial removal.

7. a. The probation officer will ensure provision of reunification services, and the following are ordered to participate in the reunification services specified in the case plan:
 - Mother Biological father Legal guardian Presumed father
 - Alleged father Indian custodian Other (*specify*):
 - Other (*specify*):
- b. Reunification services do not need to be provided to (*name*): because the court finds by clear and convincing evidence that (*check one*)
 - (1) reunification services were previously terminated for that parent or not offered under section 300 et seq. of the **Welf. & Inst. Code, § 300 et seq.**
 - (2) that parent has been convicted of murder of another child of the parent voluntary manslaughter of another child of the parent aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of another child of the parent felony assault resulting in serious bodily injury to the child or another child of the parent.
 - (3) the parental rights of that parent regarding a sibling of the child have been terminated involuntarily, and it is not in the best interest of the child to reunify with their parent or legal guardian.
- c. The child is ordered to continued in the care, custody, and control of the probation officer for placement in a suitable relative's home or in a foster or group home.

CHILD'S NAME:	CASE NUMBER:
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7. d. The following are ordered to meet with the probation officer on a monthly basis:
- Mother Biological father Legal guardian Presumed father
- Alleged father Indian custodian Other (*specify*):
- Other (*specify*):
- e. The child is **ordered** to obey all reasonable directives of placement staff and probation. The child is not to leave placement without the permission of probation or placement staff.
- f. Pending placement, the child is detained in juvenile hall. If being housed in another county, please specify county:
- g. The child is placed on home supervision in the home of
- (1) parent (*name*): mother father **nonbinary**
- (2) parent (*name*): mother father **nonbinary**
- (3) legal guardian (*name*):
- (4) other (*name and address*):
- (5) **other (*name and address*):**
- and is subject to electronic monitoring.
- h. The parent or legal guardian must cooperate in the completion and signing of necessary documents to qualify the child for any medical or financial benefits to which the child may be entitled.
- i. The county is authorized to pay for care, maintenance, clothing, and incidentals at the approved rate.
- j. The likely date by which the child may be returned to and safely maintained in the home or another permanent plan selected is (*specify date*):
- k. The right of the parent or guardian to make educational decisions for the child is specifically limited. *Order Designating Educational Rights Holder* (form JV-535) will be completed and transmitted.
8. The care, custody, and control of the child has been ordered to be under the supervision of the probation officer for foster care placement under Welf. & Inst. Code, § 727(a). Consistent with Welf. & Inst. Code, § 764.2, the court has inquired of the mother and any other appropriate person as to the identity and address of all presumed or alleged fathers.
9. The child has been ordered into a placement described by title IV-E of the Social Security Act.
- a. The date the child entered foster care is: _____, which is 60 days after the day the child was removed from **their** home.
- b. An exception applies to the standard calculation of the date the child entered foster care because
- (1) the child has been detained for more than 60 days. Therefore, the date the child entered foster care is today's date of: _____.
- (2) the child has been in a ranch, camp, or other institution for more than 60 days and is now being ordered into an eligible placement. The date the child enters foster care will be the date he or she is moved into the eligible placement facility, which is anticipated to be: _____.
- (3) at the time the wardship petition was filed, the child was a dependent of the juvenile court and in an out-of-home placement. Thus, the date entered foster care is unchanged from the date the child entered foster care in dependency court. That date is: _____.

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11. The child is committed to the care, custody, and control of the probation office for placement in the county juvenile ranch camp, forestry camp, or:
- a. for: months days.
 - b. until the requirement of the program has been satisfactorily completed.
 - c. if being housed in another county, please specify:

12. The minor is placed in a short-term residential therapeutic program. A hearing to review the placement under **Welf. & Inst. Code, § 727.12** was held on or is set for (*date*):

Date:

▶

JUDGE
 TEMPORARY JUDGE
 COMMISSIONER
 REFEREE

CHILD'S NAME:	CASE NUMBER:
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FINDINGS AND ORDERS AFTER SIX-MONTH PREPERMANENCY HEARING—DELINQUENCY

1. **The court has read and considered and admits into evidence:**

- a. Report of probation dated:
- b. Other (*specify*):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

2. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For child who is not present:** The child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. Probation has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

5. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
6. The child's out-of home placement is necessary.
7. a. The child's out-of-home placement is appropriate.
- b. The child's current placement is not appropriate. This hearing is continued for a report by probation on the progress made to locate an appropriate placement.
8. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.
9. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. Probation has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California and that out-of-state placement:
- a. continues to be the most appropriate placement and is in the child's best interest.
- b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by probation on the progress made toward finding an appropriate placement for the child.
12. Probation has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child, and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent plan.
13. **The child is an Indian child**, and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.
14. **The child has no known Indian heritage.**

CHILD'S NAME:	CASE NUMBER:
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15. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. The likely date by which the child may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, or placed permanently with a fit and willing relative is (date):

Case planning and visitation

17. **The child is 14 years of age or older.** The services set forth in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

18. a. The following were actively involved in the case plan development, including the plan for permanent placement:

- child mother father legal guardian tribal representative
 other: other:

b. The following were **not** actively involved in the case plan development, including the plan for permanent placement. The probation officer is ordered to actively involve them and submit an updated case plan within 30 days from today.

- child mother father legal guardian tribal representative
 other: other:

c. The following were **not** actively involved in the case plan development, including the plan for permanent placement. The probation officer is not required to involve them because they are unable, unavailable, or unwilling to participate.

- child mother father legal guardian tribal representative
 other: other:

19. The court finds that the child's:

- a. developmental needs are are not being met. c. physical needs are are not being met.
b. mental health needs are are not being met. d. education needs are are not being met.

20. The additional services, assessments, and/or evaluations the child requires and the persons or agency ordered to take the steps necessary for the child to receive these services, assessments, and/or evaluations are:

- a. set forth on the record.
b. as follows:

21. a. The following are ordered by the court to participate with the child in a counselling or education program as directed by probation: mother father legal guardian other (specify):

other (specify):

b. The participation by the following is deemed by the court to be inappropriate or potentially detrimental to the child and their participation with the child in a counseling or education program is NOT ordered:

- mother father legal guardian other (specify):
 other (specify):

22. The child has siblings under the court's jurisdiction and all of the siblings are **not** placed together in the same home.

- a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children. No visitation is ordered.

CHILD'S NAME:	CASE NUMBER:
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23. Visitation with the child is ordered:
- As set forth in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - As follows (*specify*):

Health and education

24. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (*date*):
25. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
26. The parents legal guardians are unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under *Welf. & Inst. Code, § 739* and vested with the probation department.
27. A limitation on the parents legal guardians to make educational decisions for the child
- is **not** necessary. The parents or legal guardians hold educational rights and responsibilities, including those listed in California Rules of Court, rule 5.650(e) and (f).
 - is necessary. Those rights are limited as ordered and as set forth in *Order Designating Educational Rights Holder* (form JV-535).
28. The child's school placement has changed since the dispositional hearing.
- The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days.
 - The child is enrolled in attending school.

Parentage

29. a. The child is 16 years of age or older, and pursuant to the requirements of *Welf. & Inst. Code, § 16501.1(g)(22)*:
- An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - The name of the support person(s) to assist the child is:
The relationship(s) to the child is:
 - An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - stated on the record.
 - as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
30. a. The court inquired of the mother others (*names and relationships*):
- as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete the form and submit it to the court.
- b. The court clerk probation department shall provide the notice required by *Welf. & Inst. Code, § 726.4* to:
- alleged father (*name*):
 - alleged father (*name*):

Advisement

31. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under *Welf. & Inst. Code, § 727.31* to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

CHILD'S NAME:	CASE NUMBER:
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32. All prior orders not in conflict with this order remain in full force and effect.

33. Other findings and orders:

- a. See attached.
- b. (Specify):

35. The date the child entered foster care is (specify):

36. The next hearing will be:

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

37. The petition is dismissed. Jurisdiction of the court is terminated. All appointed counsel are relieved.

38. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of their attorney who can assist with sealing records.

39. Number of pages attached:

Date:



<input type="checkbox"/>	JUDGE	<input type="checkbox"/>	TEMPORARY JUDGE	<input type="checkbox"/>	COMMISSIONER	<input type="checkbox"/>	REFEREE
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CHILD'S NAME:	CASE NUMBER:
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FINDINGS AND ORDERS AFTER PERMANENCY HEARING—DELINQUENCY

12-MONTH 18-MONTH (only if reunification services extended at 12 months)

1. The court has read and considered and admits into evidence:

- a. Report of probation dated:
b. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

2. a. Notice of the date, time, and location of the hearing was given as required by law.
b. **For child who is not present:** The child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. Probation has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

5. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
6. The child's out-of home placement is necessary.
7. a. The child's out-of-home placement is appropriate.
b. The child's current placement is not appropriate. This hearing is continued for a report by probation on the progress made to locate an appropriate placement.
8. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.
9. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. Probation has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California and that out-of-state placement:
a. continues to be the most appropriate placement and is in the child's best interest.
b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by probation on the progress made toward finding an appropriate placement for the child.
12. Probation has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child, and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent plan.
 For children 16 years of age or older placed in another planned permanent living arrangement, the court finds that probation has has not made the following ongoing and intensive efforts to return the child to a safe home or finalize the permanent plan:
13. **The child is an Indian child**, and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.

CHILD'S NAME:	CASE NUMBER:
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14. **The child has no known Indian heritage.**
15. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Mother	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Father	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. a. Reunification services are continued (Welf. & Inst. Code, § 727.3(b)(2)).
- (1) There is a substantial probability that the child may be returned to the mother father legal guardian other (specify): _____ by the date set for the 18-month permanency hearing because the mother father legal guardian other (specify): _____ and the child have demonstrated the capacity and ability to complete the objectives of the case plan. Reunification services are continued to the mother father legal guardian other (specify): _____.
- (2) The probation department has not provided reasonable services to the mother father legal guardian other (specify): _____.
The services provided have been inadequate in that:

(3) The probation department is ordered to provide reasonable reunification services to the mother father legal guardian other (specify): _____.

- b. Reunification services are terminated.
- (1) The probation department has provided or offered reasonable services but the mother father legal guardian other (specify): _____ has not participated regularly and has not demonstrated the capacity and ability to complete the objectives of the case plan. Reunification services are terminated.
- (2) The probation department has provided or offered reasonable services but there is not a substantial probability that the child may be returned to the mother father legal guardian Other (specify): _____ by the date set for the 18-month review. Reunification services are terminated.
- (3) **At 18-month review:** Reunification services are terminated because it has been 18 months since the date the child was originally removed from the physical custody of their parent or legal guardian.
- (4) The probation department has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated. (Family Code § 7950.)

17. a. **The following is appropriate and ordered as the permanent plan:**
- (1) The child is returned home immediately.
- (2) Continuation of reunification services and setting of a further permanency hearing. If the child is not returned home at the next permanency hearing, the court will set a hearing that could result in the termination of parental rights and the adoption of the child.
- (3) Adoption. A hearing under Welf. & Inst. Code, § 727.31 is scheduled for (date): _____ and an adoption assessment report is ordered.
- (4) Legal guardianship.

CHILD'S NAME:	CASE NUMBER:
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17. b. The court finds by clear and convincing evidence that (*name of child*) _____ is not a proper subject for adoption and there is no one willing to accept legal guardianship. The permanent plan is:
- (1) Permanent placement with (*name*) _____ a fit and willing relative.
 - (2) Placement in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative.
 - (3) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
 - return home. establish legal guardianship.
 - place for adoption. place with a relative.
 - other (*specify*): _____
18. a. **The likely date** by which the permanent plan will be achieved is:
- b. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is: _____. (Use this finding only when the court continues reunification services under item 15a.)
- c. The court finds that the barriers to achieving the child's permanent plan are (*describe*): _____

For children 16 years of age or older placed in another planned permanent living arrangement:

19. a. The court asked the child where **they want** to live and the child provided the following information (*describe*): _____
- b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (*describe*): _____
- c. The compelling reasons why the other permanent plan options are not in the child's best interest are (*describe*): _____

Case planning and visitation

20. **The child is 14 years of age or older.** The services set forth in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.

CHILD'S NAME:	CASE NUMBER:
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21. a. The following were actively involved in the case plan development, including the plan for permanent placement:
 child mother father legal guardian tribal representative
 other: other:
- b. The following were **not** actively involved in the case plan development, including the plan for permanent placement. The probation officer is ordered to actively involve them and submit an updated case plan within 30 days from today.
 child mother father legal guardian tribal representative
 other: other:
- c. The following were **not** actively involved in the case plan development, including the plan for permanent placement. The probation officer is not required to involve them because they are unable, unavailable, or unwilling to participate.
 child mother father legal guardian tribal representative
 other: other:
22. The court finds that the child's:
a. developmental needs are are not being met. c. physical needs are are not being met.
b. mental health needs are are not being met. d. education needs are are not being met.
23. The additional services, assessments, and/or evaluations the child requires, and the person or agency ordered to take the steps necessary for the child to receive these services, assessments, and/or evaluations, are:
a. set forth on the record.
b. as follows:
24. a. The following are ordered by the court to participate with the child in a counselling or education program as directed by probation: mother father legal guardian other (*specify*):
b. The participation by the following is deemed by the court to be inappropriate or potentially detrimental to the child and their participation with the child in a counseling or education program is **not** ordered:
 mother father legal guardian other (*specify*):
25. The child has siblings under the court's jurisdiction and all of the siblings are **not** placed together in the same home.
a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children for the following reasons (*state reasons*):

No visitation is ordered.
26. Visitation with the child is ordered:
a. As set forth in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
b. As follows (*specify*):

Health and education

27. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (*date*):
28. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
29. The parents legal guardians are unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under **Welf. & Inst. Code, § 739** and vested with the probation department.
30. A limitation on the parents legal guardians to make educational decisions for the child
a. is **not** necessary. The parents or legal guardian hold educational rights and responsibilities, including those listed in California Rules of Court, rule 5.650(e) and (f).
b. is necessary. Those rights are limited as ordered and as set forth in *Order Designating Educational Rights Holder* (form JV-535).

CHILD'S NAME:	CASE NUMBER:
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31. The child's school placement has changed since the last hearing.
- a. The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days since the placement change.
- b. The child is enrolled in attending (*specify school*):
32. a. The child is 16 years of age or older, and pursuant to the requirements of Welf. & Inst. Code, § 16501.1(g)(22):
- (1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) The name of the support person(s) to assist the child is:
The relationship(s) to the child is:
- (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (a) stated on the record.
- (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

Parentage

33. a. The court inquired of the mother others (*names and relationships*):
- as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete and submit the form to the court.
- b. The court clerk probation department shall provide the notice required by Welf. & Inst. Code, § 726.4 to:
- (1) alleged father (*name*):
- (2) alleged father (*name*):

Advisement

34. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under Welf. & Inst. Code, § 727.31 to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

35. **All prior orders not in conflict with this order remain in full force and effect.**

36. Other findings and orders:

- a. See attached.
- b. (*Specify*):

37. The date the child entered foster care is (*specify*):

38. **The next hearing will be:**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

39. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved.

40. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of their attorney who can assist with sealing records.

41. Number of pages attached:

Date:

▶

<input type="checkbox"/>	JUDGE	<input type="checkbox"/>	TEMPORARY JUDGE	<input type="checkbox"/>	COMMISSIONER	<input type="checkbox"/>	REFEREE
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CHILD'S NAME:	CASE NUMBER:
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FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING—DELINQUENCY

1. The court has read and considered and admits into evidence:

- a. Report of probation dated:
 b. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

2. a. Notice of the date, time, and location of the hearing was given as required by law.
 b. **For child who is not present:** The child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
 b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. Probation has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

5. Continued out-of-home care is in the best interest of the child. Reunification services are terminated.
6. The child's out-of-home placement is necessary.
7. a. The child's out-of-home placement is appropriate.
 b. The child's current placement is not appropriate. This hearing is continued for a report by probation on the progress made to locate an appropriate placement.
8. For a child placed in a short-term residential therapeutic program, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.
9. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. Probation has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California and that out-of-state placement:
 a. continues to be the most appropriate placement and is in the child's best interest.
 b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by the county agency on the progress made toward finding an appropriate placement for the child.
12. The probation department has has not exercised due diligence to locate an appropriate relative with whom (name of child) could be placed. Each relative whose name has been submitted to the department has has not been evaluated. (Family Code § 7950.)
13. Probation has has not complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent placement of the child.
 For children 16 years of age or older placed in another planned permanent living arrangement, the court finds that probation has has not made the following ongoing and intensive efforts to return the child to a safe home or finalize the permanent plan (specify):

CHILD'S NAME:	CASE NUMBER:
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14. **The child is an Indian child,** and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.

15. **The child has no known Indian heritage.**

16. a. **The following is appropriate and ordered as the permanent plan:**

- (1) The child is returned home immediately.
- (2) Adoption. A hearing under Welf. & Inst. Code, § 727.31 is scheduled for (date):
and an adoption assessment report is ordered.
- (3) Legal guardianship.

b. The court finds by clear and convincing evidence that (name of child) is not a proper subject for adoption and there is no one willing to accept legal guardianship. The permanent plan is:

- (1) The permanent plan is placement in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative.
- (2) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to

<input type="checkbox"/> return home.	<input type="checkbox"/> establish legal guardianship.
<input type="checkbox"/> place for adoption.	<input type="checkbox"/> place with a relative.
<input type="checkbox"/> other (specify):	

17. **The likely date** by which the permanent plan will be achieved is:

18. The court finds that the barriers to achieving the child's permanent plan are (describe):

19. **For children 16 years of age or older placed in another planned permanent living arrangement:**

a. The court asked the child where the child wants to live and the child provided the following information (describe):

b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (describe):

c. The compelling reasons why the other permanent plan options are not in the child's best interest are (describe):

CHILD'S NAME:	CASE NUMBER:
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Case planning and visitation

20. **The child is 14 years of age or older.** The services set forth in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
21. a. The child was actively involved in the development of **their** case plan, including the plan for permanent placement.
b. The child was **not** actively involved in the development of **their** case plan, including the plan for permanent placement.
- (1) Probation is ordered to involve the child and submit an updated case plan within 30 days.
(2) Probation is **not** required to involve the child because the child is unable, unavailable, or unwilling to participate.
22. The court finds that the child's:
a. developmental needs are are not being met. c. physical needs are are not being met.
b. mental health needs are are not being met. d. education needs are are not being met.
23. The additional services, assessments, and/or evaluations the child requires and the persons or agency ordered to take the steps necessary for the child to receive these services, assessments, and/or evaluations are:
a. set forth on the record.
b. as follows:
24. The child has siblings under the court's jurisdiction and all of the siblings are **not** placed together in the same home.
a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children. No visitation is ordered.
25. Visitation with the child is ordered:
a. as set forth in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
b. as set forth in *Visitation Attachment: Sibling* (form JV-401).
c. as follows (*specify*):

Health and education

26. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (*date*):
27. For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
28. The parents legal guardians are unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under **Welf. & Inst. Code, § 739** and vested with the probation department.
29. A limitation on the parents legal guardians to make educational decisions for the child
a. is **not** necessary. The parents or legal guardian hold educational rights and responsibilities, including those listed in California Rules of Court, rule 5.650(e) and (f).
b. is necessary. Those rights are limited as ordered and as set forth in *Order Designating Educational Rights Holder* (form JV-535).
30. a. The Child is 16 years of age or older, and pursuant to the requirements of **Welf. & Inst. Code, § 16501.1(g)(22)**:
(1) An individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
(2) The name of the support person(s) to assist the child is:
The relationship(s) to the child is:

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

30. a. (3) An individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) To assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (a) stated on the record.
- (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

31. The child's school placement has changed since the last review hearing.
- a. The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days since the placement change.
- b. The child is enrolled in attending school.

Parentage

32. a. The court inquired of the mother others (*names and relationships*):
- as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete and submit the form to the court.
- b. The court clerk probation department shall provide the notice required by **Welf. & Inst. Code, § 726.4** to:
- (1) alleged father (*name*):
- (2) alleged father (*name*):

Advisement

33. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under **Welf. & Inst. Code, § 727.31** to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

34. **All prior orders not in conflict with this order remain in full force and effect.**

35. Other findings and orders:
- a. See attached.
- b. (*Specify*):

36. The date the child entered foster care is (*specify*):

37. **The next hearing will be:**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

38. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved.

39. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of **their** attorney who can assist with sealing records.

40. Number of pages attached:

Date: ▶

JUDGE
 TEMPORARY JUDGE
 COMMISSIONER
 REFEREE

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Juvenile Law: Short-Term Residential Therapeutic Program Placement

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV 240; approve form JV 459(A); revise forms JV 235, JV 236, JV 237, JV 238, JV 239, JV-320, JV 421, JV 430, JV 432, JV 433, JV 435, JV 437, JV 438, JV 440, JV 442, JV 443, JV 445, JV 446, JV 455, JV 457, JV 461(A), JV 462, JV 642, JV 667, JV 672, JV 674, and JV 678

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Daniel Richardson; 415-865-7619; daniel.richardson@jud.ca.gov
 Karis Daggs; 415-865-7704; karis.daggs@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda: Monitor implementation of the Family First Prevention Services Act (FFPSA), which reforms federal child welfare financing streams, Title IV-E and Title IV-B of the Social Security Act, to provide services to families who are at risk of entering the child welfare system. Budget trailer bill legislation enacted in 2021, with an effective date of October 1, 2021 enacted key changes to court processes for approving placements in Short Term Residential Therapeutic Programs that required rule and form changes to implement. Those changes were approved by the Judicial Council at its October 1, 2021 meeting, and will circulate for public comment in the 2022 Winter rules and forms cycle for future revisions as well as to implement additional legislative clarifications.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

This proposal is circulating for comment a second time. It circulated for comment in the Spring 2021 prior to Assembly Bill 153 (the bill related to this proposal) was signed into law. The proposal updates the rules and forms that were finalized after the comment period as AB 153 was signed into law after the comment period of the last rules cycle. Proposal addresses the implementation of Assembly Bill 153 which implements part IV of the federal Family First Prevention Services Act. Additional updates required by AB 153 that were not made in the last rules cycle due to time constraints are addressed in the multiple status review forms in this proposal.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Appellate Procedure and Juvenile Law: Transfer of Jurisdiction to Criminal Court and Appeal from Transfer Orders

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt Cal. Rules of Court, rule 8.417; amend rules 5.766, 5.768, 5.770, 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, and 8.412; and revise forms JV-710 and JV-800

Committee or other entity submitting the proposal:

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Staff contact (name, phone and e-mail): Christy Simons, 415-865-7694 | christy.simons@jud.ca.gov

Tracy Kenny, 916 263-2838 tracy.kenny@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021 and amendment to AAC Agenda on January 5, 2022

Project description from annual agenda:

Appellate Advisory Committee:

Appellate review of transfer of juvenile to a court of criminal jurisdiction

This is a joint project with the Family and Juvenile Law Advisory Committee. AB 624 (Ch.195, Stats. of 2021), which enacted Welfare and Institutions Code section 801, authorizes immediate appellate review of an order transferring a minor from the juvenile court to a court of criminal jurisdiction if a notice of appeal is filed within 30 days of the transfer order. Rules of court in Title 5 and Title 8 must be amended to implement the legislation.

Family and Juvenile Law Advisory Committee

Legislative Changes from the 2021 Legislative Session

As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

s. AB 624 (Bauer-Kahn) Juveniles: transfer to court of criminal jurisdiction: appeals (Ch.195, Stats. of 2021)

Authorizes immediate appellate review of an order transferring a minor from the juvenile court to a court of criminal jurisdiction if a notice of appeal is filed within 30 days of the transfer order.

Proposition 57 and SB 1391

Monitor implementation of a recently enacted propositions and legislation, and assist juvenile courts with any required implementation: Proposition 57 enacted November 8, 2016 restructured the process for transfer of jurisdiction from juvenile to criminal court and eliminated the ability of prosecutors to directly file cases in criminal court. SB 1391 limited the transfer of youth to those age 16 and over or who are arrested after the age of juvenile court jurisdiction. The California Supreme Court granted review in a case decided in October 2019 (O.G. v. Superior Court, 40 Cal.App.5th 626 (2019)) that held that SB 1391 was enacted in violation of Proposition 57 and thus a rules and forms proposal to implement the legislation that was enacted by the council on September 24, 2019, was rescinded by the council on November 25, 2019. On February 25, 2021 the court ruled that the provisions of SB 1391 were a permissible amendment to Proposition 57 and thus were valid. As a result, the changes rescinded in 2019 may now

move forward, and should be coordinated with the changes necessary to implement DJJ realignment (see above).

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-14

Title	Action Requested
Appellate Procedure and Juvenile Law: Transfer of Jurisdiction to Criminal Court and Appeal from Transfer Orders	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 8.417; amend rules 5.766, 5.768, 5.770, 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, and 8.412; and revise forms JV-710 and JV-800	January 1, 2023
Proposed by	Contact
Appellate Advisory Committee Hon. Louis R. Mauro, Chair	Christy Simons, 415-865-7694 christy.simons@jud.ca.gov
Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulse, Cochair Hon. Amy M. Pellman, Cochair	Tracy Kenny, 916-263-2838 tracy.kenny@jud.ca.gov

Executive Summary and Origin

In 2018 the Legislature passed Senate Bill 1391 (Lara; Stats. 2018, ch. 1012), which amended Welfare and Institutions Code section 707 to provide that a minor must be at least 16 years of age to be considered for transfer of jurisdiction to criminal court unless the individual for whom transfer is sought was 14 or 15 at the time of the offense, the offense is listed in section 707(b), and the individual was not apprehended until after the end of juvenile court jurisdiction. The Judicial Council took action to implement these age-related changes in the jurisdiction of the juvenile court in 2019, but revoked that action when a split of authority within the California Courts of Appeal arose as to whether these changes were enacted in a constitutional manner. That split was resolved by the California Supreme Court in 2021 in favor of the constitutionality of the legislation. Additionally, legislation was enacted in 2021 to provide an expedited review on the merits from an order granting a motion to transfer. The Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee propose adopting a new rule of court, amending several other rules, and revising two forms pertaining to the transfer-of-jurisdiction process and juvenile appeals to reflect both legislative changes to the transfer statutes.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Background

On November 8, 2016, the people of the State of California enacted Proposition 57, the Public Safety and Rehabilitation Act of 2016, effective November 9, 2016. Proposition 57 amended existing law to require that the juvenile court consider a motion by the district attorney or other appropriate prosecuting officer to transfer the minor to the jurisdiction of the criminal court before a juvenile can be prosecuted in a criminal court. To that end, the proposition repealed Welfare and Institutions Code section 602(b),¹ which had provided that certain serious and violent felonies were to be prosecuted in criminal court, as well as section 707(d), which had authorized the district attorney to directly file an accusatory pleading involving certain minors in criminal court. In addition, the proposition eliminated a set of presumptions that applied in determining whether a case should be transferred and instead provided the court with broad discretion to determine whether the minor should be transferred to a court of criminal jurisdiction, taking into account numerous factors and criteria.

SB 1391 further amended these provisions to limit the transfer of cases involving 14 and 15 year olds to those in which the alleged offender is not apprehended until after reaching adulthood and the offense is one listed in section 707(b). On February 25, 2021, the California Supreme Court resolved a split of opinion within the Courts of Appeal and upheld the constitutionality of SB 1391 in *O.G. v. Superior Court*, 11 Cal.5th 82, making clear that the legislation’s age limitations on transfer of youth to criminal court jurisdiction were permissible amendments to Proposition 57.

In 2021, the Legislature enacted section 801 to provide a right to an immediate appeal for youth subject to an order for transfer of jurisdiction from juvenile court to criminal court provided that the notice of appeal is filed within 30 days of the transfer order.² That legislation requires the council to adopt rules of court to ensure that the youth is advised of their appellate rights, the record is promptly prepared and transmitted after a notice of appeal is filed, and adequate time requirements allow counsel and court personnel to comply with the objectives of the section. Subdivision (e) of section 801 states: “It is the intent of the Legislature that this section provides for an expedited review on the merits by the appellate court of an order transferring the minor from the juvenile court to a court of criminal jurisdiction.”

Prior Circulation

The Family and Juvenile Law Advisory Committee circulated a proposal for comment in 2019 to implement the provisions of SB 1391. The Judicial Council adopted a revised version of that proposal on September 24, 2019, with an effective date of January 2, 2020. The council then revoked that action on November 25, 2019, after the Court of Appeal, Second Appellate District, filed an opinion on September 30, 2019, finding that the provisions of SB 1391 were not consistent with the voters’ intent in enacting Proposition 57 and thus holding that the

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

² Assem. Bill 624 (Bauer-Kahan; Stats. 2021, ch. 195).

amendments to section 707 were an unconstitutional exercise of legislative authority.³ The proposal circulated here includes the changes approved by the council in 2019 with minor style revisions, as well as changes to implement section 801, the new appellate provisions on transfer.

The Proposal

To implement the new jurisdictional provisions of SB 1391, the transfer rules and form would be modified. To implement the appellate provisions of section 801, the committees propose adopting new rule 8.417 and amending rule 5.770 and several appellate rules.

Transfer rules 5.766, 5.768, and 5.770

The current rules of court governing the process for transfer of jurisdiction from juvenile court to criminal court provide that transfer can occur when the subject of the petition was 14 or 15 years old at the time the petition alleges they committed an offense listed in section 707(b) or is 16 years of age or older and is alleged to have committed a felony. These rules would be amended to provide that a transfer petition may be considered for an individual who was 14 or 15 years of age at the time of the offense and was not apprehended until after the end of juvenile court jurisdiction. The proposal also includes new language in rule 5.770(b) to incorporate the holding in *C.S. v. Superior Court*, 29 Cal.App.5th 1009 (2018) that a trial court judge considering a motion to transfer must make detailed findings and fully explain its reasoning for granting or denying the motion. In addition, the legislative changes to section 707 require that code references in the rules be updated to reflect the new structure of the statute.

Finally, all three rules are proposed to be amended to use the term “youth” instead of “child,” consistent with rule 5.502(46).

Transfer order form JV-710

Order to Transfer Juvenile to Criminal Court Jurisdiction (form JV-710), for optional use, would be revised to update item 3 to include the limitation on transferring individuals who were age 14 or 15 at the time of the offense to those who were apprehended after the end of juvenile court jurisdiction. Item 4 would be updated to renumber the statutory reference from 707(a)(2) to 707(a)(3), consistent with the changes enacted by SB 1391. In addition, the form is proposed to be revised to use the term “youth” instead of “child.”

Amendments to rule 5.770 to implement new appellate rights

Section 801 provides youth subject to an order transferring jurisdiction with the right to an immediate appeal if a notice of appeal is filed within 30 days of the transfer order and requires that the juvenile court grant a stay of the criminal court proceedings upon request of the youth if an appeal is filed. In addition, it requires the court to advise the youth of their appellate rights, the steps and time for taking an appeal, and the right to appointed counsel. Finally, it requires that the court prepare the record and transmit it to the Court of Appeal in a timely manner so that

³ *O.G. v. Superior Court* (2019) 40 Cal.App.5th 626.

the appeal can be heard expeditiously. The committees propose amending rule 5.770 to reflect these new requirements and provisions.

Juvenile Notice of Appeal Form (JV-800)

Notice of Appeal – Juvenile (form JV-800), for optional use, would be revised to allow it to be used for the appeal of orders transferring jurisdiction from the juvenile court to the criminal court. To accomplish this the form includes a new notice alerting appellants that they must file within 30 days of the order, as well as a new item 7(h) to indicate that the appeal is from a transfer order under section 707. The form was also revised to delete a generic other checkbox, and to convert the item for “other appealable orders relating to wardship,” to “other appealable orders relating to delinquency”. Because the form already has an item for “other appealable orders relating to dependency,” it should, as proposed, be usable for all appealable juvenile matters without requiring a nonspecific “other” item.

Appellate rules

New rule 8.417

To ensure that appeals from transfer orders are resolved expeditiously, the committees propose a new rule that would govern these proceedings. New rule 8.417 is modeled on rule 8.416, the rule governing fast-track dependency appeals. The new rule would require that the cover of the record on appeal be labeled to identify the appeal as entitled to preference and would specify the items to be included in the record. (Rule 8.417(b), (c).) Subdivision (d) would require the record to be prepared within 20 days and sent immediately. The rule would also contain requirements for augmenting and correcting the record, the time to file briefs, the showing a party must make to support a request for an extension of time, and the length of the grace period following a notice of failure to file a brief. (Rule 8.417(e), (f), (g), (h).) Finally, the rule would provide time periods for requesting and holding oral argument and submission if argument is waived.

Amended rules 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, and 8.412

Section 801 provides for an appeal from an order granting transfer if the notice of appeal is filed within 30 days. This is different from the normal time of 60 days in juvenile appeals. Rule 8.406 would be amended to add the 30-day time limit for filing a notice of appeal from a transfer order. The proposed amendments specify when the 30-day time begins to run if the matter is heard by a referee not acting as a temporary judge and if an application for rehearing of an order of a referee not acting as a temporary judge is denied. The committees would like comments on whether these matters are heard by referees and whether rule 8.406(a)(4) should include these provisions.

The committees also propose adding an advisory committee comment to rule 8.404. The rule provides: “The court must not stay an order or judgment pending an appeal unless suitable provision is made for the maintenance, care, and custody of the child.” For clarification and to avoid any confusion with the rules in title 5, a new comment would read: “This rule does not apply to a court’s order under rule 5.770(e)(2) staying the criminal court proceedings during the pendency of an appeal of an order transferring the minor from juvenile court to a court of

criminal jurisdiction.” The committees would appreciate feedback on this proposed addition to the advisory committee comment to this rule.

The other rules included in this proposal, rules 8.50, 8.60, 8.63, 8.409, and 8.412, would be amended to add cross-references to new rule 8.417 to the text of the rule or to the advisory committee comments and to make minor style and punctuation changes.

Alternatives Considered

The Family and Juvenile Law Advisory Committee considered moving the prior transfer proposal forward without recirculating it for comment, but determined that it would be preferable, in light of new section 801, to amend these rules once and at the same time update the rules in title 5 to use the term “youth,” consistent with the committee’s current practice.

The Appellate Advisory Committee considered a narrow approach that would have involved amending only the rule regarding the time for filing a notice of appeal, rule 8.406. The committee concluded that a broader approach, including a new rule with expedited timing at several steps of the appeal, would better reflect the legislative intent that these appeals be determined as soon as reasonably practicable after the notice of appeal is filed.

The committees did not consider the alternative of proposing no rule amendments because section 801 creates a new right of appeal and requires the Judicial Council to adopt implementing rules.

Fiscal and Operational Impacts

The restrictions on transfers to criminal court for juvenile offenders ages 14 and 15 will result in the filing of fewer transfer petitions for these youth and, thus, fewer hearings on those petitions. These impacts are the result of legislative changes. Similarly, the new appellate rights in section 801 will likely result in more appeals being filed in the Courts of Appeal, also the result of the legislative change rather than the provisions of this proposal.

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?
- Is the new advisory committee comment to rule 8.404 regarding stays helpful?
- Does proposed new rule 8.417(c) appropriately specify the items to be included in the record on appeal?
- Do juvenile referees hear transfer motions in a capacity other than as a temporary judge such that the rules need to include timing for review of their orders by a superior court judge, or can those provisions be removed from the rules? (See rules 5.770(g) and 8.406(a).)

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. Cal. Rules of Court, rules 5.766, 5.768, 5.770, 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, 8.412, and 8.417, at pages 7–18
2. Forms JV-710 and JV-800 at pages 19-21
3. Link A: Senate Bill 1391,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1391
4. Link B: Assembly Bill 624,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB624

Rule 8.417 of the California Rules of Court would be adopted, and rules 5.766, 5.768, 5.770, 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, and 8.412 would be amended, effective January 1, 2023, to read:

1 **Rule 5.766. General provisions**

2
3 **(a) Hearing on transfer of jurisdiction to criminal court (§ 707)**

4
5 A child youth who is the subject of a petition under section 602 and who was 14 years or
6 older at the time of the alleged felony offense may be considered for prosecution under the
7 general law in a court of criminal jurisdiction. The district attorney or other appropriate
8 prosecuting officer may make a motion to transfer the child youth from juvenile court to a
9 court of criminal jurisdiction, in one of the following circumstances:

10
11 (1) The child individual was 14 or 15 years ~~or older~~ of age at the time of the alleged
12 offense listed in section 707(b) and was not apprehended before the end of juvenile
13 court jurisdiction.

14
15 (2) The child youth was 16 years or older at the time of the alleged felony offense.

16
17 **(b) * * ***

18
19 **(c) Prima facie showing**

20
21 On the child youth's motion, the court must determine whether a prima facie showing has
22 been made that the offense alleged is an offense that makes the child youth subject to
23 transfer as set forth in subdivision (a).

24
25 **(d) Time of transfer hearing—rules 5.774, 5.776**

26
27 The transfer of jurisdiction hearing must be held and the court must rule on the request to
28 transfer jurisdiction before the jurisdiction hearing begins. Absent a continuance under rule
29 5.776 or the child youth's waiver of the statutory time period to commence the jurisdiction
30 hearing, the jurisdiction hearing must begin within the time limits under rule 5.774.

31
32
33 **Rule 5.768. Report of probation officer**

34
35 **(a) Contents of report (§ 707)**

36
37 The probation officer must prepare and submit to the court a report on the behavioral
38 patterns and social history of the child youth being considered. The report must include
39 information relevant to the determination of whether the child youth should be retained
40 under the jurisdiction of the juvenile court or transferred to the jurisdiction of the criminal
41 court, including information regarding all of the criteria in section 707(a)~~(2)~~(3). The report

1 must also include any written or oral statement offered by the victim pursuant to section
2 656.2.

3
4 **(b) Recommendation of probation officer (§§ 281, 707)**

5
6 If the court, under section 281, orders the probation officer to include a recommendation,
7 the probation officer must make a recommendation to the court as to whether the ~~child~~
8 youth should be retained under the jurisdiction of the juvenile court or transferred to the
9 jurisdiction of the criminal court.

10
11 **(c) Copies furnished**

12
13 The probation officer's report on the behavioral patterns and social history of the ~~child~~
14 youth must be furnished to the ~~child youth~~, the parent or guardian, and all counsel at least
15 two court days before commencement of the hearing on the motion. A continuance of at
16 least 24 hours must be granted on the request of any party who has not been furnished the
17 probation officer's report in accordance with this rule.

18
19
20 **Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707**

21
22 **(a) * * ***

23
24 **(b) Criteria to consider (§ 707)**

25
26 Following receipt of the probation officer's report and any other relevant evidence, the
27 court may order that the ~~child youth~~ be transferred to the jurisdiction of the criminal court
28 if the court finds:

- 29
30 (1) The ~~child youth~~ was 16 years or older at the time of any alleged felony offense, or
31 the ~~child individual~~ was 14 or 15 years of age at the time of an alleged felony offense
32 listed in section 707(b) and was not apprehended prior to the end of juvenile court
33 jurisdiction; and
34
35 (2) The ~~child youth~~ should be transferred to the jurisdiction of the criminal court based
36 on an evaluation of all the criteria in section 707(a)~~(2)~~(3) as provided in that section.
37 The court must state on the record the basis for its decision, detailing how it weighed
38 the evidence and identifying the specific factors on which the court relied to reach its
39 decision.

40
41 **(c) * * ***

1 **(d) Procedure following findings**
2

- 3 (1) If the court finds the child youth should be retained within the jurisdiction of the
4 juvenile court, the court must proceed to jurisdiction hearing under rule 5.774.
5
6 (2) If the court finds the child youth should be transferred to the jurisdiction of the
7 criminal court, the court must make orders under section 707.1 relating to bail and to
8 the appropriate facility for the custody of the child youth, or release on own
9 recognizance pending prosecution. The court must set a date for the child youth to
10 appear in criminal court and dismiss the petition without prejudice upon the date of
11 that appearance.
12
13 (3) When the court rules on the request to transfer the child youth to the jurisdiction of
14 the criminal court, the court must advise all parties present ~~that regarding~~ appellate
15 review of the order ~~must be by petition for extraordinary writ as provided in~~
16 subdivision (g) of this rule. The advisement may be given orally or in writing when
17 the court makes the ruling. The advisement must include the time for filing the notice
18 of appeal or the petition for extraordinary writ as set forth in subdivision (g) of this
19 rule. The court must advise the youth of the right to appeal, of the necessary steps
20 and time for taking an appeal, and of the right to the appointment of counsel if the
21 youth is unable to retain counsel.
22

23 **(e) Continuance ~~to seek~~ or stay pending review**
24

- 25 (1) If the prosecuting attorney informs the court orally or in writing that a review of the
26 court's decision not to transfer jurisdiction to the criminal court will be sought and
27 requests a continuance of the jurisdiction hearing, the court must grant a continuance
28 for not less than two judicial days to allow time within which to obtain a stay of
29 further proceedings from the reviewing judge or appellate court.
30
31 (2) If the youth informs the court orally or in writing that a notice of appeal of the
32 court's decision to transfer jurisdiction to the criminal court will be filed and requests
33 a stay, the court must issue a stay of the criminal court proceedings until a final
34 determination of the appeal. The court retains jurisdiction to modify or lift the stay
35 upon request of the youth.
36

37 **(f) Subsequent role of judicial officer**
38

39 Unless the child youth objects, the judicial officer who has conducted a hearing on a
40 motion to transfer jurisdiction may participate in any subsequent contested jurisdiction
41 hearing relating to the same offense.
42

1 (g) **Review of determination on a motion to transfer jurisdiction to criminal court**

2
3 (1) An order granting a motion to transfer jurisdiction of a youth to the criminal court is
4 an appealable order subject to immediate review. A notice of appeal must be filed
5 within 30 days of the order transferring jurisdiction or 30 days after the referee’s
6 order becomes final under rule 5.540(c) or after the denial of an application for
7 rehearing of the referee’s decision to transfer jurisdiction of the youth to the criminal
8 court. If a notice of appeal is timely filed, the court must prepare and submit the
9 record to the Court of Appeal within 20 days.

10
11 (2) An order ~~granting or~~ denying a motion to transfer jurisdiction of a ~~child~~ youth to the
12 criminal court is not an appealable order. Appellate review of the order is by petition
13 for extraordinary writ. Any petition for review of a judge’s order denying a motion to
14 transfer jurisdiction of the child to the criminal court, or denying an application for
15 rehearing of the referee’s determination not to transfer jurisdiction of the child to the
16 criminal court, must be filed no later than 20 days after the child’s first arraignment
17 on an accusatory pleading based on the allegations that led to the transfer of
18 jurisdiction or the judge’s order is entered, or the referee’s order becomes final
19 under rule 5.540(c).

20
21 (h) ***

22
23
24 **Rule 8.50. Applications**

25
26 (a) * * *

27
28 (b) **Contents**

29
30 The application must state facts showing good cause—or making an exceptional showing
31 of good cause, when required by these rules—for granting the application and must
32 identify any previous application filed by any party.

33
34 (c) * * *

35
36 **Advisory Committee Comment**

37
38 **Subdivision (a).** * * *

39
40 **Subdivision (b).** An exceptional showing of good cause is required in applications in certain juvenile
41 proceedings under rules 8.416, 8.417, 8.450, 8.452, and 8.454.

1 **Rule 8.60. Extending time**

2
3 (a) * * *

4
5 (b) **Extending time**

6
7 Except as these rules provide otherwise, for good cause—or on an exceptional showing of
8 good cause, when required by these rules—the Chief Justice or presiding justice may
9 extend the time to do any act required or permitted under these rules.

10
11 (c) **Application for extension**

12
13 (1) * * *

14
15 (2) The application must state:

16
17 (A)–(C) * * *

18
19 (D) Good cause—or an exceptional showing of good cause, when required by
20 these rules—for granting the extension, consistent with the factors in rule
21 8.63(b).

22
23 (d)–(f) * * *

24
25 **Advisory Committee Comment**

26
27 **Subdivisions (b) and (c):** An exceptional showing of good cause is required in applications in certain
28 juvenile proceedings under rules 8.416, 8.417, 8.450, 8.452, and 8.454.

29
30
31 **Rule 8.63. Policies and factors governing extensions of time**

32
33 (a) **Policies**

34
35 (1) The time limits prescribed by these rules should generally be met to ensure
36 expeditious conduct of appellate business and public confidence in the efficient
37 administration of appellate justice.

38
39 (2) The effective assistance of counsel to which a party is entitled includes adequate
40 time for counsel to prepare briefs or other documents that fully advance the party's
41 interests. Adequate time also allows the preparation of accurate, clear, concise, and
42 complete submissions that assist the courts.

1 (3) For a variety of legitimate reasons, counsel may not always be able to prepare briefs
2 or other documents within the time specified in the rules of court. To balance the
3 competing policies stated in (1) and (2), applications to extend time in the reviewing
4 courts must demonstrate good cause—or an exceptional showing of good cause,
5 when required by these rules—under (b). If good cause is shown, the court must
6 extend the time.

7
8 **(b) Factors considered**

9
10 In determining good cause—or an exceptional showing of good cause when required by
11 these rules—the court must consider the following factors when applicable:

12
13 (1)–(11) * * *

14
15 **Advisory Committee Comment**

16
17 An exceptional showing of good cause is required in applications in certain juvenile proceedings under
18 rules 8.416, 8.417, 8.450, 8.452, and 8.454.

19
20
21 **Rule 8.404. Stay pending appeal**

22
23 The court must not stay an order or judgment pending an appeal unless suitable provision is
24 made for the maintenance, care, and custody of the child.

25
26 **Advisory Committee Comment**

27
28 This rule does not apply to a court's order under rule 5.770(e)(2) staying the criminal court proceedings
29 during the pendency of an appeal of an order transferring the minor from juvenile court to a court of
30 criminal jurisdiction.

31
32 **Rule 8.406. Time to appeal**

33
34 **(a) Normal time**

- 35
36 (1) Except as provided in (2) ~~and~~, (3), ~~and~~ (4), a notice of appeal must be filed within 60
37 days after the rendition of the judgment or the making of the order being appealed.
38
39 (2) In matters heard by a referee not acting as a temporary judge, a notice of appeal must
40 be filed within 60 days after the referee's order becomes final under rule 5.540(c).
41
42 (3) When an application for rehearing of an order of a referee not acting as a temporary
43 judge is denied under rule 5.542, a notice of appeal from the referee's order must be

1 filed within 60 days after that order is served under rule 5.538(b)(3) or 30 days after
2 entry of the order denying rehearing, whichever is later.

3
4 (4) To appeal from an order transferring a minor to a court of criminal jurisdiction:

5
6 (A) Except as provided in (B) and (C), a notice of appeal must be filed within 30
7 days of the making of the order.

8
9 (B) If the matter is heard by a referee not acting as a temporary judge, a notice of
10 appeal must be filed within 30 days after the referee's order becomes final
11 under rule 5.540(c).

12
13 (C) When an application for rehearing of an order of a referee not acting as a
14 temporary judge is denied under rule 5.542, a notice of appeal from the
15 referee's order must be filed within 30 days after entry of the order denying
16 rehearing.

17
18 **(b)–(d) * * ***

19
20 **Rule 8.409. Preparing and sending the record**

21
22 **(a) Application**

23
24 This rule applies to appeals in juvenile cases except cases governed by rules 8.416 and
25 8.417.

26
27 **(b) * * ***

28
29 **(c) Preparing and certifying the transcripts**

30
31 Except in cases governed by rule 8.417, within 20 days after the notice of appeal is filed:

32
33 (1) The clerk must prepare and certify as correct an original of the clerk's transcript and
34 one copy each for the appellant, the respondent, the child's Indian tribe if the tribe
35 has intervened, and the child if the child is represented by counsel on appeal or if a
36 recommendation has been made to the Court of Appeal for appointment of counsel
37 for the child under rule 8.403(b)(2) and that recommendation is either pending with
38 or has been approved by the Court of Appeal but counsel has not yet been appointed;
39 and

40
41 (2) The reporter must prepare, certify as correct, and deliver to the clerk an original of
42 the reporter's transcript and the same number of copies as (1) requires of the clerk's
43 transcript.

1
2 **(d)–(e) * * ***

3
4 **Advisory Committee Comment**

5
6 **Subdivision (a).** Subdivision (a) calls litigants’ attention to the fact that a different rule (~~rule 8.416~~)
7 governs the record in appeals from judgments or orders terminating parental rights and in dependency
8 appeals in certain counties (rule 8.416), and in appeals from orders granting a motion to transfer a minor
9 from juvenile court to a court of criminal jurisdiction (rule 8.417).

10
11 **Subdivision (b).** * * *

12
13 **Subdivision (c).** Subdivision (c) calls litigants’ attention to the fact that a different rule (rule 8.417)
14 governs the record in appeals from orders granting a motion to transfer a minor from juvenile court to a
15 court of criminal jurisdiction.

16
17 **Subdivision (e).** * * *

18
19
20 **Rule 8.412. Briefs by parties and amici curiae**

21
22 **(a)** * * *

23
24 **(b) Time to file**

- 25
26 (1) Except in appeals governed by rules 8.416 and 8.417, the appellant must serve and
27 file the appellant’s opening brief within 40 days after the record is filed in the
28 reviewing court.
29
30 (2) The respondent must serve and file the respondent’s brief within 30 days after the
31 appellant’s opening brief is filed.
32
33 (3) The appellant must serve and file any reply brief within 20 days after the
34 respondent’s brief is filed.
35
36 (4) In dependency cases in which the child is not an appellant but has appellate counsel,
37 the child must serve and file any brief within 10 days after the respondent’s brief is
38 filed.
39
40 (5) Rule 8.220 applies if a party fails to timely file an appellant’s opening brief or a
41 respondent’s brief, but the period specified in the notice required by that rule must be
42 30 days.
43

1 (c) Extensions of time
2

3 The superior court may not order any extensions of time to file briefs. Except in appeals
4 governed by rules 8.416 and 8.417, the reviewing court may order extensions of time for
5 good cause.
6

7 (d) Failure to file a brief
8

9 (1) Except in appeals governed by rules 8.416 and 8.417, if a party fails to timely file an
10 appellant's opening brief or a respondent's brief, the reviewing court clerk must
11 promptly notify the party's counsel or the party, if not represented, in writing that the
12 brief must be filed within 30 days after the notice is sent and that failure to comply
13 may result in one of the following sanctions:
14

15 (A)–(B) * * *

16
17 (2)–(3) * * *

18
19 (e) * * *
20

21 **Advisory Committee Comment**
22

23 **Subdivision (b).** Subdivision (b)(1) calls litigants' attention to the fact that a different rules (~~rule~~
24 ~~8.416(e)~~) governs the time to file an appellant's opening brief in appeals from judgments or orders
25 terminating parental rights and in dependency appeals in certain counties (rule 8.416(e)), and in appeals
26 from orders granting a motion to transfer a minor from juvenile court to a court of criminal jurisdiction
27 (rule 8.417(f)).
28

29 **Subdivision (c).** Subdivision (c) calls litigants' attention to the fact that a different rules (~~rule 8.416(f)~~)
30 governs the showing required for extensions of time to file briefs in appeals from judgments or orders
31 terminating parental rights and in dependency appeals in certain counties (rule 8.416(f)), and in appeals
32 from orders granting a motion to transfer a minor from juvenile court to a court of criminal jurisdiction
33 (rule 8.417(g)).
34

35 **Subdivision (d).** Subdivision (d) calls litigants' attention to the fact that different rules govern the time
36 period specified in the notice of failure to timely file an appellant's opening brief or a respondent's brief
37 in appeals from judgments or orders terminating parental rights and in dependency appeals in certain
38 counties (rule 8.416(g)), and in appeals from orders granting a motion to transfer a minor from juvenile
39 court to a court of criminal jurisdiction (rule 8.417(h)).
40
41

1 **Rule 8.417. Appeals from orders transferring a minor from juvenile court to a court of**
2 **criminal jurisdiction**

3
4 **(a) Application**

5
6 This rule governs appeals from orders of the juvenile court granting a motion to transfer a
7 minor from juvenile court to a court of criminal jurisdiction.
8

9 **(b) Form of record**

10
11 (1) The clerk’s and reporter’s transcripts must comply with rules 8.45–8.47, relating to
12 sealed and confidential records, and, except as provided in (2), with rule 8.144.
13

14 (2) The cover of the record must prominently display the title “Appeal from Order
15 Transferring a Minor from Juvenile Court to a Court of Criminal Jurisdiction Under
16 Welfare and Institutions Code Section 801.”
17

18 **(c) Record on appeal**

19
20 (1) In addition to the items listed in rule 8.407(a), the clerk’s transcript must contain:
21

22 (A) Any report by the probation officer on the behavioral patterns and social
23 history of the minor, including any oral or written statement offered by the
24 victim under Welfare and Institutions Code section 656.2;
25

26 (B) Any other probation report or document filed with the court on the petition
27 under Welfare and Institutions Code section 602; and
28

29 (C) Any document in written or electronic form submitted to the court in
30 connection with the prima facie showing under rule 5.766(c) or the motion to
31 transfer jurisdiction.
32

33 (2) In addition to the items listed in rule 8.407(b), any reporter’s transcript must contain
34 the oral proceedings at any hearings on the prima facie showing under rule 5.766(c)
35 and the motion to transfer jurisdiction.
36

37 **(d) Preparing, certifying, and sending the record**

38
39 (1) Within 20 court days after the notice of appeal is filed:
40

41 (A) The clerk must prepare and certify as correct an original of the clerk’s
42 transcript and one copy each for the appellant, the respondent, and the district
43 appellate project; and

1
2 (B) The reporter must prepare, certify as correct, and deliver to the clerk an
3 original of the reporter’s transcript and the same number of copies as (A)
4 requires of the clerk’s transcript.
5

6 (2) When the clerk’s and reporter’s transcripts are certified as correct, the clerk must
7 immediately send:
8

9 (A) The original transcripts to the reviewing court by the most expeditious method,
10 noting the sending date on each original; and
11

12 (B) One copy of each transcript to the district appellate project and to the appellate
13 counsel for the following, if they have appellate counsel, by any method as fast
14 as United States Postal Service express mail:
15

16 (i) The appellant; and
17

18 (ii) The respondent.
19

20 (3) If appellate counsel has not yet been retained or appointed for the minor, when the
21 transcripts are certified as correct, the clerk must send that counsel’s copies of the
22 transcripts to the district appellate project.
23

24 **(e) Augmenting or correcting the record**
25

26 (1) Except as provided in (2) and (3), rule 8.410 governs any augmentation or correction
27 of the record.
28

29 (2) An appellant must serve and file any motion for augmentation or correction within
30 15 days after receiving the record. A respondent must serve and file any such motion
31 within 15 days after the appellant’s opening brief is filed.
32

33 (3) The clerk and the reporter must prepare any supplemental transcripts within 20 days,
34 giving them the highest priority.
35

36 (4) The clerk must certify and send any supplemental transcripts as required by (d).
37

38 **(f) Time to file briefs**
39

40 (1) The appellant must serve and file the appellant’s opening brief within 30 days after
41 the record is filed in the reviewing court.
42

43 (2) Rule 8.412(b) governs the time for filing other briefs.

1
2 **(g) Extensions of time**

3
4 The superior court may not order any extensions of time to prepare the record or to file
5 briefs; the reviewing court may order extensions of time but must require an exceptional
6 showing of good cause.

7
8 **(h) Failure to file a brief**

9
10 Rule 8.412(d) applies if a party fails to timely file an appellant’s opening brief or a
11 respondent’s brief, but the period specified in the notice required by that rule must be 15
12 days.

13
14 **(i) Oral argument and submission of the cause**

15
16 (1) Unless the reviewing court orders otherwise, counsel must serve and file any request
17 for oral argument no later than 15 days after the appellant’s reply brief is filed or due
18 to be filed. Failure to file a timely request will be deemed a waiver.

19
20 (2) The court must hear oral argument within 60 days after the appellant’s last reply
21 brief is filed or due to be filed, unless the court extends the time for good cause or
22 counsel waive argument.

23
24 (3) If counsel waive argument, the cause is deemed submitted no later than 60 days after
25 the appellant’s reply brief is filed or due to be filed.

26
27 **Advisory Committee Comment**

28
29 **Subdivision (d).** Under rule 8.71(c), the superior court clerk may send the record to the reviewing court
30 in electronic form.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-710.V7.030722.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
Case Name: _____	
ORDER TO TRANSFER JUVENILE TO CRIMINAL COURT JURISDICTION (Welfare and Institutions Code, § 707)	CASE NUMBER: _____

1. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (name): _____
 c. Persons present:
 Youth Youth's attorney (name): _____
 Deputy District Attorney (name): _____ Other: _____
2. The court has read and considered the petition and report of the probation officer other relevant evidence.
3. **THE COURT FINDS (check one)**
Welfare and Institutions Code section 707
 a. The youth was 16 years old or older at the time of the alleged felony offense; or
 b. The individual was 14 or 15 years of age at the time of the alleged offense, the alleged offense is an offense listed in Welfare and Institutions Code section 707(b), and the individual was not apprehended before the end of juvenile court jurisdiction.
4. **AFTER CONSIDERING EACH OF THE TRANSFER OF JURISDICTION CRITERIA, THE COURT ALSO FINDS AND ORDERS:**
 The court has considered each of the criteria in section 707(a)(3) and has documented its findings on each of the criteria on the record, and based on those findings makes the following orders:
- a. The transfer motion is denied. The youth is retained under the jurisdiction of the juvenile court.
 The next hearing is on (date): _____ at (time): _____
 for (specify): _____
- b. The transfer motion is granted. The prosecutor has shown by a preponderance of the evidence that the youth should be transferred to the jurisdiction of the criminal court.
- (1) The matter is referred to the District Attorney for prosecution under the general law.
 (2) The youth is ordered to appear in criminal court on (date): _____ at (time): _____
 in Department: _____
 (3) The petition filed on (date): _____ is dismissed without prejudice on the appearance date in (2).
 (4) The youth is to be detained in juvenile hall county jail (section 207.1).
 (5) Bail is set in the amount of: \$ _____
 (6) The youth is released on own recognizance to the custody of: _____

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-800.v4.031722.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
NOTICE OF APPEAL—JUVENILE	CASE NUMBER:

— INSTRUCTIONS —

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 5-7 on the reverse of this form.
- For most appeals, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final. Read rule 8.406.
- To appeal an order transferring jurisdiction to the criminal court, you must file the notice of appeal within **30** days. Read rules 5.770(g) and 8.406(a)(4).
- To file an appeal of an order for transfer to a tribal court, you (1) may ask the juvenile court to stay (delay the effective date of) the transfer order and (2) must file the appeal before the transfer to tribal jurisdiction is finalized. Read rule 5.483 and the advisory committee comment.
- If you are not the county welfare department, district attorney, child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291- INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. I appeal from the findings and orders of the court (specify date of order or describe order):

2. This appeal is filed by
 - a. Appellant (name):
 - b. Address:
 - c. Phone number:
 - d. Name, address, and phone number of person to be contacted (if different from appellant):
 - e. Appellant has been granted access to specified records in the juvenile case file, and a copy of the court's order under Welfare and Institutions Code section 827(a)(1)(Q), on *Order After Judicial Review on Petition for Access to Juvenile Case File* (form JV-574), if available, is attached.
3. I request that the court appoint an attorney on appeal. I was was not represented by an appointed attorney in the superior court.
4. Items 5–7 on the reverse are completed not completed.

Date:

 TYPE OR PRINT NAME

 SIGNATURE OF APPELLANT ATTORNEY

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

5. Appellant is the
- a. child.
 - b. mother.
 - c. father.
 - d. legal guardian.
 - e. de facto parent.
 - f. county welfare department.
 - g. district attorney.
 - h. child's tribe.
 - i. other (*state relationship to child or interest in the case*):
6. This notice of appeal pertains to the following child or children (*specify number of children included*):
- a. Name of child:
Child's date of birth:
 - b. Name of child:
Child's date of birth:
 - c. Name of child:
Child's date of birth:
 - d. Name of child:
Child's date of birth:
 Continued in Attachment 6.
7. The order appealed from was made under Welfare and Institutions Code (*check all that apply*):
- a. **Section 305.5** (transfer to tribal court)
 Granting transfer to tribal court Denying transfer to tribal court
 Dates of hearing (*specify*):
 - b. **Section 360** (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
 Dates of hearing (*specify*):
 - c. **Section 366.26** (selection and implementation of permanent plan)
 Termination of parental rights Appointment of guardian Planned permanent living arrangement
 Dates of hearing (*specify*):
 - d. **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)
 Dates of hearing (*specify*):
 - e. **Section 388** (request to change court order)
 Dates of hearing (*specify*):
 - f. Other appealable orders relating to dependency (*specify*):
 Dates of hearing (*specify*):
 - g. **Section 725** (declaration of wardship and other orders)
 with review of section 601 jurisdictional findings
 with review of section 602 jurisdictional findings
 Dates of hearing (*specify*):
 - h. **Section 707** (order transferring jurisdiction to criminal court)
 Dates of hearing (*specify*):
 - i. Other appealable orders relating to delinquency (*specify*):
 Dates of hearing (*specify*):

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Rules Committee Meeting Date: March 30, 2022

Title of proposal: Juvenile Law: Housing and Food Security for Youth Exiting Foster Care

Proposed rules, forms, or standards (*include amend/revise/adopt/approve*):
(Revise forms JV-362, JV-363, and JV-365)

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Kerry Doyle, 415-865-8791, kerry.doyle@ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by Rules Committee date: Annual Agenda: November 2, 2021

Project description from annual agenda: Family and Juvenile Law Advisory Committee Annual Agenda: Item 1: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

Item 1k. AB 546 (Maienschein) Dependent children: documents: housing (Ch. 519, Stats. of 2021)

Expands the information about the housing assistance efforts a county welfare department must provide to a foster youth who is on the cusp of aging out of the system that the department must report to the juvenile court.

If requesting July 1 or out of cycle, explain:

Additional Information: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Information for JC Staff regarding form translations:

- *List any amended forms in this proposal that have already been translated: n/a*
- *List any new forms that require translation by statute or that you will request to be translated: n/a*

JUDICIAL COUNCIL OF CALIFORNIA

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

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INVITATION TO COMMENT

SPR22-15

<p>Title Juvenile Law: Housing and Food Security for Youth Exiting Foster Care</p> <p>Proposed Rules, Forms, Standards, or Statutes Revise forms JV-362, JV-363, and JV-365</p> <p>Proposed by Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulse, Cochair Hon. Amy M. Pellman, Cochair</p>	<p>Action Requested Review and submit comments by May 13, 2022</p> <p>Proposed Effective Date January 1, 2023</p> <p>Contact Kerry Doyle, 415-865-8791 kerry.doyle@jud.ca.gov</p>
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Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends revising three forms to conform to recent statutory changes to (1) the information that must be provided to the juvenile court about a youth's housing plans when exiting foster care, and (2) the information that must be provided to youth approaching 18 years of age enacted by Assembly Bill 546 (Maienschein; Stats. 2021, ch. 519) and Assembly Bill 674 (Bennett; Stats. 2021, ch. 524).

Background

Effective January 1, 2021, the Judicial Council amended three California Rules of Court, adopted three mandatory forms, and revised one mandatory form to conform to Assembly Bill 718's statutory mandate that child welfare agencies begin the process of providing key information, documents, and services to youth in foster care beginning at age 16, rather than at the end of juvenile court jurisdiction. (Eggman; Stats. 2019, ch. 438.) Before the passage of Assembly Bill 718, the law only required the provision of certain information, documents, and services to a youth in foster care 18 years of age or older prior to termination of juvenile court jurisdiction over that youth.¹ Keeping in line with the intent of Assembly Bill 718 to increase the access that youth in foster care have to various information, documents, and services as they transition to

¹ Welf. & Inst. Code, § 391. All further statutory references will be to the Welfare and Institutions Code unless otherwise indicated.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

adulthood and greater levels of independence, the committee recommended, and the council approved, the extension of the provisions in that bill to youth in foster care in the delinquency system as well as in the dependency system. The council amended California Rules of Court, rule 5.810, effective January 1, 2021, to apply the section 391 requirements regarding the information, documents, and services that must be provided to dependent children to youth in foster care under the delinquency jurisdiction of the court. The council also amended rule 5.810 to require the use of forms JV-362, JV-363, and JV-365 for youth in foster care under delinquency jurisdiction.

Assembly Bill 546

Assembly Bill 546 (Maienschein; Stats. 2021, ch. 519) (AB 546) amends section 391(b) and requires county welfare departments to report to the court at certain review hearings whether foster youth are living in permanent housing, if known; whether housing referrals or assistance have been successful at securing housing for the youth; and, if not, what different or additional services the department has provided that are intended to prevent the youth from becoming homeless if the court terminates jurisdiction.

The Chief Justice’s Work Group on Homelessness

In October 2020, Chief Justice Tani G. Cantil-Sakauye established the Work Group on Homelessness to study and recommend ways the judicial branch can further assist people experiencing homelessness or facing the possibility of losing their homes. Among other things, the Work Group assessed whether changes in laws, regulations, or rules would help address homelessness or provide enhanced services. In its report, the Work Group recommended prioritizing “the creation and implementation of long-range plans for housing security for youth and nonminor dependents involved in the foster care system” explaining that:

Minors who have never been involved in the child welfare system are more likely to have a support system that assists them with housing, housing expenses, and transitioning to becoming self-supporting adults. But when the state and the juvenile court determine that minors need to be removed from their families, the minors enter into the care of the court and the foster care system. Courts should assure, insofar as possible, that the transition from court care to independence does not result in homelessness.²

The advisory committee agrees with the recommendation of the Work Group, and the recommendation has informed and influenced the decisions of the committee for this proposal.

Assembly Bill 674

Assembly Bill 674 (Bennett; Stats. 2021, ch. 524) (AB 674) amends section 391(b) to require that the report submitted at the last regularly scheduled hearing before the youth reaches age 18

² Judicial Council of Cal., Work Group on Homelessness, *Report to the Chief Justice*, 2021, p. 25, [hwg_work-group-report.pdf \(ca.gov\)](#) (as of March 18, 2021).

include verification that the youth was provided with written information notifying them that they may be eligible to receive CalFresh benefits, and where the youth can apply for CalFresh benefits.

The Proposal

Effective January 1, 2023, the forms listed below would be revised to include an item for the social worker or probation officer to inform the court whether the youth or nonminor has secured housing and, if not, what further efforts agencies are making to help the youth or nonminor obtain housing. The forms would also be revised to include an item indicating whether the youth or nonminor has been given written information notifying them that they may be eligible for CalFresh benefits, and where the youth or nonminor can apply for CalFresh benefits.

- *Review Hearing for Youth Approaching 18 Years of Age—Information, Documents, and Services* (form JV-362)
- *Review Hearing for Youth 18 Years of Age or Older—Information, Documents, and Services* (form JV-363)
- *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365)

The new statute requires additional information about housing in the reports submitted to the court for the review hearing for a youth approaching 18 years of age, review hearings for youth 18 years of age and older, and hearings on termination of juvenile court jurisdiction.³ The new statute also requires additional information about CalFresh notification at the hearing before a youth turns 18.⁴ This proposal will amend mandatory forms to include information about both these additional requirements at all three of these hearings.

The statutes this proposal is implementing are limited to hearings in the dependency court. However, consistent with the council's implementation of Assembly Bill 718, the committee proposes making these changes applicable to youth who are in foster care under the delinquency jurisdiction of the court.

The CalFresh notification requirement is statutorily required at only one hearing—the hearing before a youth turns 18. However, given the importance of ensuring that youth who were formerly in foster care are aware of their right to food benefits, and therefore food security, the committee chose to also add this notification to the Judicial Council forms that are mandated for use at the review hearings for youth 18 years of age and older, and for termination of juvenile court jurisdiction over a nonminor.

The proposed revisions to the forms include an item asking whether the youth has been provided with additional referrals, assistance, or services from county agencies other than child welfare and the probation department to assist with housing. The item includes a list of other agencies

³ § 391(b)-(c).

⁴ § 391(b).

whose services might be helpful.⁵ The committee concluded that examples would be helpful for the court’s understanding of potential sources of assistance and could improve court oversight of this vital service to youth.

Alternatives Considered

The committee considered limiting this proposal to youth in foster care under the dependency jurisdiction of the court, and not including those youth who are in foster care under the delinquency jurisdiction of the court. This, however, would result in youth in foster care in the delinquency system receiving different treatment than youth in foster care in the dependency system. The legislative history in both bills is clear that the bills are intended to help youth who exit foster care obtain stable housing and be informed of their potential eligibility for CalFresh.⁶ The committee found it both fair and logical that this proposal, like the implementation of AB 718, help all youth in foster care receive these important services to successfully prepare for their transition to independence.

The CalFresh notification requirement is statutorily required at only one hearing—the hearing before a youth turns 18. The committee considered limiting this proposal to only that hearing, but given the importance of food security, elected to add the requirement to the Judicial Council forms that are mandated for use at the review hearings for youth 18 years of age and older, and for termination of juvenile court jurisdiction over a nonminor.

Fiscal and Operational Impacts

The proposal would implement the statutory changes that require social workers and probation officers to provide information in their written report to the court regarding whether the youth or nonminor has secured housing and, if not, what further efforts their agencies and other county departments or agencies have made to prevent the youth from becoming homeless when juvenile court jurisdiction is terminated. The proposal would also implement the statutory requirement that social workers and probation officers provide youth in foster care with written notice informing them that they may be eligible to receive food benefits and where they can apply for those benefits.

These new statutorily mandated requirements will increase workload but are required for social workers by recent statutory amendments. As discussed above, the committee concluded that this benefit should also be provided to youth in foster care under the delinquency jurisdiction of the court, and thus the proposal includes the same increase in workload for probation officers who

⁵ Form JV-362, item 19(b); form JV-363, item 10(b); form JV-365, item 7(b). The additional county departments or agencies include, but are not limited to: the county social services agency, Department of Public Social Services/CalWorks, Department of Mental Health, Regional Center, Office of Community and Economic Development, Homeless Services Authority (Los Angeles County), and other relevant government agencies and community based service providers.

⁶ Assem. Com. on Human Services, Analysis of Assem. Bill No. 546 (2021–2022 Reg. Sess.) Apr. 7, 2021, p. 3; Assem. Com. on Human Services, Analysis of Assem. Bill No. 674 (2021–2022 Reg. Sess.) Apr. 7, 2021, pp. 2–4.

work with youth in foster care as placed on social workers. In implementing the new and revised forms, courts will incur standard reproduction costs.

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 the proposal include youth in foster care under the delinquency jurisdiction of the court?
- Should other county departments or agencies be added to form JV-362, item 19(b); form JV-363, item 10(b); and form JV-365, item 7(b)?

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 3 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. Forms JV-362, JV-363, and JV-365, at pages 6–12
2. Link A: Assem. Bill 546,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB546
3. Link B: Assem. Bill 674,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB674

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-362.v8.031822.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
YOUTH'S NAME: DATE OF BIRTH:		
REVIEW HEARING FOR YOUTH APPROACHING 18 YEARS OF AGE— INFORMATION, DOCUMENTS, AND SERVICES		CASE NUMBER:

Directions for the social worker or probation officer: Check the appropriate boxes in items 1 through 18, complete items 19 and 20, attach or submit to the court documents as required, and sign and date the form.

Directions for the youth (if the youth is available): Review the boxes checked by the social worker or probation officer in items 1 through 18. Sign your initials on the lines after items 1 through 18 **only if** you received the information, document, or service described in that item. Then sign and date the form. You should give the form to the judge on the day of the hearing if you didn't give it to your social worker, probation officer, or attorney before the hearing.

An attached report or report submitted to the court verifies that the youth has received the following information, documents, and services (*check all that apply*):

1. Social security card _____
2. Certified copy of the youth's birth certificate _____
3. California identification card or driver's license _____
4. Medi-Cal Benefits Identification Card _____
5. A letter prepared by the county welfare department that includes the youth's name and date of birth, the dates within which the youth was within the jurisdiction of the juvenile court, and a statement that the youth was a foster youth in compliance with state and federal financial aid documentation requirements _____
6. The death certificate of the youth's parent or parents, if applicable _____
7. Proof of citizenship or legal residence, if applicable _____
8. An advance health care directive form _____
9. A copy of each of the following: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), a blank *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and a blank *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) _____
10. Assistance in obtaining employment _____
11. Assistance in applying for, or preparing to apply for, admission to college or a vocational training program or other educational institution, and in obtaining financial aid _____
12. Written information notifying the youth that state agencies, when hiring for internships and student assistant positions, must give preference to qualified applicants up to 26 years of age who are or have been dependent children in foster care, homeless youth, or formerly incarcerated youth _____
13. Written notice informing the youth that youth exiting foster care at 18 years of age or older are eligible for Medi-Cal until they reach 26 years of age, regardless of income, and are not required to apply _____

YOUTH'S NAME:	CASE NUMBER:
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- 14. Written notice informing the youth of any financial literacy programs or other available resources provided through the county or other community organizations to help the youth obtain financial literacy skills, including but not limited to banking, credit card debt, student loan debt, credit scores, credit history, and personal savings _____
- 15. Assistance in maintaining relationships with individuals who are important to a youth who has been in out-of-home placement for six months or longer from the date the child entered foster care, based on the youth's best interests _____
- 16. The whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of either sibling _____
- 17. Written notice informing the youth that they may be eligible to receive CalFresh food benefits and where the youth can apply for CalFresh benefits _____
- 18. Referrals to transitional housing, if available, or assistance in securing other housing _____

19. Housing

- a. The referrals or assistance in item 18 have resulted in housing being secured for the youth (*check one*):
 - 1. Yes (*specify duration of housing below*):
 - a. Start date of housing _____
 - b. End date of housing _____ Duration of housing unknown
 - 2. No. The different or additional referrals or assistance the department has provided that are intended to secure housing are (*describe*):

- b. Has the youth been given additional referrals, assistance, or services provided by county departments or agencies other than the child welfare or probation department that are intended to prevent the youth from becoming homeless if juvenile court jurisdiction is terminated? Additional county departments or agencies include, but are not limited to: the county social services agency, Department of Public Social Services/Cal Works, Department of Mental Health, Regional Center, Office of Community and Economic Development, Homeless Services Authority (Los Angeles County), and other relevant government agencies and community-based service providers (*check one*):
 - 1. Yes. (*describe*):

 - 2. No.

20. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF SOCIAL WORKER OR PROBATION OFFICER)

I certify that I have received the information, documents, and services that I initialed above.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF YOUTH)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-363.v7.031822.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
YOUTH'S NAME: _____ DATE OF BIRTH: _____	
REVIEW HEARING FOR YOUTH 18 YEARS OF AGE OR OLDER— INFORMATION, DOCUMENTS, AND SERVICES	CASE NUMBER: _____
Directions for the social worker or probation officer: Check the appropriate boxes in items 1 through 9, complete items 10 and 11, attach or submit to the court documents as required, and sign and date the form.	
Directions for the youth (if the youth is available): Review the boxes checked by the social worker or probation officer in items 1 through 9. Sign your initials on the lines after items 1 through 9 only if you received the information, document, or service described in that item. Then sign and date the form. You should give the form to the judge on the day of the hearing if you didn't give it to your social worker, probation officer, or attorney before the hearing.	

An attached report or report submitted to the court verifies that the youth has received the following information, documents, and services (*check all that apply*):

1. Assistance in obtaining employment _____
2. Assistance in applying for, or preparing to apply for, admission to college or a vocational training program or other educational institution, and in obtaining financial aid _____
3. Written information notifying the youth that state agencies, when hiring for internships and student assistant positions, must give preference to qualified applicants up to 26 years of age who are or have been dependent children in foster care, homeless youth, or formerly incarcerated youth _____
4. Written information notifying the youth that youth exiting foster care at 18 years of age or older are eligible for Medi-Cal until they reach 26 years of age, regardless of income, and are not required to apply _____
5. Written notice informing the youth of any financial literacy programs or other available resources provided through the county or other community organizations to help the youth obtain financial literacy skills, including but not limited to banking, credit card debt, student loan debt, credit scores, credit history, and personal savings _____
6. Assistance in maintaining relationships with individuals who are important to a youth who has been in out-of-home placement for six months or longer from the date the child entered foster care, based on the youth's best interests _____
7. The whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of either sibling _____
8. Written notice informing the youth that they may be eligible to receive CalFresh food benefits and where the youth can apply for CalFresh benefits _____
9. Referrals to transitional housing, if available, or assistance in securing other housing _____

10. Housing

a. The referrals or assistance in item 9 have resulted in housing being secured for the youth (*check one*):

1. Yes (*specify duration of housing below*):

a. Start date of housing _____

b. End date of housing _____

Duration of housing unknown

YOUTH'S NAME:	CASE NUMBER:
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10. a. 2. No. The different or additional referrals or assistance the department has provided that are intended to secure housing are *(describe)*:

b. Has the youth been given additional referrals, assistance, or services provided by county departments or agencies other than the child welfare or probation department that are intended to prevent the youth from becoming homeless if juvenile court jurisdiction is terminated? Additional county departments or agencies include, but are not limited to: the county social services agency, Department of Public Social Services/Cal Works, Department of Mental Health, Regional Center, Office of Community and Economic Development, Homeless Services Authority (Los Angeles County), and other relevant government agencies and community-based service providers *(check one)*:

1. Yes. *(describe)*:

2. No.

11. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF SOCIAL WORKER OR PROBATION OFFICER)

I certify that I have received the information, documents, and services that I initialed above.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF YOUTH)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-365.v9.031822.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
NONMINOR'S NAME: _____ NONMINOR'S DATE OF BIRTH: _____ HEARING DATE AND TIME: _____	
TERMINATION OF JUVENILE COURT JURISDICTION—NONMINOR	CASE NUMBER: _____

Directions for the social worker or probation officer: Check the appropriate boxes in items 1 through 6, complete items 7 and 8, attach or submit to the court documents as required, and sign and date the form.

Directions for the nonminor (if nonminor is available): Review the boxes checked by the social worker or probation officer in items 1 through 6. If the box checked in item 1 is wrong, check the correct box and sign your initials next to the box. Sign your initials on the lines after items 2a-i, 3a-l, 4, 5a-b, and 6a-i **only if** you received the information, document, or service described in that item. Then sign and date the form. You should give the form to the judge on the day of the hearing if you didn't give it to your social worker, probation officer, or attorney before the hearing.

1. a. The nonminor wants to attend the termination hearing in person by telephone.
- b. The nonminor does not want to attend the termination hearing. The petitioner has attached verification that the nonminor has been informed of the potential consequences of failure to attend the termination hearing.
- c. The nonminor is unavailable or has refused to sign this form. Documentation of reasonable efforts to locate the nonminor and to obtain the nonminor's signature is attached.

2. An attached report or report submitted to the court verifies that the nonminor has received written information about the nonminor's juvenile court case, including (*check all that apply*):
 - a. The nonminor's Indian heritage or tribal connections _____
 - b. The nonminor's family history _____
 - c. The nonminor's placement history _____
 - d. The nonminor's educational history and medical history _____
 - e. Any photographs of the nonminor or the nonminor's family in the possession of the county welfare department or probation department, other than forensic photographs _____
 - f. Contact information for all siblings under juvenile court jurisdiction, unless the court determines that sibling contact would jeopardize the safety or welfare of either sibling _____
 - g. Instructions on how the nonminor may exercise the right to inspect and receive a copy their juvenile case file, including how to access sealed records (see Welf. & Inst. Code, §§ 389(a), 781(a)(4), 786(g)(1)(F), 826.6, 827; Cal. Rules of Court, rule 5.552) _____
 - h. If the nonminor requests, assistance in completing a voluntary reentry agreement for care and placement under Welfare and Institutions Code section 1140 and in filing a petition under Welfare and Institutions Code section 388(e) to resume dependency jurisdiction _____
 - i. The date on which the jurisdiction of the court would be terminated _____

3. The nonminor has been provided with the following documents (*check all that apply*):
 - a. A certified copy of the nonminor's birth certificate _____
 - b. Social security card _____
 - c. California identification card or driver's license _____
 - d. Proof of citizenship or lawful permanent resident status (if applicable) _____
 - e. A copy of the death certificate of the nonminor's parent or parents (if applicable) _____
 - f. Health and Education Passport _____

NONMINOR'S NAME:	CASE NUMBER:
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- 3. g. A blank advance health care directive form _____
- h. A letter prepared by the county welfare department that includes the nonminor's name and date of birth, the dates during which the nonminor was within the jurisdiction of the juvenile court, and a statement that the nonminor was a foster child in compliance with state and federal financial aid documentation requirements _____
- i. Written information notifying the nonminor of any financial literacy programs or other available resources provided through the county or other community organizations to help the nonminor obtain financial literacy skills, including but not limited to banking, credit card debt, student loan debt, credit scores, credit history, and personal savings _____
- j. Written information notifying the nonminor that state agencies, when hiring for internships and student assistant positions, must give preference to qualified applicants up to 26 years of age who are or have been dependent children in foster care, homeless youth, or formerly incarcerated youth _____
- k. The nonminor's 90-day Transition Plan _____
- l. A copy of each of the following: *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO), a blank *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466), and a blank *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468) _____

- 4. The nonminor continues to be eligible for services or accommodations under the Individuals with Disabilities Education Act, the Americans with Disabilities Act, or section 504 of the Rehabilitation Act of 1973, and the nonminor has been provided with the most recent service or accommodation plan. _____

- 5. The nonminor has been receiving services as provided in the Individuals with Disabilities Education Act (see 34 C.F.R. §§ 300.320(b)–(c) & 300.321(b)), and
 - a. has received a copy of their transition service plan. _____
 - b. has been informed of the rights that will transfer to them under this Act. _____

- 6. The nonminor received the following assistance or services (*check all that apply*):
 - a. Written verification of continued enrollment in Medi-Cal with no interruption in coverage _____ and provision of
 - 1. Medi-Cal Benefits Identification Card _____
 - 2. Information about eligibility for extended Medi-Cal benefits until age 26 _____
 - b. Help applying to college, a vocational training program, or another educational or employment program _____
 - c. Help obtaining financial aid for college, a vocational training program, or another educational or employment program _____
 - d. Assistance obtaining employment or other financial support _____
 - including completing enrollment in CalFresh _____
 - e. Help maintaining relationships with individuals important to the nonminor, consistent with their best interests (*required only if the nonminor has been in an out-of-home placement for six months or longer*) _____
 - f. Help accessing the Independent Living Aftercare Program in the nonminor's county of residence _____
 - g. Written notice informing the nonminor that they may be eligible to receive CalFresh food benefits and where the nonminor can apply for CalFresh benefits _____
 - h. Referrals to transitional housing, if available, or assistance in securing other housing _____
 - i. Other services ordered by the court (*specify*): _____

7. Housing

- a. The referrals or assistance in item 6h have resulted in housing being secured for the youth (*check one*):
 - 1. Yes (*specify duration of housing below*):
 - a. Start date of housing _____
 - b. End date of housing _____ Duration of housing unknown

NONMINOR'S NAME:	CASE NUMBER:
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7. a. 2. No. The different or additional referrals or assistance the department has provided that are intended to secure housing are *(describe)*:

b. Has the youth been given additional referrals, assistance, or services provided by county departments or agencies other than the child welfare or probation department that are intended to prevent the youth from becoming homeless if juvenile court jurisdiction is terminated? Additional county departments or agencies include, but are not limited to: the county social services agency, Department of Public Social Services/Cal Works, Department of Mental Health, Regional Center, Office of Community and Economic Development, Homeless Services Authority (Los Angeles County), and other relevant government agencies and community-based service providers *(check one)*:

1. Yes. *(describe)*:

2. No.

8. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF SOCIAL WORKER OR PROBATION OFFICER)

I certify that I have received the information, documents, and services that I initialed above.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF NONMINOR)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Small Estate Disposition

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt form DE-300; revise forms DE-305, DE-310, and DE-315

Committee or other entity submitting the proposal:
 Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): February 15, 2022

Project description from annual agenda: Develop recommendation to adopt one form and revise three forms for use in proceedings to dispose of decedents' estates without administration. Assembly Bill 473 (Stats. 2019, ch. 122) added section 890 to the Probate Code to require the Judicial Council, by April 1, 2022, to adjust and publish a list of specified property values used for determining eligibility for disposition of decedents' estates without probate administration. To implement this legislative mandate, the council must adopt the new form and revise the existing forms before April 1, 2022. Originally envisioned as part of a staff technical report, the revisions required by this project are too complex for that process, and the committee's expertise is needed to review the recommendation before its submission to the council. To present the required forms to the Judicial Council for adoption and revision by the legislatively mandated effective date, the committee must work on them in the 2022 committee year.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

The proposal was approved by the Judicial Council at its March 11, 2022, meeting, with an effective date of April 1, 2022, as required by statute. The advisory committee requests circulation for comment after approval.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-16

Title	Action Requested
Rules and Forms: Small Estate Disposition	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt form DE-300; revise forms DE-305, DE-310, DE-315	Forms are effective April 1, 2022, and are circulating for comment after approval
Proposed by	Contact
Probate and Mental Health Advisory Committee	Corby Sturges, 415-865-4507
Hon. Jayne Chong-Soon Lee, Chair	corby.sturges@jud.ca.gov

Executive Summary and Origin

Assembly Bill 473 (Stats. 2019, ch. 122) added section 890 to the Probate Code. Section 890 requires the Judicial Council, beginning April 1, 2022, and every three years thereafter, to adjust the statutory amounts of the property values used to determine eligibility for various procedures to succeed to a decedent's interest in property without administration. The council must determine the amount of each adjustment based on a statutory formula based on the change in the United States Consumer Price Index over a period of three years ending with the December immediately preceding the adjustment. In addition, after adjusting the amounts, the council must publish a list of the newly effective amounts with the date of the next scheduled adjustment. The Judicial Council adopted and revised the forms in this proposal to fulfill these legislative mandates and otherwise bring the forms into conformity with current law and form standards.

Because the December 2021 Consumer Price Index was not released until January 12, 2022, form DE-300 was adopted and forms DE-305, DE-310, and DE-315 were revised before circulation for comment to take effect on April 1, 2022, as required by Probate Code section 890. The Probate and Mental Health Advisory Committee is now circulating the new and revised forms for comment, and will recommend further revisions, if appropriate, based on comments received.

Background

Effective January 1, 2020, Assembly Bill 473 amended multiple sections in chapter 6 (commencing with section 6600) of part 3 of division 6 and in division 8 (commencing with

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

section 13000) of the Probate Code to adjust the amounts of the property values used to determine eligibility for various procedures to succeed to a decedent's interest in property without estate administration proceedings.¹ As discussed above, that bill also added section 890 to the code to require the Judicial Council, beginning April 1, 2022, and every three years thereafter, to adjust those statutory dollar amounts in effect immediately before that date. (Prob. Code, § 890(a)–(b).) These amounts set upper limits on the value of a decedent's estate or specific property therein for purposes of determining eligibility for succession to particular items of the decedent's real or personal property without full probate administration.² By law, the council must determine the amount of each adjustment based on the change in the United States city average of the Consumer Price Index for All Urban Consumers, as published by the United States Bureau of Labor Statistics, from the December 40 months before the adjustment (here, December 2018) to the December immediately preceding the adjustment (here, December 2021) and round each adjusted amount to the nearest \$25.³ (*Id.*, § 890(b).) After adjusting the amounts, the council must publish a list of the newly effective amounts with the date of the next scheduled adjustment. (*Id.*, § 890(c).) The adjusted amounts apply only to the estate or property of a decedent who dies on or after the date of adjustment. (*Id.*, § 890(d).)

The Proposal

The proposal was required to take effect by April 1, 2022, to fulfill the Judicial Council's statutory mandate and to provide putative successors in interest to decedents' property with accurate information to help them determine whether they might collect property using one of the summary procedures affected by the adjustments.

Maximum Values for Small Estate Set-Aside & Disposition of Estate Without Administration (form DE-300)

Form DE-300 was adopted for mandatory use for publishing the adjusted maximum values of estates and specific property to determine eligibility for various summary disposition procedures under sections 6600–6613 and 13000–13606, as required by section 890(c), and for attaching to affidavits or petitions as required by sections 13101, 13152, 13200, and 13601.

To fulfill the first requirement, the form lists each code section that specifies a maximum value, briefly describes the property to which each section applies, lists the adjusted value for each code section, and gives the date of the next scheduled adjustment. The form also lists the existing value under each code section because those values continue to apply to the estates of decedents who died before April 1, 2022.

Sections 13101, 13152, 13200, and 13601 also require an affiant or petitioner who seeks to use the procedure authorized by any of those sections to claim property of a decedent who dies on or

¹ See Prob. Code, §§ 6602, 6609, 13050, 13100, 13101, 13151, 13152, 13154, 13200, 13600, and 13601. All further statutory references are to the Probate Code unless otherwise specified.

² See, e.g., *id.*, § 13100.

³ See United States Bur. Lab. Statistics, Consumer Price Index, at www.bls.gov/cpi/, and data series CUUR0000SA0, searchable at <https://data.bls.gov/cgi-bin/surveymost?cu>. The application of the statutory method to adjust the statutory values is explained and illustrated in Attachment A.

after April 1, 2022, to attach the published list to the applicable affidavit or petition.⁴ The council therefore adopted form DE-300 for mandatory use rather than approving it for optional use.

Affidavit re: Real Property of Small Value (form DE-305)

Form DE-305 must be filed with the proper superior court by a person or persons using the procedure under section 13200 to claim a particular item of a decedent’s real property in California as the decedent’s successor. Effective April 1, 2022, the procedure prescribed by section 890 requires adjusting the maximum value of that property belonging to decedents who die on or after that date from \$55,425 to \$61,500. Form DE-305 refers to \$55,425 in several places. The revisions to form DE-305 removed unnecessary references to \$55,425 and added a reference to \$61,500 to indicate the adjusted value. The revised form also clarified that the existing value continues to apply to the property of a decedent who died before April 1, 2022. The council also revised item 6 on this form to reflect the amendment, by Assembly Bill 976 (Stats. 2017, ch. 319, § 84), of the required manner of delivering the affidavit to any guardian or conservator of the estate of the decedent at the time of the decedent’s death.⁵

Petition to Determine Succession to Real Property (form DE-310) and Order Determining Succession to Real Property (form DE-315)

Forms DE-310 and DE-315 must be used in the summary disposition procedure authorized by sections 13150–13158. Section 13151 authorizes the successor to a decedent’s interest in a particular item of real property, without obtaining letters of administration or awaiting probate of the will, to petition for a court order determining that the petitioner has succeeded to that property subject to specific conditions, including that the gross value of the decedent’s real and personal property in California does not exceed \$166,250, as adjusted periodically in accordance with section 890. Section 13152 specifies the required contents of that petition, and section 13154 authorizes the court to make the requested order if it can and does make specific findings, including a determination that the value of the decedent’s California property does not exceed the statutory limit.

On April 1, 2022, the procedure prescribed by section 890 required adjusting the maximum value of that property from \$166,250 to \$184,500 for decedents who die on or after that date. Form DE-310, the mandatory petition form, and form DE-315, the mandatory order form, both included several references to \$166,250. The revisions to these forms removed unnecessary references to \$166,250 and added a reference to \$184,500 to indicate the adjusted value.⁶ The

⁴ *Id.*, §§ 13101(f) (affidavit to collect or transfer personal property), 13152(e) (petition to determine succession to real property), 13200(f) (affidavit to collect real property of limited value), and 13601(e)(2) (affidavit to collect compensation owed to deceased spouse).

⁵ In addition to these required revisions to form DE-305, the council also revised item 7 to provide a link to the State Controller’s list of probate referees, added item 8b to reflect the option of obtaining the personal representative’s written consent under Probate Code section 13200(a)(7)(B), and revised item 10 to clarify who may sign the affidavit.

⁶ In addition to these required revisions, the council removed the dollar amounts from the form titles to prevent confusion; revised item 10b on form DE-310 to use gender-neutral language; and removed former item 8, which asked for a determination that was not a condition precedent to the issuance of a valid order under section 13154, from form DE-315.

revisions also clarified that the threshold value applicable to the property of a decedent who dies before April 1, 2022, remains unchanged and updated the forms to simplify their language and conform to current law and Judicial Council form standards.

Policy implications

The revisions promote at least two Judicial Council policy objectives—modernization of the rules of court and promotion of access to the courts—by ensuring that the Judicial Council forms reflect accurate legal information that will make it easier for prospective litigants, particularly self-represented litigants, to choose the proper method with which to gain access to the probate court.

Alternatives Considered

The committee considered recommending approval of form DE-300 for optional use. The statutory requirements that a petitioner or an affiant attach the published list of adjusted amounts to specified petitions or affidavits, however, led the committee to recommend the form’s adoption for mandatory use.

The committee also considered, when revising form DE-305, a request to replace the notary public’s certificate of acknowledgment on that form with a jurat. The committee declined that request because section 13200(b) expressly requires a certificate of acknowledgment, not a jurat.⁷

The committee did not consider the alternative of taking no action because the revisions are required to implement statutory changes affecting litigants, including self-represented litigants, effective April 1, 2022, and to bring the forms into compliance with current law.

Fiscal and Operational Impacts

The only fiscal or operational impacts this proposal should have on courts or litigants are the costs of replacing outdated forms and reprogramming digital case management systems. Because the changes are required by statute, their impacts cannot be avoided.

⁷ *Id.*, 13200(b). Compare Civil Code section 1189 and Government Code section 8205(a)(2) (certificate of acknowledgment) with Government Code section 8202 (jurat). Although it appears that a notary would typically execute a jurat when taking an affidavit, the description (in Gov. Code, § 8205(a)(3)) of the notary’s role in taking an affidavit to be presented to a property holder is not completely clear and, therefore, provides insufficient reason to depart from section 13200(b)’s express requirement of a certificate of acknowledgment.

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?

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?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms DE-300, DE-305, DE-310, and DE-315, at pages 6–11
2. Attachment A: *Calculation of Limits on Value of Property or Estates Eligible for Disposition Without Administration (Adjusted April 1, 2022)*
3. Link A: Assem. Bill 473 (Stats. 2019, ch. 122),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB473

**MAXIMUM VALUES FOR SMALL ESTATE SET-ASIDE
& DISPOSITION OF ESTATE WITHOUT ADMINISTRATION**

This form lists the maximum dollar values of a decedent's estate or specific property in that estate, as of the date of the decedent's death, for purposes of determining eligibility for

- (1) an order setting the estate aside for the decedent's surviving spouse and minor children; or
- (2) disposition of the estate or specific real or personal property in the estate informally, without full administration.

NOTE: The values in the left column apply to the estate of a decedent who died before April 1, 2022. The values in the right column apply to property of a decedent who died on or after April 1, 2022.

The amount of the adjustment of the prior values is based on the change in the United States city average of the Consumer Price Index for All Urban Consumers for the three-year period ending December 31, 2021, with each adjusted value rounded to the nearest \$25. (See Prob. Code, § 890(b).) Unless otherwise provided by statute after April 1, 2022, these values will next be adjusted April 1, 2025.

<u>Probate Code Section</u>	<u>Description</u>	<u>Amount</u> (for death before Apr. 1, 2022)	<u>Amount</u> (for death on or after Apr. 1, 2022)
1. SMALL ESTATE SET-ASIDE UNDER PROBATE CODE SECTIONS 6600–6613			
§§ 6602, 6609	As of the date of the decedent's death, the net value of the decedent's estate, excluding all liens and encumbrances at the date of death and the value of any probate homestead set apart under Probate Code section 6520, must not exceed:	\$ 85,900	\$ 95,325
2. DISPOSITION OF ESTATE WITHOUT ADMINISTRATION UNDER SECTIONS 13000–13606			
a. PROPERTY EXCLUDED FROM DETERMINING VALUE OF ESTATE			
§ 13050(c)	The amount of any salary or other compensation owed to the decedent, not to exceed:	\$ 16,625	\$ 18,450
b. AFFIDAVIT FOR COLLECTION, RECEIPT, OR TRANSFER OF PERSONAL PROPERTY			
§§ 13100, 13101	The gross value of the decedent's real and personal property in California, excluding the property described in Probate Code section 13050, must not exceed:	\$ 166,250	\$ 184,500
c. PETITION & COURT ORDER DETERMINING SUCCESSION TO PROPERTY			
§§ 13151, 13152, 13154	The gross value of the decedent's real and personal property in California, excluding the property described in Probate Code section 13050, must not exceed:	\$ 166,250	\$ 184,500
d. AFFIDAVIT FOR SUCCESSION TO REAL PROPERTY OF SMALL VALUE			
§ 13200	The gross value of all real property in the decedent's estate located in California, excluding the real property described in Probate Code section 13050, must not exceed:	\$ 55,425	\$ 61,500
e. AFFIDAVIT FOR COLLECTION OF COMPENSATION OWED TO DECEASED SPOUSE			
§§ 13600, 13601	Net salary or other compensation owed, in aggregate, by one or more employers for personal services of the deceased spouse, must not exceed: <i>(This limit does not apply if the decedent was a firefighter or peace officer described in Government Code section 22820(a).)</i>	\$ 16,625	\$ 18,450

NOTICE

If the decedent died on or after April 1, 2022, this form must be attached to

- an affidavit or declaration furnished under Probate Code section 13101;
- a *Petition to Determine Succession to Real Property* (form DE-310) filed under Probate Code section 13151;
- an *Affidavit re: Real Property of Small Value* (form DE-305) filed under Probate Code section 13200; or
- an affidavit or declaration furnished under Probate Code section 13601.

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.:

After recording, return to:

NAME:

FIRM NAME:

STREET ADDRESS:

CITY, STATE, ZIP CODE:

TELEPHONE NO.: FAX NO.:

EMAIL ADDRESS:

ATTORNEY FOR (name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

FOR RECORDER'S USE ONLY

ESTATE OF (name):	CASE NUMBER:
DECEDENT	

AFFIDAVIT RE: REAL PROPERTY OF SMALL VALUE

FOR COURT USE ONLY

1. The decedent (name):
died on (date):
at (city, state):
 2. At least **six months** have passed since the decedent's death. (Attach a certified copy of the decedent's death certificate.)
 3. a. The decedent was domiciled in this county at the time of death.
b. The decedent was **not** domiciled in California at the time of death, but the decedent died owning real property in this county.
 4. The **gross value**, on the date of the decedent's death, of all real property in the decedent's estate located in California, as shown by the attached inventory and appraisal—excluding the real property described in Probate Code section 13050—did not exceed **\$55,425** if the decedent died before April 1, 2022, or **\$61,500** if the decedent died on or after April 1, 2022.
 5. a. The **legal description** and the Assessor's Parcel Number of the particular item of the decedent's real property claimed by the declarant(s) are provided on an attached page titled Attachment 5a, "Legal Description." (Copy legal description **exactly** from deed or other legal instrument.)
b. The decedent's interest in this real property is (specify):
 6. Name and address of each guardian or conservator of the decedent's estate at time of death: none are as follows:*

<u>Name</u>	<u>Address</u>
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- Additional guardians or conservators are identified in Attachment 6.
(* You must deliver a copy of this affidavit and all attachments in the manner provided in Probate Code section 1215 to each guardian or conservator named above. You may use Judicial Council form POS-030 for proof of mailing, form POS-020 for proof of personal service, or form POS-050 for proof of electronic service.)
7. An inventory and appraisal of all of the decedent's **real property** in California is attached. The appraisal was made by a probate referee appointed by the State Controller for the county in which the property is located. (You must prepare the inventory on Judicial Council forms DE-160 and DE-161. You may select any probate referee appointed for the county to perform the appraisal. A list of all probate referees, shown by county, is available at www.sco.ca.gov/eo_probate_contact.html. Each court also has a list of referees appointed for its county. Check with the probate referee or consult an attorney if you need help preparing the inventory.)
 8. a. No proceeding for administration of decedent's estate is now being or has been conducted in California.
b. The decedent's personal representative has consented in writing to the use of the procedure provided by Probate Code section 13200 et seq. (Attach a copy of the consent and a copy of the personal representative's letters of administration.)

ESTATE OF (name):	CASE NUMBER:
DECEDENT	

9. Funeral expenses, expenses of last illness, and all known unsecured debts of the decedent have been paid. (NOTE: You may be personally liable for decedent's unsecured debts up to the fair market value of the real property and any income you receive from it.)
10. The declarant—or a trust or other entity, on behalf of which the declarant is acting—is, or all declarants together constitute, the successor of the decedent (as defined in Probate Code section 13006) to the decedent's interest in the property described in item 5, and no other person or entity has a superior right to the decedent's interest in that property, because the declarant(s) is or are:
- a. (if decedent left a will) the sole beneficiary or all the beneficiaries who succeeded to the property under the decedent's will. (Attach a copy of the will.)
 - b. (if decedent died without a will) the sole person or all the persons who succeeded to the property under Probate Code sections 6401 and 6402.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)*

(SIGNATURE OF DECLARANT)

Date: _____

(TYPE OR PRINT NAME)*

(SIGNATURE OF DECLARANT)

SIGNATURES OF ADDITIONAL DECLARANTS ATTACHED

* A declarant claiming on behalf of a trust or other entity should also state the name of the entity that is a beneficiary under the decedent's will and declarant's capacity to sign on behalf of the entity (trustee, Chief Executive Officer, etc.).

CERTIFICATE OF ACKNOWLEDGMENT

(NOTE: Do not attach an additional certificate of acknowledgment to this page on a small strip of paper. If you need one or more additional certificates of acknowledgment, attach them to this form on separate, full-sized 8-1/2 by 11-inch pages.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

STATE OF CALIFORNIA, COUNTY OF (specify):

On (date): _____, before me (name and title):

personally appeared (name of each):

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that they executed the instrument in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SIGNATURE OF NOTARY PUBLIC)

(NOTARY SEAL)

(SEAL)

CLERK'S CERTIFICATE

I certify that the foregoing, including any attached certificates of acknowledgment and any attached legal description of the property (but excluding other attachments), is a true and correct copy of the original affidavit on file in my office. (Certified copies of this affidavit do not include the (1) death certificate, (2) will, or (3) inventory and appraisal. See Probate Code section 13202.)

Date: _____ Clerk, by _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ESTATE OF (name): <div style="text-align: right;">DECEDENT</div>	CASE NUMBER:
PETITION TO DETERMINE SUCCESSION TO REAL PROPERTY <input type="checkbox"/> and Personal Property	HEARING DATE AND TIME: DEPT.:

1. Petitioner (name of each person claiming an interest):

requests a determination that the real property and personal property described in item 11 is property passing to petitioner.

2. Decedent (name):

- a. Date of death:
- b. Place of death (city and state or, if outside the United States, city and country):

3. At least 40 days have passed since the decedent's death.

- 4. a. Decedent was a resident of this county at the time of death.
- b. Decedent was **not** a resident of California at the time of death. Decedent died owning property in this county.

5. Decedent died intestate (without a will) testate (with a will), and a copy of the will is affixed as Attachment 5 or 12a.

- 6. a. No proceeding for the administration of decedent's estate is being conducted or has been conducted in California.
- b. Decedent's personal representative's consent to use the procedure provided by Probate Code section 13150 et seq. is attached as Attachment 6b.

7. Proceedings for the administration of decedent's estate in another jurisdiction

- a. have **not** been commenced.
- b. have been commenced and completed. (Specify state, county, court, and case number):

8. The **gross value** of decedent's interest in real and personal property located in California, as shown by the inventory and appraisal attached to this petition—excluding the property described in Probate Code section 13050—at the time of decedent's death did not exceed **\$166,250** if the decedent died before April 1, 2022, or **\$184,500** if the decedent died on or after April 1, 2022. (Prepare and attach as Attachment 8 an inventory and appraisal of all California property in the estate. (Use Judicial Council forms DE-160 and DE-161.) A probate referee appointed for the county named above must appraise all real property and all personal property other than cash or its equivalent. See Prob. Code, §§ 8901, 8902.)

9. a. Decedent is survived by (check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8))

- (1) spouse
- (2) no spouse, as follows: (a) divorced or never married (b) spouse deceased
- (3) registered domestic partner
- (4) no registered domestic partner (See Fam. Code, § 297.5(c); Prob. Code, §§ 37(b), 6401(c), and 6402.)
- (5) child, as follows: (a) natural or adopted (b) natural adopted by a third party
- (6) no child
- (7) issue of a predeceased child
- (8) no issue of a predeceased child

b. Decedent is is not survived by a stepchild or foster child or children who would have been adopted by decedent but for a legal barrier. (See Prob. Code, § 6454.)

ESTATE OF (name):	CASE NUMBER:
DECEDENT	

10. Decedent is survived by (complete if decedent is survived by (1) a spouse or registered domestic partner described in Prob. Code, § 37, but no issue (only a or b apply); or (2) no spouse or registered domestic partner described in Prob. Code, § 37, and no issue. Check **only the first box that applies.**)
- a. a parent or parents who are listed in item 14.
- b. a sibling, or issue of a deceased sibling, all of whom are listed in item 14.
- c. other persons who might be entitled to inherit property if decedent did not have a will, all of whom are listed in item 14.
- d. no known next of kin.
11. Attachment 11 contains (1) the legal description of decedent's California real property and the Assessor's Parcel Number(s) and a description of the personal property in California passing to each petitioner; (2) decedent's interest in the property; and (3) if a petitioner's claim to the property is based on succession under Probate Code sections 6401 and 6402, facts that show the character of the property as community, separate, or quasi-community property.
12. Each petitioner is a successor of the decedent (as defined in Probate Code section 13006) and successor to the decedent's interest in one or more of the pieces of real property and personal property described in item 11 because each petitioner is
- a. (will) a beneficiary who succeeded to the property under decedent's will.¹
- b. (no will) a person who succeeded to the property under Probate Code sections 6401 and 6402.
13. The interest claimed by each petitioner in each specific piece of real property and personal property is stated in Attachment 13 is as follows (specify):
14. The names, relationships to decedent, ages, and residence or mailing addresses, as far as known to or reasonably ascertainable by petitioner, of (1) all persons named or checked in items 1, 9, and 10; (2) all other persons who may be entitled to inherit decedent's property in the absence of a will; and (3) all persons designated in the will to receive any property are listed in Attachment 14.
15. The names and addresses of all executors named in decedent's will are listed below. listed in Attachment 15.
- No executor is named. There is no will.
16. Petitioner is the trustee of a trust designated in decedent's will to receive property. The names and addresses of all persons interested in the trust, as determined in cases of future interests under Probate Code section 15804(a)(1), (2), or (3), are listed in Attachment 16.
17. Decedent's estate was under a guardianship conservatorship at decedent's death. The names and addresses of all persons serving as guardian or conservator are listed below are listed in Attachment 17.

18. Number of pages attached: _____

Date:

 (TYPE OR PRINT NAME OF ATTORNEY)

▶ _____
 (SIGNATURE OF ATTORNEY)*

*(Signature of all petitioners also required (Prob. Code, § 1020).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME OF PETITIONER)

▶ _____
 (SIGNATURE OF PETITIONER)²

 (TYPE OR PRINT NAME OF PETITIONER)

▶ _____
 (SIGNATURE OF PETITIONER)²

SIGNATURE(S) OF ADDITIONAL PETITIONERS ATTACHED

¹ Probate Code section 13152(c) requires that a copy of the will be attached in certain instances. If required, include as Attachment 5 or 12a.

² Each person named in item 1 must sign.

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.:

After recording, return to:

NAME:

FIRM NAME:

STREET ADDRESS:

CITY, STATE, ZIP CODE:

TELEPHONE NO.: FAX NO.:

EMAIL ADDRESS:

ATTORNEY FOR (name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

FOR RECORDER'S USE ONLY

ESTATE OF (name):	CASE NUMBER:
DECEDENT	
ORDER DETERMINING SUCCESSION TO REAL PROPERTY <input type="checkbox"/> and Personal Property	FOR COURT USE ONLY

1. Date of hearing: _____ Time: _____
 Dept./Room: _____
 Judicial Officer (name): _____

THE COURT FINDS

- Notice has been given as required by law.
- Decedent died on (date):
 - a resident of the California county named above.
 - a nonresident of California who owned property in the county named above.
 - intestate (without a will) testate (with a will).
- At least 40 days have passed since the decedent's death.
- No proceeding for the administration of the decedent's estate is now being or has been conducted in California.
 - Decedent's personal representative has consented in writing to use the procedure in Probate Code section 13150 et seq.
- The gross value of decedent's real and personal property in California at the time of decedent's death, excluding any property described in Probate Code section 13050, did not exceed \$166,250 (death before April 1, 2022). \$184,500 (death on or after April 1, 2022).
- Each petitioner is a successor of the decedent (as defined in Probate Code section 13006) to the decedent's interest the real and personal property described in item 8a because each petitioner is (check one):
 - (will) a beneficiary who succeeded to the property under decedent's will.
 - (no will) a person who succeeded to the property under Probate Code sections 6401 and 6402.

THE COURT FURTHER FINDS AND ORDERS

8. a. The real and personal property described in Attachment 8a described as follows is property of decedent passing to each petitioner as described in b. (For real property, give legal description):

b. Each petitioner's name and specific property interest is stated in Attachment 8b is as follows (specify):

9. Other orders are stated in Attachment 9.

10. Number of pages attached: _____

Date:

 JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

**Calculation of Limits on Value of Property or Estates
Eligible for Disposition Without Administration
(Adjusted April 1, 2022)**

The values specified in chapter 6 (commencing with section 6600) of part 3 of division 6 and in division 8 (commencing with section 13000) of the Probate Code are listed in *Maximum Values for Small Estate Set-Aside & Disposition of Estate Without Administration* (form DE-300), and are adjusted, effective April 1, 2022, as required by Probate Code section 890(b) using the following method:

Formula

Under Probate Code section 890, the adjustments to the amounts of the specified values are calculated based on the change in the U.S. city average of the Consumer Price Index for All Urban Consumers (CPI-U) from the December 40 months before the adjustment to the December immediately preceding the adjustment.¹ (Prob. Code, § 890(b).) Determining the April 1, 2022, adjustment requires the following calculation:

$$\text{Adjusted amount} = \left[\frac{(\text{CPI-U [Dec. 2021]} - \text{CPI-U [Dec. 2018]})}{\text{CPI-U (Dec. 2018)}} + 1 \right] \times \text{Previous amount}$$

Calculation

The CPI-U in December 2018 was 251.233. The CPI-U in December 2021 was 278.802. The proportional amount of change is determined by performing the calculation in brackets below. The result is 1.109735.

$$\text{Adjusted amount} = \left[\frac{(278.802 - 251.233)}{251.233} + 1 \right] \times \text{Previous amount} = \mathbf{1.109735} \times \text{Previous amount}$$

The adjusted amount of each value specified in chapter 6 (commencing with section 6600) of part 3 of division 6 and in division 8 (commencing with section 13000) of the Probate Code in effect March 31, 2022, is then reached by multiplying the amount of each current value by 1.109735 and rounding each product to the nearest \$25. (See Prob. Code, § 890(b).) For example, the current value given in Probate Code section 6602 is \$85,900. The product of multiplying 85,900 by 1.109735 is 95,326.24. Rounded to the nearest \$25, the adjusted value is \$95,325.

¹ The data used for the calculations in this report can be found by searching series report CUUR0000SA0 at <https://data.bls.gov/cgi-bin/srgate>.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Probate Guardianship and Juvenile Dependency: Information and Referral

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee
Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail):

Sarah Namnama Saria, 916-643-7078, Sarah.Saria@jud.ca.gov
Corby Sturges, 415-865-4507, Corby.Sturges@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda:

Family and Juvenile Law Advisory Committee:
AB 260 (Stone) Guardianships (Ch. 578, Stats. of 2021)

Establishes processes to ensure abused or neglected children are not improperly diverted into probate guardianships in lieu of the foster care system. Requires when a social worker receives a referral from the probate court, the social worker immediately investigate as necessary to determine whether proceedings in juvenile court should be commenced. Further requires the social worker, within three weeks of the referral, to report the findings and conclusions of the investigation, along with any decision made as a result and the reasons for the decision to the probate court. Allows the probate court or the minor's appointed counsel to apply to the juvenile court, as provided, for an order directing the agency to commence juvenile dependency proceedings if the child welfare agency has not, within three weeks of referral, notified the probate court that it has commenced juvenile dependency proceedings. Requires, on or before January 1, 2023, the Judicial Council to adopt, amend, or revise rules or forms necessary for the implementation of the provisions of this bill.

Probate and Mental Health Advisory Committee

Assembly Bill 260 (Stats. 2021, ch. 578) amends Government Code section 68511.1 to require the Judicial Council to develop a form explaining the nature of a guardianship; the rights and duties of a guardian; and the services and supports available to a probate guardian, a foster parent, and a guardian appointed by the juvenile court. This requires the council to revise forms GC-205 and JC-350-INFO. In addition, AB 260 amends Probate Code section 1513(b) and Welfare and Institutions Code sections 329 and 331 to specify a detailed process for determining whether a dependency petition should be filed in juvenile court on behalf of a child who is the subject of a guardianship proceeding. The committee will work with the Family and Juvenile Law Advisory Committee to consider revising and cross-numbering forms JV-210 and JV-212 to clarify that they can be used by the probate court or, alternatively, developing new joint juvenile/probate forms for the probate court to use to refer a matter to the child welfare agency and to refer the agency's decision not to file a petition to the juvenile court for review.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: Government Code section 68511.1
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR22-17

Title	Action Requested
Rules and Forms: Probate Guardianship and Juvenile Dependency Information	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO	January 1, 2023
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Sarah Namnama Saria, 916-643-7078 Sarah.Saria@jud.ca.gov
Hon. Stephanie E. Hulsey, Cochair Hon. Amy M. Pellman, Cochair	Corby Sturges, 415-865-4507 Corby.Sturges@jud.ca.gov
Probate and Mental Health Advisory Committee	
Hon. Jayne Chong-soon Lee, Chair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee propose adopting one form, approving two forms, and revising three forms to implement Assembly Bill 260 (Stats. 2021, ch. 578). AB 260 amended Government Code section 68511.1 to require that the Judicial Council develop a form explaining the nature of a guardianship; the rights, duties, and obligations of a guardian; and the services and supports available to a probate guardian compared with those available to a caregiver in the child welfare system and a guardian appointed by juvenile court. Implementing this section requires adopting one form for mandatory use, revising two forms and converting them from mandatory to optional use, and approving one form for optional use. The bill also amended Probate Code section 1511 to require that notice of the hearing on a petition to appoint a probate guardian include a copy of the new mandatory information form.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

AB 260 also amended Probate Code section 1513 and Welfare and Institutions Code sections 329 and 331 to expand the process for the probate court to refer a child who is the subject of a guardianship petition to the county child welfare agency for investigation and commencement of juvenile court proceedings if the child is or may be at risk of abuse or neglect as described by Welfare and Institutions Code section 300. The committees propose revising form JV-210 to accommodate its use by the probate court for the child welfare referral and approving form JV-213 for the probate court's use to request juvenile court review under Welfare and Institutions Code section 331 of the agency's decision not to commence proceedings in juvenile court.

Background

AB 260 was enacted to combat “hidden foster care,” a practice in which a child welfare agency, instead of filing a dependency petition, encourages the parents of a child subject to or at risk of abuse or neglect to consent to a “safety plan” of supervised out-of-home placement with a relative.¹ Once the child is placed with the relative, the agency then lets the relative know that it will file a dependency petition and place the child in foster care if the relative caregiver does not petition for appointment as the child's probate guardian. Among other drawbacks, a probate guardianship does not afford the same services and financial supports as foster care or a juvenile court guardianship. The probate guardianship process lacks other hallmarks of the juvenile court process, such as court-appointed counsel for parents and children and reunification services for the family. These differences are not always appreciated by prospective caregivers and parents considering requesting appointment of a guardian in probate court. The form mandated by Government Code section 68511.1 is intended to educate caregivers and parents so they can make informed decisions about the caregiving arrangement that best suits the needs of the child and family.

AB 260 also clarified the process for probate courts to refer prospective wards to the local child welfare agency when the child is or might be described by Welfare and Institutions Code section 300. When a probate court makes such a referral, a social worker must investigate and report findings and conclusions back to the probate court. If the social worker does not file a petition to begin a dependency case, the probate court can seek juvenile court review of the social worker's decision and an order requiring the agency to file a dependency petition.

The Proposal

To implement the requirements and procedures enacted by AB 260, the proposal would:

- Adopt *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO);

¹ See Assem. Com. on Judiciary, Analysis of Assem. Bill 260 (2021–2022 Reg. Sess.) as introduced, pp.7–9. See generally Josh Gupta-Kagan, “America's Hidden Foster Care System” (2020) 72 *Stan. L. Rev.* 841, 843–844.

- Approve *Probate Court Request for Juvenile Court Review of Decision Not to Commence Proceedings* (form JV-213) and *Information on Probate Guardianship of the Estate* (form GC-206-INFO); and
- Revise *Guardianship Pamphlet* (form GC-205), retitled and renumbered as *Information on Probate Guardianship of the Person* (form GC-205-INFO); *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO), retitled as *Information on Juvenile Court Guardianship*; and *Application to Commence Proceedings by Affidavit and Decision by Social Worker* (form JV-210), retitled as *Application to Commence Juvenile Court Proceedings and Decision of Social Worker*.

Comparison Between Guardians and Other Nonparent Caregivers (form GC-207-INFO/JV-352-INFO)

Using three charts, this information form compares different voluntary and court-ordered caregiving arrangements along with various topics that include rights and duties, available financial supports and services, and appointment processes.

This form is intended to inform prospective guardians about the rights and duties of a guardian and the financial supports and services that are available. The form also serves to inform parents who are considering having a guardian appointed for their child. Because parents and prospective guardians often lack the assistance of attorneys, this form meets a critical need for information that will help families decide which caregiving arrangement might best suit a child's needs.

The three charts include:

- ***What Are the Rights and Duties of Different Types of Caregivers?***
This chart covers a caregiver's duties and authority across a broad range of areas, including custody, residence, health care, and education. The chart contrasts the legal custody and permanence afforded by a guardianship to other types of non-court-ordered childcare arrangements and foster care.
- ***What Services and Supports Are Available to Different Caregivers?***
This chart covers the financial supports and services available to a child and caregiver, depending on the type of caregiving arrangement and whether the caregiver is a relative or nonrelative. Dollar amounts for fiscal year 2021–22 were included in the chart as a point of reference.² A website address is included so readers can get updated payment rates, but staff anticipate updating the chart annually as payment amounts change.
- ***How Do I Become a Guardian? And What Happens After That?***
This chart contrasts the appointment process for a guardian in probate court to the process in juvenile court. Of particular importance for readers is the presence of court oversight and the involvement of social workers in a juvenile guardianship.

² These amounts will be updated to reflect the rates in effect in fiscal year 2022–2023 if the forms are presented to the Judicial Council for approval in October 2022.

This comparison form will be complemented by three cross-referenced forms that offer more detailed discussions: two revised forms, GC-205-INFO and JV-350-INFO, and one new form, GC-206-INFO. Putting more detailed information in three complementary forms serves to streamline the lengthier comparison form.

Information on Probate Guardianship of the Person (form GC-205-INFO)

Originally adopted as *Guardianship Pamphlet* (form GC-205) to provide information about probate guardianships of the person and of the estate, this form would focus solely on probate guardianship of the person. This revision is proposed in part to allow the form to expand on summary explanations of issues related to nonparental child custody in the comparison form (GC-207-INFO/JV-352-INFO) without increasing its length, and in part to complement the explanations in the juvenile court guardianship information form (JV-350-INFO), which also focuses on custodial issues.

Information on Probate Guardianship of the Estate (form GC-206-INFO)

This form would describe and explain the role and duties of a probate guardian of the estate. It would supplement revised *Information on Probate Guardianship of the Person* (form GC-205-INFO) and the new comparison form (GC-207-INFO/JV-352-INFO) by addressing guardianships of the estate separately because of the rarity of their establishment.

Information on Juvenile Court Guardianship (form JV-350-INFO)

This form would be revised to work with the comparison form (GC-207-INFO/JV-352-INFO) by giving more in-depth information about the nature of a juvenile guardianship. Included in this form is a section on the differences between a foster parent and a guardian, which is of particular importance to foster parents who may later decide to seek appointment as a child's guardian.

Application to Commence Juvenile Court Proceedings and Decision of Social Worker (form JV-210)

Form JV-210 would be revised for a probate court's use, under Probate Code section 1513(b), to refer a child who is the subject of a guardianship petition to the local child welfare agency for investigation and commencement of juvenile court proceedings if the child is or may be at risk of abuse or neglect as described by Welfare and Institutions Code section 300. The revised form has four sections. The first section asks for information about the child and family. The second is tailored for use by individual applicants, and the third is designed for the probate court's use. The last section remains for the social worker's response to the application or referral.

Probate Court Request for Juvenile Court Review of Decision Not to Commence Proceedings (form JV-213)

Form JV-213 would provide a form for a probate court to use, as authorized by Probate Code section 1513(b)(4), to request juvenile court review of an agency's decision not to commence proceedings and an order requiring the agency to file a dependency petition under Welfare and Institutions Code section 331(b).

Alternatives Considered

The committees did not consider alternatives to adopting form GC-207-INFO/JV-352-INFO and revising the other information forms, though they did consider allocating information differently among the forms. The forms, as circulated, reflect the committees' determination of the most effective allocation of information for self-represented persons using these forms to make informed decisions about childcare arrangements.

The committees also considered revising *Application to Review Social Worker's Decision Not to Commence Proceedings* (form JV-212) to accommodate a probate court's request for juvenile court review of the agency's decision not to file a dependency petition. The committees determined, however, it would be less confusing for self-represented persons using form JV-212 to apply for juvenile court review to develop a separate form for use by the probate court.

Fiscal and Operational Impacts

Government Code section 68511.1 requires the adoption of a form describing the nature and duties of guardianship and form GC-207-INFO/JV-352-INFO is intended to fulfill that mandate. Probate Code section 1511(a) requires that notice of the hearing on a petition to appoint a probate guardian include a copy of that form. The trial courts will incur ongoing costs to print, copy, and provide this statutorily mandated form to petitioners and other interested persons. These costs, however, are expected to be minimal, as is the additional work for court staff. These costs may, to some extent, be offset by more efficient guardianship proceedings requiring fewer continuances because litigants, especially self-represented litigants, will be better informed.

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?
- Should the committees recommend statewide rules of court to specify internal superior court procedures for a probate court to request juvenile court review under Probate Code section 1513(b) and a juvenile court to respond under Welfare and Institutions Code section 331(b)?

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. Forms GC-205-INFO, GC-206-INFO, GC-207-INFO/JV-352-INFO, JV-210, JV-213, and JV-350-INFO, at pages 7–38
2. Link A: Assembly Bill 260 (Stats. 2021, ch. 578),
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB260&showamends=true

1. WHAT IS A GUARDIANSHIP?

A guardianship is a court-ordered legal relationship that gives an adult, usually someone other than a parent, certain rights, powers, and duties regarding a minor child, the child's property, or both.

A **guardian of the person** is given legal authority and responsibility over the care, custody, and control of the child, and is responsible for the child's education. Unless the court limits the powers and duties of the guardian, a guardian of the person typically holds the same rights as a custodial parent with respect to the child. The appointment of a guardian of the person completely suspends the parents' custodial rights and duties, and transfers those rights to the guardian for as long as the guardianship lasts. The appointment of a guardian does not, however, terminate parental rights without additional action by the guardian and the court.

A **guardian of the estate** is charged with managing and preserving money and other property belonging to a child until the child reaches 18 years of age.

This form gives general information about a *guardianship of the person* under the Probate Code. It discusses:

- Alternatives to guardianship;
- Nomination of a guardian;
- Who can be appointed as a guardian;
- How to ask the probate court to appoint you or someone else as guardian;
- How to formalize the appointment;
- The rights and duties of a guardian of the person;
- Court oversight, removal, and replacement of the guardian; and
- How and when a guardianship can end.

NOTE: This form explains guardianships of the person only. Guardianships of the estate are explained in *Information on Probate Guardianship of the Estate* (form GC-206-INFO).

This form does not give information about becoming the legal guardian of a child who is under juvenile court jurisdiction. For information on that topic, please see *Information on Juvenile Court Guardianship* (form JV-350-INFO). *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO) compares informal childcare arrangements, juvenile court-ordered out-of-home childcare placements, and guardianships of the person.

Information about guardianships of the person and the other childcare arrangements discussed in this form is available from a licensed attorney, the [California Courts Online Self-Help Center](#), and private publications and resources. You should also consult your local superior court clerk's office or [Self-Help Center](#) to learn about any special procedures or rules in your court.

2. ARE THERE CHILDCARE ARRANGEMENTS THAT DO NOT REQUIRE A COURT ORDER?

Yes. Custodial parents can make arrangements for their child to live with an adult who is not a parent and give that adult permission to make childcare decisions without going to court. These arrangements can be useful if no parent is able or available to take care of the child for a limited time. For example, the custodial parent may be ill, may be hospitalized, detained, deported, incarcerated, or deployed on active military duty.

If a parent allows an adult relative or friend to take temporary care of a child, some service providers will question the caregiver's authority to make decisions and to give permission for the child's activities or treatment. For example, a school may require proof of the caregiver's right to enroll a child in school, or a health care provider may require a written document that shows parental consent to medical or dental care.

NOTICE

Under California law, a custodial parent cannot agree to give their legal rights and responsibilities regarding their child to another person without a court order. Regardless of parental consent, only a court can order legal and physical custody taken from a parent and given to a nonparent. This can happen in a few different types of court proceedings, including a family law child custody proceeding, a probate guardianship of the person, an adoption, and a juvenile court proceeding.

Page 2 of this form discusses some informal childcare arrangements. Under the first two alternatives (items 2a and b), the custodial parent keeps all parental rights and duties and temporarily shares some of their rights with the nonparent caregiver. The parent can veto any of the caregiver's childcare decisions. Under all three arrangements discussed on page 2, the parent can cancel or end the caregiver's rights at any time.



2. **CHILDCARE ARRANGEMENTS THAT DO NOT REQUIRE A COURT ORDER (continued)**a. **Caregiver's Authorization Affidavit**

The Family Code allows an adult, other than a parent, with whom a child is living to complete and sign a *Caregiver's Authorization Affidavit (CAA)* and make certain decisions for the child. A completed CAA authorizes a *nonrelative* caregiver to enroll the child in school and consent to the child's school-related medical care. A *relative* caregiver who provides additional information on the CAA also has authority to consent to the child's medical and dental care and limited authority over a child's mental health care.

Family Code section 6550 authorizes the use of the affidavit. Section 6552 lays out the required contents of the affidavit form. You can find a sample of the form here: www.courts.ca.gov/documents/caregiver.pdf. A hard copy may be available from your superior court clerk's office or self-help center, or the county public law library.

A CAA does not need to be filed in court, but it must be signed under penalty of perjury. A CAA does not affect the decision-making rights of the child's parents and does not give the caregiver custody of the child. The child's parents can take the child to live with them at any time, even if the caregiver does not think it is best for the child.

NOTE: Some schools and health care providers may not recognize the authority of a caregiver based only on the affidavit. In some circumstances, a caregiver may also be required to get resource family approval to exercise authority under the affidavit.

b. **Informal childcare agreement**

If the parents who have legal and physical custody of a child agree, they can make a written agreement with another adult to take care of their child for a limited time. This arrangement is similar to a CAA, but the parents initiate and are active parties to the agreement. The parents keep full decision-making authority, and the caregiver has only the powers expressly granted in the agreement.

Nevertheless, a private agreement may be useful if a custodial parent will be unavailable to make childcare decisions for a defined period of time, such as an active-duty military deployment, and the parent wants to give the caregiver more authority than is allowed by the CAA. If you are considering entering into a childcare agreement like this, you are encouraged to consult with an attorney experienced in child custody or guardianship law.

c. **Voluntary Placement Agreement**

In some circumstances, a parent can also voluntarily give temporary care and custody of their child to a child welfare agency, probation department, or tribe without a court order. This *Voluntary Placement Agreement (VPA)* must satisfy certain legal conditions; specify the child's legal status and the rights and obligations of the parents, the child, and the agency taking custody of the child; and be documented on *Voluntary Placement Agreement—Placement Request* (California Department of Social Services form SOC 155), available at: <https://cdss.ca.gov/cdssweb/entres/forms/English/soc155.pdf>.

Under a VPA, the child is placed in foster care, which includes placement in the home of a relative or nonrelative extended family member if possible. The child may be eligible for foster care benefits, but the parents may also be required to pay for a portion of the child's care. The agreement usually lasts for 6 months, but it may be extended for an additional 6 months for a total period not to exceed 12 months. Parents can terminate the agreement at any time.

d. Before filing a petition for appointment of a guardian, it may be useful to think about the following questions:

- Does the child really need a guardianship?
- What alternatives, such as those discussed above, are available?
- Would any of those alternatives be better for the child?
- Do the parents know about the alternatives and agree to the guardianship?
- If the parents don't agree, is there enough evidence to show the court that the child needs a guardian?
- Do you need legal advice or assistance?

3. **CAN A PARENT OR OTHER PERSON NAME WHO THEY WANT TO BE THE GUARDIAN OF THE PERSON?**

A parent, and only a parent, can *nominate* a guardian of the person for a child if the other parent(s) nominate, or consent in writing to the nomination of, the same guardian for that child; or, at the time the petition for appointment is filed, the other parent(s) are dead or lack legal capacity to consent to the nomination or the consent of the other parent would not be required for the child's adoption. Even if the parent does nominate a guardian, the court must still decide whether appointment of that person would be in the child's best interest. (See *item 8, below.*)

The parent may make the nomination in the petition for appointment, at the hearing on the petition, or in a writing signed before or after the petition is filed. The nomination may state that the parent wants the nominee, if appointed, to have the same authority over the child as a parent with legal custody would have and to be able to exercise that authority without court oversight to the same extent as a parent with legal custody would be able to.



3. CAN A PARENT OR OTHER PERSON NAME WHO THEY WANT TO BE THE GUARDIAN OF THE PERSON? (continued)

The nomination is effective when made, except that a written nomination may provide that the nomination takes effect only when a specified event or events, including the parent's later legal incapacity, detention, or death, has occurred.

Unless a written nomination provides otherwise, the nomination remains in effect even if the parent dies or is later determined to lack legal capacity.

NOTE: Even if a parent has nominated the proposed guardian, the parent is entitled to notice of the hearing, a copy of the petition, and a copy of *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

4. WHO CAN BE APPOINTED AS A GUARDIAN OF THE PERSON?

The court may appoint any adult—including a relative, a friend of the family, or another interested person—as a child's guardian of the person. The court may *not* appoint a parent unless the parent is terminally ill and is appointed as co-guardian with a nonparent.

5. WHO CAN PETITION FOR APPOINTMENT OF A PROBATE GUARDIAN?

A relative or other person, including the child if 12 years old or older, can file a petition asking the court to appoint a guardian. The person who files the petition doesn't need to be the same person as the one who asks to be appointed as guardian, but it usually is. This information form assumes that the same person is filing the petition *and* asking to be appointed guardian.

6. FILING THE PETITION AND GIVING NOTICE OF THE HEARING

a. Once a person has decided that a child needs a guardian appointed, the first step in the process of establishing guardianship is to complete *Petition for Appointment of Guardian of Minor* (form GC-210) or *Petition for Appointment of Guardian of the Person* (form GC-210(P)) and all other required documents, then file the forms with the clerk of the court in the county where the child lives unless it would be better, for the child, to file the petition in a different county. A list of statewide forms that need to be filed with a petition for appointment of a guardian of the person is available on *Forms You Need to Ask the Court to Appoint a Guardian of the Person* (form GC-505). Some courts have additional local forms that need to be filed along with the statewide forms.

The petition needs to ask the court to appoint a guardian of the person or a guardian of both the person and the estate; give the proposed guardian's name and address and the child's name and date of birth; and state that the appointment is "necessary or convenient." The petition must also give the names and addresses of the child's parents and other persons who have specific relationships with the child. If the child is an Indian child, the petition must state that fact and give the name and address of any Indian custodian and the child's tribe. The petition must also tell the court whether there are any adoption, child custody, juvenile court, family law, or other guardianship proceedings affecting the child in progress in California or any other state or country.

The court charges a fee for filing a guardianship petition. If the child or the child's estate cannot afford to pay the fees, the petitioner may request that the court waive the fee requirement. The court clerk can provide the required fee waiver forms.

b. Before the court can hold a hearing to decide the petition, the person who filed the petition must give **notice** of the hearing to specific persons unless the court finds that the petitioner tried diligently and couldn't give notice to a person or that notice would be against the interests of justice. The notice must include a copy of the petition and a copy of *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

Notice must be given to the child if 12 years old or older, the parents, anyone else with legal custody, and anyone nominated to be the guardian by *serving* them personally or, if that is not possible, by first-class mail with an acknowledgment of receipt requested. For more information about *service* of notice, see *What Is "Proof of Service" in a Guardianship?* (form GC-510). Other persons may be given notice personally, by mail, or, if they consent, electronically. If the child is an Indian child, notice must be mailed to any Indian custodian and the child's tribe as required by the Indian Child Welfare Act.

7. INVESTIGATION

a. Guardianship investigation

Unless it finds a good reason not to, the court will order an investigation before the hearing on the petition to appoint a guardian. The court investigator (if the proposed guardian is the child's relative) or the county social worker (if the proposed guardian is not a relative) will contact you, the child, and any other persons who might know about the child's family and their needs. The investigator will give a report to the court and make a recommendation on what decision the court should make.

The court or county charges a fee for conducting the guardianship investigation. The court can waive its fee if it would cause a hardship to the child or the child's estate. The county may also waive its fee because of hardship.

b. Child welfare referral and investigation

If the probate court thinks the child has been, or is at risk of being, abused or neglected by a parent, the court may refer the child to the county child welfare agency for an investigation and commencement of juvenile court proceedings. If the probate



7. INVESTIGATION (*continued*)

- b. court makes a referral, the guardianship proceedings are paused, but the probate court can make any order necessary to protect the child, including an order appointing a temporary guardian or issuing a temporary restraining order.

If, after three weeks, the agency has not notified the probate court that it has filed a petition to begin proceedings in juvenile court, the probate court or the child's attorney, if the probate court has appointed one, may file a request with the juvenile court to review the agency's decision not to begin juvenile court proceedings and to order the agency to file a petition to begin those proceedings.

If the juvenile court begins proceedings, the guardianship proceedings must remain paused. If the juvenile court does not begin proceedings, the probate court can hold a hearing and decide whether to appoint a guardian.

8. HEARING AND STANDARD FOR APPOINTMENT

An interested person may appear and object or respond to the petition *in writing* at or before the hearing. In addition, an interested person may appear and object or respond *orally* at the hearing. If no one objects, the court may decide the matter on the verified petition and declarations. If a person objects, then the court will consider evidence, determine any issues, and make appropriate orders.

Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions. The probate court may appoint a guardian for a child when the appointment is "**necessary or convenient.**" This can happen if no parent is willing, available, or suitable to have care, custody, and control of the child. A parent may not be able to care for the child because of the parents' death, incapacity, military obligations, detention, or other reasons. The petitioner must prove to the court that a guardianship is needed.

Appointing a *guardian of the person* may be necessary or convenient if the court decides that the appointment is in the child's **best interest**, the same standard a family court uses to decide whether to order custody given to a nonparent in a child custody proceeding. If a parent objects to the appointment of a guardian of the person, the court must find that remaining in or returning to parental custody would be **detrimental** to (or not good for) the child. The longer a child has been living safely with the proposed guardian, the more likely a court is to find that returning to the parents is detrimental to the child or not in the child's best interest.

9. AFFIRMATION AND LETTERS

For your appointment as guardian to be valid, the court must sign the *Order Appointing Guardian of Minor* (form GC-240). Once the court signs the order, you will need to complete *Letters of Guardianship* (form GC-250) and take both forms to the clerk's office. After you have affirmed that you will perform the duties of a guardian according to law, the clerk will issue *Letters of Guardianship*, a legal document that is proof that you have been appointed and are serving as the guardian for the child. The clerk will keep the original *Letters* in the case file, but you should buy a certified copy from the clerk. Make copies of the certified copy, then keep the certified copy in a safe place. Having a copy of the *Letters* will help you perform your duties, such as enrolling the child in school and obtaining medical care, by showing officials and service providers that you have the legal authority to act on the child's behalf.

10. RIGHTS AND DUTIES

a. Basic rights and general duties

A guardian of the person generally has the same rights to legal and physical custody of the child as a parent. If a parent nominates a person as guardian and that person is appointed by the court, the court will grant the guardian, to the extent provided in the nomination, the same rights and duties regarding the child as a custodial parent unless the court finds good cause to withhold any of them. In other circumstances, however, the court can order the guardian to get court approval before taking specific actions for which a parent would not need court approval. The order of appointment and the *Letters* will state whether the court has placed limits on the guardian's authority.

A guardian is responsible for providing for food, clothing, shelter, education, and all the medical and dental needs of the child. A guardian must provide for the safety, protection, and physical and emotional growth of the child. Like a parent, a guardian should maintain close contact with the child's school and physician.

If the child has special needs, a guardian must strive to meet those needs or secure appropriate services. Some children may have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to assist a child who has special needs or has had difficult or traumatic life experiences.

b. Custody and visitation

A guardian of the person has full legal and physical custody of the child and is responsible for all decisions relating to the child. The child's parents can no longer make decisions for the child during a guardianship. The parents' rights are completely suspended—not terminated—as long as the guardianship remains in effect. Unless the court makes an order specifying the persons the child may visit with and when, the guardian has the authority to decide whether the child can visit with anyone, including the parents.



10. RIGHTS AND DUTIES (*continued*)

NOTE: After a child, other than an Indian child, has lived with a guardian for at least two years and the court finds that adoption by the guardian would be in the child's best interest, a proceeding to have the child declared free from parental custody and control may be brought in the guardianship proceeding, in an adoption proceeding, or in a separate action. The procedures and rights, including the parents' right to notice and counsel, in Family Code sections 7800–7895 apply to this proceeding.

c. **Residence**

A guardian of the person has the right to decide where the child lives. The child normally lives with the guardian, but the guardian can make other arrangements if they are in the best interest of the child. The guardian should check with the court before placing the child to live with the parents.

A guardian must give proper written notice to the court and other persons of any change of address of either the child or the guardian. A guardian must get permission from the court *before* changing the child's address to a place outside California.

d. **Education**

A guardian of the person holds the child's educational rights and is responsible for the child's education. The guardian determines where the child will attend school and helps the child set and attain educational goals. As the child's advocate with the school system, the guardian should attend teacher conferences and play an active role in the child's education. The guardian of a younger child may want to consider enrolling the child in Head Start or another similar program. The guardian of an older child should consider the child's future educational needs, such as college or a specialized school. The guardian must assist the child in obtaining services if the child has special educational needs.

e. **Health care**

A guardian of the person is responsible for meeting the child's medical, dental, and mental health needs. In most cases, the guardian has the authority to consent to the child's medical treatment. However, if the child is 14 years old or older, surgery may not be performed on the child unless either (1) both the child and the guardian give consent or (2) a court order is obtained that specifically authorizes the surgery. This holds true except in emergencies.

A guardian of the person may not place a child in a mental health treatment facility against the child's wishes. A mental health conservatorship proceeding is required for such an involuntary commitment. However, the guardian should arrange counseling and other mental health services for the child if appropriate.

In certain situations, the law allows older and more mature children to consent to their own treatment, including outpatient mental health treatment, medical care related to pregnancy or sexually transmitted diseases, and drug and alcohol treatment.

f. **Financial support**

Even when the child has a guardian, the parents are still obligated to support the child financially. The guardian may take action to obtain child support. You may contact the local child support agency in your county to collect support from a parent. The child may also be eligible for Temporary Aid for Needy Families (TANF; formerly known as AFDC), Social Security benefits, Veterans Administration benefits, Indian child welfare benefits, and other public or private funds.

g. **Consent to changes to the child's legal status**

A guardian of the person has the authority to consent to or give permission for many decisions the child may make in the transition to independent adulthood. These include:

(1) **Application for a driver's license**

A guardian who consents to a child's driver's license application becomes liable for any civil damages that result if the minor causes an accident. The law requires that anyone signing the DMV application obtain insurance to cover the minor.

(2) **Enlistment in the armed services**

The guardian has the authority to consent to a minor's enlistment in the armed services. If the minor enters into active duty with the armed forces, the minor becomes emancipated under California law, and the guardianship ends.

(3) **Marriage**

For the child to get married, both the guardian **and the court** must give permission. If the minor enters a valid marriage, the minor becomes emancipated under California law, and the guardianship ends.

(4) **Application for a United States passport**

A guardian has the authority to apply for a United States passport for the child.

h. **Liability for child's misconduct**

A guardian, like a parent, is liable for the harm and damages caused by the willful misconduct of a child. There are special rules concerning harm caused by the use of a firearm. If you are concerned about your possible liability, you should consult an attorney.



10. RIGHTS AND DUTIES (*continued*)i. **Additional responsibilities**

The court may place other conditions on the guardianship or additional duties on the guardian. For example, the court may require the guardian to complete counseling or parenting classes, to obtain specific services for the child, or to follow a scheduled visitation plan between the child and the child's parents or relatives. The guardian must follow all court orders.

j. **Community resources**

Each county has agencies and service providers that can help a guardian fulfill their duties to the child, including meeting the specific needs of a child who comes from a conflict-filled, troubled, or deprived environment. If the child has special needs, you must strive to meet those needs or secure appropriate services. Some children have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. A child who has special needs or has had traumatic life experiences may need counseling and other services. To find resources and get referrals, check with the court, your local child welfare agency, or even a support group for guardians. If you are a relative, you can start by visiting the **California Kinship Navigator**, at www.getvirtualsupport.org/app/.

11. COURT OVERSIGHT OF GUARDIAN

The guardian is subject to the regulation and control of the court in performing their duties. To the extent resources are available, the court will require the guardian to complete and submit annual status reports to the court. **Confidential Guardianship Status Report** (form GC-251) must be used for this report. The report must provide information about the child's residence, education, physical and emotional health, other persons the child lives with, the child's relationship with the parents, and whether the guardianship is still needed. If the guardian, the child, or another interested person wants the court to decide whether the guardian has the authority or duty to take or not take a specific action, they can file a petition. After a noticed hearing, the court will decide and make orders.

In addition, some counties have "court visitors," who track and review guardianships. In a county with such a program, a guardian is expected to cooperate with all requests of the court visitor. And no matter the county, the guardian must always cooperate with the court and court investigators.

12. REMOVAL AND REPLACEMENT OF GUARDIAN

After a noticed hearing on a petition filed by the child, a relative or friend of the child, or any other interested person, the probate court may remove a guardian for specific reasons or when it is in the child's best interest. The court may also suspend the powers of the guardian until it can hold a hearing on the petition for removal. A guardian may also file a petition to resign, and, if the court determines after a hearing that the resignation appears proper, the court must allow it.

If for any reason there is a vacancy, the court may appoint a successor guardian after notice and a hearing as in the case of the original appointment.

13. TERMINATION OF GUARDIANSHIP

A guardianship of the person automatically ends when the child reaches age 18, **or** one of the following events occurs before the child reaches age 18:

- The child is adopted;
- The child is emancipated by getting married, enlisting in the military, or court order;
- The child requests the extension of the guardianship in connection with an application for Special Immigrant Juvenile status; or
- The child dies.

If none of these events has occurred, the child, a parent, or the guardian may petition the court for termination of guardianship before the child reaches age 18. To terminate the guardianship, the court must find that termination is in the child's best interest. If no other custodial arrangement is ordered, the child returns to parental custody.

14. LEGAL ADVICE AND RESOURCES

If you have an attorney, the attorney will advise you on a guardian's rights and responsibilities, the limits of a guardian's authority, the rights of the child, and dealings with the court. **If you have legal questions, you should consult your attorney.** Please remember that court staff cannot give you legal advice.

If you are not represented by an attorney, the court's **self-help center** may, however, give you legal information and help you fill out any forms you need to file. You might also find some answers to your questions by contacting community resources, researching private publications, or visiting your county's public law library.

This form is about acting as a *guardian of the estate* to manage a child's money or other property and preserving it until the child reaches 18 years of age.

The form explains:

- What is a guardianship of the estate and who can be appointed as one;
- Who can nominate a guardian of the estate, and how;
- The court process for appointment of a guardian of the estate;
- The powers, duties, and liabilities of a guardian of the estate;
- The court's authority to oversee the guardian of the estate in the performance of the guardian's duties; and
- The procedures for removing and replacing a guardian or terminating a guardianship of the estate.

For information about acting as the *guardian of the person* of a child, read Judicial Council form GC-205-INFO. For information about acting as the guardian of the person of a child who has a *juvenile court* case, read Judicial Council form JV-350-INFO.

For more information, visit the California Courts website at www.courts.ca.gov/selfhelp-guardianship.htm or talk to a lawyer with experience in probate law. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm.

NOTE: This form explains guardianships of the estate only. Guardianships of the person are explained in *Information on Probate Guardianship of the Person* (form GC-205-INFO).

1 What is a guardian of the estate?

A guardian of the estate is a person appointed by the probate court to take control of a child's money or other property, manage that property, and preserve it for the child until the child reaches the age of 18 and can take control of the property for themselves. The court takes appointment of a guardian of the estate very seriously, and the law requires the guardian to collect and make an inventory and appraisal of the property, keep accurate financial records, and file regular financial accountings with the court. The use of an attorney for legal advice in managing the estate is highly recommended.

2 Are there alternatives to guardianship of the estate?

Yes. The law allows a parent or any other person from whom the child receives property to make financial arrangements for the child's property. For example, money received by a child may be deposited in a blocked account, accessible only in specified circumstances until the child reaches 18 years of age. This and other protective measures can be used without the appointment of a guardian of the estate. These financial arrangements can be complicated; consultation with an attorney before choosing one over another is highly encouraged.

Note: *Some financial institutions, insurance companies, and courts require the appointment of a guardian of the estate before they will release funds to a person acting on behalf of a minor child.*

Before filing a petition to appoint a guardian of the estate, you should think about the following questions:

- Does the child really need a guardianship?
- What alternatives are available?
- Would any of the alternatives be better for the child?
- Do the parents agree to the guardianship?
- If the parents don't agree, is there enough evidence to show that the child needs a guardian?
- Do you need legal advice or assistance?

3 Who can be appointed as a guardian of the estate?

To become the court-appointed guardian of a child's estate, you must:

- Be an adult (18 years old or older); and
- Demonstrate that your appointment would be in the best interest of the child, considering both:
 - Your ability to manage and preserve the child's estate (money and property); and
 - Your concern for and interest in the welfare of the child.

4 Can a parent or other person name a person they want to be appointed as guardian?

Yes. A parent can **nominate** a guardian of the estate if:

- The other parent(s) nominate or consent *in writing* to the nomination of the same guardian for the same child; or
- At the time the petition for appointment is filed, either the other parent(s) are dead or lack legal capacity to consent, or the consent of the other parent(s) would not be required for adoption of the child.

In addition, any person from whom, or by designation of whom, a minor child receives property may nominate a guardian of that property.

The nomination must be made in the petition for appointment of the guardian, at the hearing on the petition, or in a writing signed either before or after the petition is filed.

A nomination made as described above is valid when it is made, except that a written nomination may provide that the nomination takes effect only if one or more events specified in the writing, including the later incapacity, detention, or death of the person making the nomination, happens.

Unless the writing making the nomination provides expressly that it does not, a nomination remains effective even if the person making the nomination dies or later becomes legally incapacitated.

5 Who can file a petition for appointment of a guardian of the estate?

A relative or other person, or the child if 12 years of age or older, may file a petition for appointment of a guardian in probate court using *Petition for Appointment of Guardian of Minor* (form GC-210) in probate court.

THE APPOINTMENT PROCESS

6 Filing the petition

Once a person has decided that a child needs a guardian, the first step in the process is to complete *Petition for Appointment of Guardian of Minor* (form GC-210) and all other required documents, then file the forms with the clerk of the court in the county where the child lives unless it would be better *for the child* if you filed in a different county. Some courts have additional local forms that need to be filed along with the statewide forms.

The petition needs to ask the court to appoint a guardian of the estate or a guardian of both the person

and the estate; give the proposed guardian's name and address and the child's name and date of birth; and state that the appointment is necessary or convenient. The petition must also give the names and addresses of the child's parents and other persons who have specific relationships with the child. If the child is an Indian child, the petition must state that fact and give the name and address of any Indian custodian and the child's tribe. The petition must also tell the court whether there are any adoption, child custody, juvenile court, family law, or other guardianship proceedings affecting the child in progress in California or any other state or country. The court charges a fee for filing a guardianship petition. If the child or the child's estate cannot afford to pay the fees, the petitioner may request that the court waive the fee requirement. The court clerk can provide the required fee waiver forms.

7 Notice of the hearing

Before the court can hold a hearing to decide the petition, the person who filed the petition must give **notice** of the hearing to specific persons unless the court finds that the petitioner tried diligently and couldn't give notice to a person or that notice would be against the interests of justice. The notice must include a copy of the petition and a copy of *Comparison Between Guardians and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

Notice must be given to the child if 12 years old or older, the parents, anyone else with legal custody, and anyone nominated to be the guardian by *serving* them personally or, if that's not possible, by first-class mail with an acknowledgment of receipt requested. For more information about *service of notice*, see *What Is "Proof of Service" in a Guardianship?* (form GC-510). Other persons may be given notice personally, by mail, or, if they consent, electronically. If the child is an Indian child, notice must be mailed to any Indian custodian and the child's tribe as required by the Indian Child Welfare Act.

8 Investigation

Unless it finds a good reason not to, the court will order an investigation before the hearing on the petition to appoint a guardian. The court investigator (if the proposed guardian is the child's relative) or the county social worker (if the proposed guardian is not a relative) will contact you, the child, and any other persons who might know about the child's family and their needs. The investigator will give a report to the court and make a recommendation on what decision the court should make.

The court or county charges a fee for conducting the guardianship investigation. The court can waive its fee if it would cause a hardship to the child or the child's estate. The county may also waive its fee because of hardship.

If someone objects to the appointment of a guardian or to the petitioner's appointment as guardian at or before the hearing, the court may decide it needs to hold a trial. Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions.

If the probate court thinks the child has been, or is at risk of being, abused or neglected by a parent, the court may refer the child to the county child welfare agency for an investigation and commencement of juvenile court proceedings. If the probate court makes a referral, the guardianship proceedings are paused, but the probate court can make any order necessary to protect the child, including an order appointing a temporary guardian or issuing a temporary restraining order.

If, after three weeks, the agency has not notified the probate court that it has filed a petition to begin proceedings in juvenile court, the probate court or the child's attorney, if the probate court has appointed one, may file a request with the juvenile court to review the agency's decision not to begin juvenile court proceedings and to order the agency to file a petition to begin those proceedings.

If the juvenile court begins proceedings, the guardianship proceedings must remain paused. If the juvenile court does not begin proceedings, the probate court can hold a hearing and decide whether to appoint a guardian.

9 Hearing and standard for appointment

An interested person may appear and object or respond to the petition *in writing* at or before the hearing. In addition, an interested person may appear and object or respond *orally* at the hearing. If no one objects, the court may decide the matter on the verified petition and declarations. If a person objects, then the court will consider evidence, determine any issues, and make appropriate orders.

Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions. The probate court may appoint a guardian for a child when the appointment is "**necessary or convenient.**" The petitioner must prove to the court that a guardianship is needed.

The court must appoint the person nominated as guardian of the estate unless the court determines that the nominee is not suitable. Subject to the preference for a nominee, the court will consider the best interest of the child, taking into account the proposed guardian's ability to manage and preserve the estate property and their concern for and interest in the welfare of the child. If the child is old enough to form an intelligent preference about whom should be appointed, the court must also consider that preference.

10 Oath, letters, and bond

For your appointment as guardian to be valid, the court must sign the *Order Appointing Guardian of Minor* (form GC-240). You will then need to complete *Letters of Guardianship* (form GC-250) and take both forms to the clerk's office. After you have affirmed that you will perform the duties of a guardian according to law and posted the court-ordered bond, the clerk will issue *Letters of Guardianship* as proof that you have been appointed and are serving as the guardian of the child's estate. The clerk will keep the original *Letters* in the case file. You should buy a certified copy from the clerk, make copies of it for use, and keep the certified copy in a safe place. The *Letters* will help you perform duties, such as opening accounts or making investments, by showing banks and other financial institutions that you have the legal authority to act on the child's behalf.

MANAGING THE ESTATE—POWERS AND DUTIES

11 Prudent investments

As guardian of the estate, you must manage the child's money and property with the care of a prudent person dealing with someone else's property. This means that you must be cautious and may not make speculative or risky investments.

12 Separation of estate money and property

As guardian of the estate, you must keep the money and property of the child's estate separate from everyone else's, including your own. When you open a bank account for the estate, the account name must indicate that it is a *guardianship* account and not your personal account.

You should use the child's Social Security number when opening estate accounts. You should never deposit estate funds in your personal account or otherwise mix them with your own funds or anyone else's funds, even for brief periods.

Securities in the estate must be held in a name that shows that they are estate property and not your personal property.

13 Interest-bearing accounts and other investments

Except for checking accounts intended for ordinary expenses, you should place estate funds in interest-bearing accounts. You may deposit estate funds in insured accounts in federally insured financial institutions, but you should not put more than \$250,000 in any single institution. You should consult with an attorney before making other kinds of investments.

14 Blocked accounts

A *blocked account* is a type of account with a financial institution in which money or securities are placed. No person may withdraw funds from a blocked account without the court's permission.

Depending on the amount and character of the child's property, the guardian may elect **or the court may require** that estate money or other assets be placed in a blocked account. As guardian of the estate, you must follow the direction of the court and the procedures required to deposit funds in this type of account. The use of a blocked account is a safeguard and may save the estate the cost of a bond.

15 Other restrictions

Other restrictions on your authority to deal with estate assets exist. Without a prior court order, you may not pay fees to yourself or your attorney. You may not make a gift of estate assets to anyone. You may not borrow money from the estate. You may not use estate funds to purchase real property without prior court order.

If you spend estate funds without court permission, the court may compel you to reimburse the estate from your own funds and remove you as guardian. You should consult with an attorney concerning the legal requirements relating to sales, leases, mortgages, and investment of estate property.

If the child whose estate you are managing has a living parent, or if that child receives assets or is entitled to support from another source, you must obtain court approval before using *guardianship* assets for the child's support, maintenance, or education. You must file a petition or request approval in the original petition and set forth exceptional circumstances that justify any use of guardianship assets for the child's support. The court ordinarily will grant such a petition for only a limited period of time, usually not more than one year, and only for specific and limited purposes.

16 Inventory and appraisal of estate property

You must locate, take possession of, and protect the child's income and property that will be part of the estate. You must change the ownership of all assets into the guardianship estate's name. For real estate, you should record a copy of your *Letters of Guardianship* with the county recorder in each county where the child owns real property.

Next, you must arrange to have a designated probate referee determine the value of the estate property unless this requirement is waived by the court. You, not the referee, must determine the value of certain "cash items." An attorney can advise you on this.

After you have gathered all the child's money and property and determined how much it is worth, you must complete and file an "Inventory and Appraisal" with the court within 90 days of appointment using forms GC-040 and GC-041. The court may order you to return 90 days after your appointment to ensure that you properly file the inventory and appraisal.

17 Insurance

You should make sure that the property of the estate and any risks to it are protected by appropriate and sufficient insurance. You should maintain the insurance coverage throughout the entire period of the guardianship or until the insured property is sold.

18 Records and Accounts

You must keep complete, accurate records of each financial transaction affecting the estate. The checkbook for the guardianship checking account is your indispensable tool for keeping records of income and expenditures. You should also keep receipts for all purchases.

Record keeping is critical because you will have to prepare periodic accountings of all money and property you have received, what you have spent, the date of each transaction, and its purpose. You will also have to be able to describe in detail the money and property remaining after you have paid the estate's expenses.

Beginning one year after initial appointment as guardian of the estate and then at least every two years after that, you must file an accounting for the previous period with a petition asking the court to review and approve the accounting. The court may ask that you explain or justify some or all expenses charged to the estate. You should have receipts, account statements, and other related documents available for inspection in case the court requests them.

If you do not file your accounting as required, the court will order you to do so. You may be removed as guardian if you don't file an accounting. If you know you are going to need extra time to prepare and file an accounting, be sure to ask the court for an extension ahead of the deadline.

You must comply with all state and local rules when filing your accounting. The Probate Code requires that all accounts be submitted on Judicial Council forms. There is a set of forms for standard accounts; the numbers of all these forms start with GC-400. There is also a set of forms for simplified accounts; the numbers of these forms start with GC-405.

California Rules of Court, rule 7.575 explains the accounting process and the forms. You should also check local rules for any special local requirements.

An attorney can advise you and help you prepare the inventory, accountings, and petitions. If you have any questions, you should consult with an attorney.

FURTHER COURT PROCEEDINGS**19 Court oversight**

The guardian is subject to the regulation and control of the court in performing their duties. In addition to reviewing periodic accountings, the court may order you to enter into specific transactions or prohibit transactions for the benefit of the child. The guardian, the child, or any interested person can ask the court for such an order. After a noticed hearing, the court will make orders in the best interest of the child.

20 Removal and replacement of guardian

After a noticed hearing on a petition filed by the child, a relative or friend of the child, or any other interested person, the probate court may remove a guardian for specific reasons or when it is in the child's best interest. The court may also suspend the powers of the guardian until it can hold a hearing on the petition for removal. A guardian may also file a petition to resign, and the court must allow the resignation if it appears proper.

If for any reason there is a vacancy, the court may appoint a *successor* guardian after notice and a hearing as in the case of the original appointment.

21 Termination of guardianship

A guardianship of the estate terminates when the child reaches age 18 or if the child dies before age 18, subject to the duty to keep and preserve the estate until it is delivered to the child's personal representative and to settle the estate's accounts. The court may also terminate the guardianship if it decides that is in the child's best interest. At termination, the guardian must distribute the estate property and file a final account and petition for discharge with the court.

There are several types of legally recognized nonparent caregivers for children. This form compares different types of nonparent caregivers in three areas:

- **The Rights and Duties of Different Types of Caregivers (pages 2–6)**
(Non-court-ordered caregivers, foster parents or resource families, and probate and juvenile court guardians)
- **The Services and Supports Available to Different Caregivers (pages 7–11)**
(Foster parents, probate guardians, and juvenile court guardians)
- **How to Become a Guardian and What Happens Afterward (pages 12–13)**
(probate guardians and juvenile court guardians)

Caregivers who provide care for children involved in a court case

- **Foster parents or resource families:** If it is not in a child’s best interest to continue living at home, the juvenile court may order the child placed out of the home in the care and custody of the child welfare agency. The agency can place the child in the home of a relative or foster parent, sometimes called a *resource family* because the caregiver receives resource family approval (RFA). (See form JV-350-INFO.) If a child’s relative who has not gone through the RFA process wants placement, the agency may place the child with that relative as long as the juvenile court has authorized the placement after finding that it does not pose a risk to the child’s health and safety.
- **Guardians:** A guardian is an adult appointed by a court to take custody and care of a child when a child’s parents are unavailable or unable to care for the child. Relatives or nonrelatives are appointed as guardians either by the probate court or the juvenile court. In general, probate guardians have the same rights and duties as juvenile court guardians. (See forms JV-350-INFO and GC-205-INFO.)

Caregivers who provide care for children who are not involved in a court case

Guardianship and court-ordered foster care are not the only options if a child’s parents are unavailable or unable to care for the child. Families can make arrangements for the care and custody of a child without going to court. These arrangements are usually temporary. For example, parents may be unavailable or unable to care for their children due to illness, a need to go to a residential treatment program, incarceration, or military deployment.

- **Informal caregivers:** An adult caregiver with whom a child is living can sign a Caregiver’s Authorization Affidavit (CAA). A CAA gives the caregiver the authority to enroll the child in school and to consent to school-related medical care, such as a school physical. A caregiver who is a relative has the same authority over a child’s medical and dental care as a guardian, with limited authority over mental health care. (See www.courts.ca.gov/documents/caregiver.pdf.)
- **Voluntary Placement Agreement (VPA) caregivers (foster parents or resource families):** If parents determine that out-of-home care is needed for a child and that child welfare services and supports could benefit their family, they can enter into a written Voluntary Placement Agreement with the county welfare department. With this agreement, parents are voluntarily allowing the department to place their child in foster care. (See www.cdss.ca.gov/cdssweb/entres/forms/english/soc155.pdf.)

This form only discusses guardians *of the person*, who have legal care, custody, and control of a child. If a child has money or property, the probate court may appoint a guardian *of the estate* to manage and preserve the property for the child until the child reaches 18 years of age. For information on guardians of the estate, see *Information on Probate Guardianship of the Estate* (form GC-206-INFO).

What Are the *Rights and Duties* of Different Types of Caregivers?

Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
<i>Caregiver’s Fundamental Responsibilities and General Duties</i>		
<p>Caregiver’s Authorization Affidavit (CAA) The caregiver provides care and supervision for the child on a temporary basis.</p> <p>Payment for the child’s needs can be arranged between the child’s parents and the caregiver.</p> <p>A relative caregiver is ineligible for foster care payments but may apply for the CalWORKs Non-Needy Caretaker Fund for relatives, which is a non-income-based payment available through the county social services agency. A non-related extended family member (NREFM) caregiver is not eligible to receive CalWORKs or any foster care payments.</p> <p>Voluntary Placement Agreement (VPA) Because the child will be placed in foster care, the caregiver will work with child welfare agency social workers to provide care and supervision for the child.</p> <p>Caregivers receive foster care funds for the child’s needs, such as food and clothing.</p> <p>If the child has special needs, the caregiver (CAA or VPA) works with the social worker to make sure the child receives available resources and services.</p>	<p>Foster parents work with child welfare agency social workers to provide care, supervision, and housing for the child.</p> <p>Foster parents receive foster care funds for the child’s needs, such as food and clothing.</p> <p>If the child has special needs, foster parents work with the social worker to make sure the child receives available resources and services.</p>	<p>A guardian appointed by a probate court or by a juvenile court has the same rights to legal and physical custody of the child as a parent. In general, a guardian must care for and control the child the same way a parent would. The court making the guardianship order has authority to order the guardian to do or not to do certain things.</p> <p>A guardian is responsible for providing for food, clothing, shelter, education, and all the medical and dental needs of the child.</p> <p>A guardian must provide for the safety, protection, and physical and emotional growth of the child. Like a parent, a guardian should maintain close contact with the child’s school and physician.</p> <p>If the child has special needs, a guardian must strive to meet those needs or secure appropriate services. Some children may have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to assist a child who has special needs or has had unpleasant life experiences.</p>
<i>Custody and Visitation</i>		
<p>CAA Legal and physical custody of the child remains with the parents. The parents can remove the child from the caregiver at any time, even if the caregiver does not agree.</p>	<p>Physical custody of the child—that is, the right to decide where the child lives—is with the child welfare agency.</p>	<p>The guardian has legal and physical custody of the child.</p> <p>The child’s parents can no longer make decisions for the child while there is a guardianship. The parents’ rights are completely suspended—but not</p>



Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
<i>Custody and Visitation (continued)</i>		
<p>The caregiver or the parents can decide who the child can visit.</p> <p>VPA The parents retain their legal rights but allow the child welfare agency to have custody and control of the child. The child will be placed with a caregiver in foster care, but the caregiver does not have legal custody of the child. Parents can terminate a VPA at any time.</p> <p>Foster parents must follow the social worker’s instructions regarding the child’s visits with parents and others.</p>	<p>Foster parents must make sure the child participates in social worker–authorized and court-ordered visits with parents and others.</p>	<p>terminated—as long as the guardianship remains in effect.</p> <p>Unless there is a court order requiring the child to spend time with the parents or other persons, the guardian can decide who and when the child can visit, including the parents.</p>
<i>Residence</i>		
<p>CAA and VPA The child lives with the caregiver.</p>	<p>Social workers and the court decide who the child will live with.</p>	<p>A guardian decides where the child lives. The child normally will live with the guardian, but the guardian can make other arrangements if they are in the best interest of the child.</p> <p>A guardian must give proper notice to the court and others of any address change of either the child or the guardian.</p> <p>A guardian must get court permission before changing the child’s residence to a place outside California.</p>
<i>Health Care</i>		
<p>CAA A CAA authorizes the caregiver to enroll the child in school and to consent to school-related medical care, such as a school physical.</p> <p>A CAA authorizes a relative caregiver to consent to a child’s medical and dental care and limited authority over a child’s mental health care.</p>	<p>The social worker arranges health care for the child’s medical, dental, and mental health needs, but foster parents might be responsible scheduling and transporting the child to these appointments.</p> <p>Parents retain their rights to make health-care decisions for the child unless the court orders otherwise.</p>	<p>The guardian is responsible for meeting the child’s medical needs. In most cases, the guardian has the authority to consent to the child’s medical treatment.</p> <p>However, if the child is 14 years or older, surgery may not be performed on the child unless either (1) both the child and the guardian consent or (2) a court order is obtained that specifically authorizes the surgery. This holds true except in emergencies.</p>

Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
Health Care (continued)		
<p>Parents retain their rights to make health-care decisions for the child. A caregiver’s decision about a child’s medical or dental care must be reversed if a parent disagrees as long as the parent’s decision does not put the life, health, or safety of the child at risk.</p> <p>If the child stops living with the caregiver, the caregiver must notify any school or health-care provider that received the affidavit, and the affidavit becomes invalid after the school or health care provider is notified.</p> <p>Some health-care providers may not accept a CAA.</p> <p>VPA Because the child will be placed in foster care, the child welfare agency will arrange for medical and dental care, but the caregiver might be responsible for scheduling and taking the child to appointments.</p>		<p>A guardian may not place a child involuntarily in a mental health treatment facility. A separate legal process is required for such an involuntary commitment. However, the guardian may secure counseling and other necessary mental health services for the child.</p> <p>The law allows older and more mature children to consent to their own treatment in certain situations, such as outpatient mental health treatment, medical care related to pregnancy or sexually transmitted diseases, and drug and alcohol treatment.</p>
Education		
<p>CAA A CAA can give a caregiver the ability to enroll a child in school. However, some schools may not recognize a CAA. The caregiver does not hold the child’s education rights and cannot attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights.</p> <p>If the child has special needs, the caregiver should make sure the child receives available resources and services.</p> <p>VPA Foster parents are responsible for making sure that the child attends school. They work with the social worker to decide</p>	<p>Foster parents are responsible for making sure that the child attends school. They work with the social worker to decide which school the child should attend and what special education services the child needs, if any. Except in limited circumstances, foster parents do not hold the child’s education rights and cannot attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights.</p>	<p>A guardian is responsible for the child’s education and holds the child’s educational rights unless the court appoints someone else to hold them.</p>



Caregivers With No Court Involvement (CCA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
Education (continued)		
<p>which school the child should attend and what special education services the child needs, if any. Foster parents do not hold the child’s education rights and cannot attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights.</p> <p>Parents retain their rights to make educational decisions for the child unless those rights are limited through another process.</p> <p>If the child has special needs, the caregiver works with the social worker to make sure the child receives available resources and services.</p>	<p>If the child has special needs, the foster parent works with the social worker to make sure the child receives available resources and services.</p> <p>Parents retain their rights to make educational decisions for the child unless a court limits these educational rights and assigns them to another person.</p>	
Consent to Changes in Child’s Status		
<p>CAA Caregivers cannot consent to a child’s marriage, military service, or driver’s license.</p> <p>VPA Foster parents cannot consent to the child’s marriage, military service, or driver’s license.</p>	<p>Foster parents cannot consent to the child’s marriage, military service, or driver’s license.</p>	<p>A guardian and the court must give permission for a minor child to marry.</p> <p>A guardian may consent to a minor child’s enlistment in the armed services and to application for a driver’s license.</p> <p>A guardian may apply for a passport for a minor child.</p>
Financial Obligations		
<p>CAA The caregiver can work with the parents to arrange for payment for the child’s needs.</p> <p>A relative caregiver is ineligible for foster care payments but may apply for the CalWORKs Non-Needy Caretaker Fund for relatives, which is a non-income-based payment available through the county social services agency.</p>	<p>Foster parents receive foster care funds to pay for the child’s needs.</p>	<p>The guardian is responsible for the day-to-day financial support of the child even though the parents are still obligated to support the child financially. The guardian may take legal action or contact the local child support agency to obtain child support from a parent.</p> <p>The child may also be eligible for Temporary Aid for Needy Families (TANF; formerly known as AFDC) Social Security benefits, Veterans Administration benefits, Indian child welfare benefits, and other public or private funds.</p>



Caregivers With No Court Involvement (CAA and VPA)	Foster Parents (Resource Families)	Guardians (Probate and Juvenile Court)
Financial Obligations (continued)		
<p>A non-related extended family member (NREFM) caregiver is not eligible to receive CalWORKs or any foster care payments.</p> <p>VPA Foster parents receive foster care funds to pay for the child’s needs.</p>		
Legal Liability		
<p>CAA and VPA Civil Code section 1714.1(a): “Any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of another shall be imputed to the <i>parent or guardian having custody and control of the minor</i> for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.” (Italics added)</p>	<p>Except in limited circumstances, a foster parent is immune from liability in a civil action to recover damages for injury, death, or loss to person or property caused by an act or omission of a child or nonminor dependent while the child or nonminor dependent is placed in the home of the caregiver. (See Welfare and Institutions Code section 362.06(b)(2).)</p>	<p>A guardian, like a parent, is liable for the harm and damages caused by the willful misconduct of a child. There are special rules concerning harm caused by the use of a firearm.</p> <p>Civil Code section 1714.1(a): “Any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of another shall be imputed to the <i>parent or guardian having custody and control of the minor</i> for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.” (Italics added)</p>
If you are concerned about your liability for a child’s conduct, you should contact an attorney.		
Other Duties		
<p>CAA These can be arranged between the caregiver and the child’s parents.</p> <p>VPA Foster parents may be invited to participate in a child’s services such as counseling, Child and Family Team (CFT) meetings, or other types of treatment appointments.</p>	<p>Foster parents may be invited to participate in or to support a child’s services such as counseling, Child and Family Team (CFT) meetings, or other types of treatment appointments.</p>	<p>The court may require the guardian to accept other duties, such as completing a parenting class. The guardian must follow all court orders and cooperate with court investigators.</p> <p>Court visitors and status reports: Some counties have programs in which “court visitors” track and review guardianships. If your county has such a program, you will be expected to cooperate with all requests of the court visitor. Also, a guardian may be required to fill out and file status reports.</p>



What Services and Supports Are Available to Different Caregivers?

The payments discussed below are updated annually based on the cost of living. Payments are made retroactively. For example, a child placed with a caregiver in January would receive funds for the month of January in February. The payment amounts in effect from July 1, 2021, to June 30, 2022, are given below. For updated amounts, see www.cdss.ca.gov/inforesources/letters-regulations/letters-and-notice/all-county-letters.

Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Cash Payments—Relatives		
<p>Before the caregiver receives resource family approval (RFA), Emergency Caregiver (EC) funding is available at the basic foster care rate starting from the date the child is placed with the caregiver. EC funding is tied to the foster care basic rate, which is \$1,059 per month.</p> <p>After RFA, the caregiver will receive foster care payments. For relative caregivers, the only available foster care funding is federal Aid for Families with Dependent Children-Foster Care (AFDC-FC). The foster care basic rate is \$1,059 per month.</p> <p>Approved Relative Caregiver (ARC) funds are available for children in foster care who are not eligible for AFDC-FC benefits. The foster care basic rate is \$1,059 per month.</p>	<p>Child-Only California Work Opportunity and Responsibility to Kids Program (CalWORKs) is available for relatives. Payments are approximately one-half of the foster care basic rate paid to nonrelatives. This type of assistance can begin before guardianship is ordered if the child is placed with the relative. Payments can drop below one-half of the foster care basic rate if there are multiple children in the home.</p> <p>CalWORKs payments depend on variables such as region and exempt/nonexempt status and are harder to calculate. Social workers who specialize in benefits would be the best people to ask about Maximum Aid Payments (MAP) levels for cash aid. For example, as of October 1, 2021, payment for one child ranged from \$548 to \$606 per month.</p> <p>Payments end when the child turns 18 years old, but it is possible to extend payments to age 19 if the child is completing high school.</p> <p>California foster youth who are placed with a caregiver out of state are eligible for funds at the foster care rate in that state.</p>	<p>Kinship Guardianship Assistance Payment Program (Kin-GAP) is available to children who have lived with an approved relative guardian for at least six months after the caregiver obtains resource family approval. Kin-GAP families sign a written agreement with the county. The Kin-GAP payments begin once the written agreement is signed and the juvenile court dismisses the child’s case.</p> <p>Payments can’t exceed what the child was receiving in foster care, but they can include the foster care basic rate and any special needs supplements the child was receiving in foster care.</p> <p>Kin-GAP payments generally end when a child turns 18, but can continue until age 19 if the child is completing high school or until age 21 if the Kin-GAP payments started after the child turned 16 or if the child has a disability that requires continued support.</p> <p>If the court keeps the juvenile case open after appointing a relative guardian, the guardian can receive Approved Relative Caregiver (ARC) or foster care payments instead of Kin-GAP.</p> <p>In very rare situations, you may not qualify for Kin-GAP, foster care, or ARC payments, but you may still qualify for California Work Opportunity and Responsibility to Kids Program (CalWORKs).</p>



Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Cash Payments—Nonrelatives		
<p>Before Resource Family Approval (RFA), Emergency Caregiver (EC) funding is available at the basic foster care rate starting from the date the child is placed with the caregiver. EC funding is tied to the foster care basic rate, which is \$1,059 per month.</p> <p>After RFA, the caregiver will receive foster care payments. Nonrelative caregivers receive Aid to Families with Dependent Children-Foster Care (AFDC-FC) funds. There are federal and state AFDC-FC funding programs. The foster care basic rate is \$1,059 per month.</p>	<p>There is no financial aid before the probate court orders the child placed with the guardian.</p> <p>Nonrelative guardians are eligible for AFDC-FC funding equivalent to the foster care basic rate once the court orders temporary guardianship. The foster care basic rate is \$1,059 per month.</p> <p>Payments end when the child turns 18 years old, but it is possible to extend payments to age 19 if the child is completing high school.</p>	<p>State Aid to Families with Dependent Children-Foster Care (AFDC-FC) is available to children who live with a nonrelative legal guardian. This rate may change depending on where you live, so before you move, ask if there will be a rate change. The foster care basic rate is \$1,059 per month.</p> <p>Youth who turn 18 in a nonrelative legal guardianship can receive extended financial assistance until they turn 21 if they meet certain participation criteria related to work, school, or activities designed to remove barriers to employment.</p>
Medical Insurance		
<p>Financial assistance is linked to full-scope Medi-Cal services for the child. Youth are eligible for Former Foster Youth Medi-Cal up to age 26.</p>	<p>If a probate guardian receives CalWORKs (relative) or AFDC-FC (nonrelative), the child is eligible for Medi-Cal, but after turning 18 is <i>not</i> eligible for Former Foster Youth Medi-Cal.</p>	<p>Financial assistance is linked to full-scope Medi-Cal services for the child. Youth are eligible for Former Foster Youth Medi-Cal up to age 26.</p>
Extended Foster Care		
<p>Extended Foster Care is available for youth who are in foster care placement when they turn 18. Nonminor dependents (NMDs) can receive ongoing case management and financial assistance until they turn 21; they are eligible for transitional housing and independent living placements.</p>	<p>Youth who turn 18 in a probate court guardianship are not eligible for Extended Foster Care, Independent Living Program services, or Chafee Education and Training Vouchers.</p> <p>However, if a probate guardian receives CalWORKs (relative) or AFDC-FC (nonrelative), the child will receive those funds</p>	<p>Extended Foster Care is available for youth who are in foster care placement when they turn 18. Nonminor dependents can receive ongoing case management and financial assistance until they turn 21; they are eligible for transitional housing and independent living placements.</p>



Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Extended Foster Care (continued)		
<p>Payments will vary according to placement. Payments range from the foster care basic rate of \$1,059 per month to \$5,830 per month for a parenting youth living in transitional housing in a high-cost county.</p> <p>Independent Living Program funding is available for current and former foster youth up to age 21, including youth who were in foster care on or after age 16, youth who entered into a Kin-GAP guardianship after age 16, and youth who entered into a non-related legal guardianship through juvenile court after age 8. Youth can learn household and money management and receive educational, housing, and employment assistance.</p> <p>Chafee Education and Training Vouchers are available for youth who were in foster care on or after age 16. These are grants for postsecondary education. Vouchers are up to \$5,000 per year.</p>	<p>until the age of 18 and funds may be extended to age 19 if the youth is completing high school.</p>	<p>Payments will vary according to placement. Payments range from the foster care basic rate of \$1,059 per month to \$5,830 per month for a parenting youth living in transitional housing in a high-cost county.</p> <p>Independent Living Program funding is available for current and former foster youth up to age 21, including youth who were in foster care on or after age 16, youth who entered into a Kin-GAP guardianship after age 16, and youth who entered into a non-related legal guardianship through juvenile court after age 8. Youth can learn household and money management and receive educational, housing, and employment assistance.</p> <p>Chafee Education and Training Vouchers are available for youth who were in foster care on or after age 16. These are grants for postsecondary education. Vouchers are up to \$5,000 per year.</p>
Childcare Assistance		
<p>The Emergency Child Care Bridge program provides childcare vouchers and navigation support to caregivers of children in foster care as well as to foster youth who are themselves parents. Eligibility depends on available funding and county policy.</p>	<p>No subsidized childcare assistance is available to probate guardians.</p>	<p>The Emergency Child Care Bridge program benefits are not available after a guardianship is established. No subsidized childcare assistance is available.</p>



Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Special Needs Supplements		
<p>Special needs supplements may be available for children in foster care. These include:</p> <p>Level of Care based on the physical, behavioral, emotional, educational, health, and permanency care provided to a child. Payments range from \$1,059 to \$1,416 per month.</p> <p>Intensive Services Foster Care for children with intensive medical, behavioral, developmental, or emotional needs. The payment is \$2,763 per month.</p> <p>Specialized Care Increments for children with special medical, behavioral, developmental, or emotional needs. These payments are determined by the county. You can find information at www.cdss.ca.gov/inforesources/foster-care/specialized-care or speak to a social worker.</p> <p>Dual Agency Rate for children who are in foster care and also eligible for services through the Regional Center. These rates are \$1,241 per month for a child up to 3 years old and \$2,771 per month for a child over 3.</p> <p>Whole Family Foster Home and Infant Supplement payments are available to support youth living in foster care with their nondependent children. This rate is \$900 per month.</p> <p>An Expectant Parent Payment is available to a youth in foster care during the third trimester of pregnancy. This payment is \$2,700 for the last three months of pregnancy.</p>	<p>There are no special needs supplements available for children in probate guardianships.</p>	<p>Special needs supplements may be available. These include:</p> <p>Level of Care based on the physical, behavioral, emotional, educational, health, and permanency care provided to a child. Payments range from \$1,059 to \$1,416 per month.</p> <p>Intensive Services Foster Care for children with intensive medical, behavioral, developmental, or emotional needs. The payment is \$2,763 per month.</p> <p>Specialized Care Increments for children with special medical, behavioral, developmental, or emotional needs. These payments are determined by the county. You can find information at www.cdss.ca.gov/inforesources/foster-care/specialized-care or speak to a social worker.</p> <p>Dual Agency Rate for children who are in foster care and also eligible for services through the Regional Center. These rates are \$1,241 per month for a child up to 3 years old and \$2,771 per month for a child over 3.</p> <p>Whole Family Foster Home and Infant Supplement payments are available to support youth living in foster care with their nondependent children.</p> <p>An Expectant Parent Payment is available to a youth in foster care during the third trimester of pregnancy. This payment is \$2,700 for the last three months of pregnancy.</p> <p>A Clothing Allowance is available for foster children in some counties. Payment varies by county.</p>



Juvenile Court Non-Guardian Caregiver <i>(Foster Parent or Resource Family)</i>	Probate Guardian	Juvenile Court Guardian
Special Needs Supplements (continued)		
<p>A Clothing Allowance is available for foster children in some counties. Payment varies by county.</p> <p>Education Travel Reimbursement is available to caregivers who transport a child to the child’s school of origin (the school the child was attending before being placed in the resource family home). This rate is set by the state based on two round trips per day from the foster home to the school.</p>		<p>Education Travel Reimbursement is available to caregivers who transport a child to the child’s school of origin (the school the child was attending before being placed in the resource family home). This rate is set by the state based on two round trips per day from the foster home to the school.</p>

How Do I Become a Child’s Guardian? And What Happens After That?

STAGE	Probate Guardian	Juvenile Court Guardian
First Steps	<p>A person who wants to be appointed guardian of a child must file a petition with the probate court. The child’s parent or the child, if at least 12 years old, can also file the petition. (See form GC-205-INFO, <i>Information on Probate Guardianship of the Person.</i>)</p> <p>Before the court decides to appoint a guardian, an investigation is usually required. If the proposed guardian is a relative, a court investigator conducts the investigation. If the proposed guardian is not a relative, a county social worker conducts the investigation. The investigator prepares a report, submits it to the court and the parties, and makes a recommendation to the court whether the petition should be granted.</p>	<p>A person who wants to be appointed guardian of a child in juvenile court should contact the child’s social worker or probation officer and the juvenile court early in the case. In a dependency case, the court can appoint a guardian for the child at the dispositional hearing if the parents and the child agree. In a juvenile justice (delinquency) case, the court can appoint a guardian for the child at any time after the dispositional hearing if the probation officer recommends it or the child’s attorney requests it. If the court has ordered the child placed in out-of-home relative or foster care, the court can appoint a guardian if it decides the child cannot be safely returned home and selects a permanent plan for the child. The court decides whether to appoint a guardian and whom to appoint. The person who has been caring for the child will often be appointed.</p> <p>The procedures for appointment of a guardian are the same in dependency and juvenile justice. (For more information, see form JV-350-INFO, <i>Information on Juvenile Court Guardianship.</i>)</p>
Court Oversight	<p>After a guardian is appointed, there are no regular court hearings, although the probate court has the authority to regulate and control the guardian’s actions. The court can require the guardian to allow visitation of the child with parents or other persons.</p> <p>The court may require the guardian to submit an annual status report to the court and, depending on the county, the court may hold a hearing. (See form GC-205-INFO, <i>Guardianship of the Person—Information.</i>)</p> <p>On receipt of a request, the court may order the guardian to take action or may approve and confirm actions already taken by the guardian.</p>	<p>The juvenile court keeps jurisdiction over the guardianship. When the court appoints a guardian, it must also issue visitation orders unless it finds that visitation would not be in the child’s best interest.</p> <p>In many cases after the guardianship is granted, especially if the guardian is related to the child, the court will dismiss dependency or juvenile justice jurisdiction and will not hold any more regularly scheduled court hearings. Even then, the juvenile court retains authority over the guardianship. In other cases, the court will grant the guardianship, keep dependency or juvenile justice jurisdiction, and continue to hold regular review hearings.</p> <p>Any request to change the court’s orders, including visitation orders, or to end the guardianship must be filed in the juvenile court using form JV-180.</p>

STAGE	Probate Guardian	Juvenile Court Guardian
<i>Role of Social Worker or Probation Officer</i>	<p>A county social worker is responsible for screening any proposed guardian and for conducting the guardianship investigation if the proposed guardian is not related to the child.</p> <p>If the probate court thinks a child who is the subject of a guardianship petition may be abused or neglected, it can ask a social worker to investigate and file a petition in the juvenile dependency court before it decides whether to appoint a probate guardian. If the social worker files a dependency petition, then the juvenile court, and not the probate court, has authority over the child’s custody and placement. The probate guardianship will be put on hold until the juvenile court case is over.</p> <p>After a guardian is appointed, there is no social worker involvement or oversight. The court may not order family reunification services (services to help parents reunify with the child) as part of a probate guardianship.</p>	<p>If the dependency or juvenile justice case is not dismissed after guardianship is granted, the social worker or probation officer will provide support to the guardian and child and prepare reports for scheduled juvenile court hearings.</p> <p>If the juvenile dependency or delinquency case is dismissed after guardianship is granted, continued social worker or probation officer involvement will depend on any services and financial supports the child continues to receive.</p>
<i>Terminating Guardianship</i>	<p>The court can order the guardianship terminated (ended). The guardian, the parent, the child, or, if the child is an Indian child, an Indian custodian or the child’s tribe can file a request with the probate court to terminate the guardianship.</p> <p>The guardianship automatically terminates when the child turns 18 or if the child dies before reaching this age; if the child is emancipated by a court order, by getting married, or by joining the armed forces; or if the child is adopted.</p>	<p>The court can order the guardianship terminated (ended). A social worker or probation officer, the guardian, a parent, or the child can file a request with the juvenile court to terminate the guardianship.</p> <p>The guardianship automatically terminates when the child turns 18 or if the child dies before reaching this age; if the child is emancipated by a court order, by getting married, or by joining the armed forces; or if the child is adopted.</p>
<i>Terminating Parental Rights</i>	<p>A probate guardianship does not terminate parental rights, it suspends them. If a child has been in a guardianship for two or more years, the guardian can file a petition to terminate the parents’ rights in order to adopt the child.</p>	<p>A juvenile court guardianship does not terminate parental rights, it suspends them. A social worker or probation officer, the guardian, or the child can file a request with the juvenile court to change the permanent plan to adoption and, if the court agrees, the court will first be required to terminate parental rights before finalizing the adoption.</p>

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
APPLICATION TO COMMENCE JUVENILE COURT PROCEEDINGS AND DECISION OF SOCIAL WORKER (Welf. & Inst. Code, § 329)	CASE NUMBER:

To the social worker or the child welfare agency of the county named above:

PART I. CHILD'S INFORMATION

1. a. Child's name:
 b. Age:
 c. Date of birth:
 d. Sex:
 e. (1) Parent's name: Mother Father Other parent
 (2) Parent's address:
 f. (1) Parent's name: Mother Father Other parent
 (2) Parent's address:
 g. Other caregiver (name, address, and relationship to child):

2. The child described in item 1
 - a. resides in this county.
 - b. was in this county at the time of the events alleged below.

PART II. APPLICANT'S AFFIDAVIT

3. My name and address:

4. My relationship to the child named in item 1 (specify):
5. The child named in item 1 is being abused or neglected, or is at risk of abuse or neglect, as described in Welfare and Institutions Code section 300. I am applying for an investigation and commencement of proceedings in juvenile court.
6. Facts in support of application (describe what happened concisely, and include all known and relevant dates, times, names, and addresses; use additional pages as needed, and label them as Attachment 6):

Continued on Attachment 6. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE)

CHILD'S NAME:	CASE NUMBER:
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PART III. PROBATE COURT REFERRAL

7. The Superior Court of _____ County, Department _____, sitting as a probate court and assigned to determine a petition for appointment of a guardian of the child named above in case number _____, has determined that the child named above is or may be described by Welfare and Institutions Code section 300. The court refers the child to the county child welfare agency for an investigation to determine whether proceedings in juvenile court should be commenced.

8. The child is or may be described by Welfare and Institutions Code section 300 for the following reasons:

Continued on Attachment 8. Number of pages attached: _____

9. The following documents are attached to this form:

- a. A copy of the *Petition for Appointment of Guardian of Minor* (form GC-210) or *Petition for Appointment of Guardian of the Person* (form GC-210(P)) and all attachments filed in the probate guardianship proceeding identified above.
- b. A copy of the investigator's report filed in the guardianship proceeding.
- c. Other documents containing material information (*name or brief description of each document or material*):
 - (1) (*Name or description*):
 - (2) (*Name or description*):

Date: _____

 JUDICIAL OFFICER

DECISION OF SOCIAL WORKER OR CHILD WELFARE AGENCY

10. Social worker information:

- a. Name:
- b. Agency:
- c. Address:
- d. Telephone number:
- e. Email address:

11. After conducting the investigation required in response to the affidavit on page 1 or the referral above, I have decided:

- a. to commence dependency proceedings by filing a petition in juvenile court.
- b. not to commence dependency proceedings in juvenile court because (*specify reasons, as well as any recommendation made to the applicant*):

Continued on Attachment 11b. Number of pages attached: _____

12. The report of the findings and conclusions of my investigation is appended as Attachment 12.

I declare under penalty of perjury under the laws of the State of California that I am a social worker of the county in which this application was submitted, I am authorized to determine whether to commence proceedings in the juvenile court, and the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)	(SIGNATURE OF SOCIAL WORKER)
----------------------	------------------------------

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
PROBATE COURT REQUEST FOR JUVENILE COURT REVIEW OF DECISION NOT TO COMMENCE PROCEEDINGS	GUARDIANSHIP CASE NUMBER:

PROBATE COURT

1. On (date): _____, the Superior Court of _____ County, Department _____, sitting as a probate court and assigned to determine a petition for appointment of a guardian of the child named above in case number _____, referred the child named above to the county child welfare agency for an investigation to determine whether to commence juvenile court proceedings.
2. As of this date, no less than 3 weeks after the date of referral and no more than 1 month after that date (check all that apply):
 - a. The court has not received the agency's report or its decision whether to commence juvenile court proceedings.
 - b. The court has received the agency's report, but the agency has declined to commence juvenile court proceedings.
 - c. The agency has not submitted a report, but has notified the court that it will not commence juvenile court proceedings.
3. This court requests that the juvenile court review the child welfare agency's failure, as of the date below, to commence proceedings in juvenile court and order the agency to file a petition on behalf of the child.
4. The following documents or materials are attached to this request:
 - a. The probate court's referral to the child welfare agency.
 - b. The agency's report submitted in response to the probate court's referral (if available).
 - c. Other (names and descriptions of additional supporting documents or materials): _____

Total number of pages in documents attached under 4a, b, and c: _____

Date: _____

 JUDICIAL OFFICER

JUVENILE COURT

The court has reviewed and considered the probate court's request and all materials submitted with it.

THE COURT FINDS AND ORDERS

1. a. The child is not, prima facie, described by Welfare and Institutions Code section 300, and the decision of the social worker not to commence proceedings is affirmed.
- b. The child is, prima facie, described by Welfare and Institutions Code section 300, and the social worker is ordered to commence proceedings by filing a petition under Welfare and Institutions Code section 332 in this court on or before (date): _____.
2. The matter is set for argument on (date): _____, at (time): _____, in Department (number): _____.
 The findings and orders in item 1 are deferred to the conclusion of argument.
3. After item 1 is completed, the clerk is directed to return this form to the probate court for filing in the guardianship case file.

Date: _____

 JUDICIAL OFFICER

JV-350-INFO Information on Juvenile Court Guardianship

This form is about legal guardianship ordered by the juvenile court as the permanent plan for a child under the court's jurisdiction who cannot return home safely or be adopted.

The form explains:

- What is a guardianship and who can become a guardian;
- How and when to ask to become a guardian in juvenile court;
- Important differences between a resource family or foster parent; a court-appointed guardian; and an adoptive parent; and
- A guardian's legal rights, duties, and eligibility for financial help.

To become the guardian of a child who does *not* have a juvenile court case, you need to ask the *probate* court. Read Judicial Council forms GC-205-INFO and GC-206-INFO to learn more about probate guardianships. Read form GC-207-INFO/JV-352-INFO to compare guardianships with other childcare arrangements.

For more information, visit the California Courts website at www.courts.ca.gov/1206.htm or talk to a lawyer with experience in juvenile court. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm

1 What is a guardianship?

A guardianship—technically a *guardianship of the person*—is a court-ordered relationship in which a person, other than the child's parent, is given legal and physical custody of a child and can make the decisions that a parent can about the child's care and control, residence, education, and medical treatment. When a guardianship is established, the parents' rights to have the child live with them and to make decisions for the child are completely suspended and given to the guardian.

2 Who can become a guardian in juvenile court?

To become a child's court-appointed guardian, you must:

- Be an adult (18 years old or older);
- Not be the child's parent; and
- Be approved by the county child welfare agency or juvenile probation department.

3 Can a relative be appointed guardian?

Yes. The juvenile court can appoint any approved adult, including any relative except the child's parent. A nonrelative may need to meet stricter approval requirements than a relative.

4 Is a foster parent the same as a guardian?

No. A foster parent is *not* a guardian, but the court can and often will appoint a foster parent as a guardian. Foster parents have *some* legal rights, including:

- The right to receive notice of the child's court hearings and go to the hearings; and

- The right to give the court information about the child's needs.

5 How is a guardian different from a foster parent?

Foster parents and guardians are both responsible for taking care of other people's children. But there are important differences.

- **Permanence.** Foster care is intended to be temporary; it can end at any time. A guardianship gives a child a stable, lasting home and relationship.
- **Court supervision.** The court holds review hearings every six months for a child in foster care. A social worker or probation officer visits a foster placement regularly. In a guardianship, no regular hearings or visits are required unless the court keeps the juvenile case open.
- **Duties.** A foster parent provides food, clothing, housing, and emotional support to the child under the supervision of a social worker or probation officer. A guardian has more rights and duties toward the child, but may receive fewer services and less personal support.

6 Who else can be involved in the child's court case?

The child's relatives. If you are a relative, even if not the child's foster parent or caregiver, you can still give the court important information in writing.



7 Will the child be returned to the parent?

In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live at home.

Sometimes the court decides the child will not be able to return home safely. If that happens, the court will deny or stop services for the parent. The social worker or probation officer will recommend to the court a permanent plan for the child in a written report.

8 Is guardianship a permanent plan?

Yes. A guardianship is one of three authorized permanent plans. It is intended to last until the child turns 18 years of age. If the child cannot return home, adoption is the preferred permanent plan because it is more stable and secure. (Later, this form talks more about adoption.) But if adoption is not a legally available option, the court will try to appoint a guardian for the child.

HOW CAN I BECOME THE CHILD'S GUARDIAN?**9 How do I ask to become the guardian?**

If you want the court to appoint you the child's guardian, you should:

- Tell the social worker or probation officer right away; and
- Ask the judge at a hearing as soon as you can.

Think carefully! If the court appoints you, the guardianship will last until the child turns 18. The court will not “undo” or end a guardianship unless:

- The situation has changed since appointment; and
- It is in the child's best interests to end it.

10 What are the steps to becoming a guardian?

There are several steps to becoming a child's guardian in juvenile court:

- a. The social worker or probation officer will interview you and visit your home to make sure you, your home, and everyone living there are safe for the child.
- b. The social worker or probation officer will write a report to the court to recommend a permanent plan for the child.

Note: If you are not recommended as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.

- c. There will be a court hearing to decide the child's permanent plan. You will get a notice that tells you when and where the hearing will happen.
- d. Go to the hearing and talk to the judge. The child's parents and other people interested in the case can also go to the hearing and tell the judge what they think about you being the child's guardian.

11 How will the court decide whether to appoint me as guardian?

The court will consider:

- Whether the child can be adopted;
- The recommendation in the agency's report;
- What you and other people say at the hearing; and
- Any other reasons for or against appointing you as guardian.

The court will appoint you as guardian if it decides that:

- A guardianship is best for the child; *and*
- You are the best person to be the child's guardian.

12 What if the court appoints me as guardian?

If the court appoints you as guardian, take the order to the clerk. After you **affirm that you will perform the duties of a guardian according to law**, the clerk will issue *Letters of Guardianship* (form JV-330) as proof that you are the child's legal guardian. Buy a certified copy of the form from the clerk, make copies of that, and keep the certified copy in a safe place.

Take a copy of the **Letters** with you whenever you:

- Take the child to a doctor, dentist, or therapist;
- Sign the child up for school or go to school meetings; or
- Travel with the child.



13 Will the court oversee me as guardian?

When it appoints you, the court can give you other orders, such as to notify the court if you move or to allow the parents or siblings to visit and spend time with the child. You must obey the court's orders.

After it appoints you, the juvenile court **will** oversee the guardianship to make sure you perform your duties. You won't usually have to go to court unless the court keeps the juvenile case open or someone asks the court to change its orders or make new orders.

Note: Even after the juvenile case is closed, anyone, *including you*, can use *Request to Change Court Order* (form JV-180) to ask the juvenile court to give you directions, review your plans or actions as guardian, change its previous orders, or end the guardianship.

The social worker or probation officer might also offer permanent placement services to the child. If you're not related to the child, a social worker will visit you every six months and update a voluntary case plan. If you don't do what the case plan says, they might ask the court to order you to do it.

14 When will the guardianship end?

A guardianship lasts until the child turns 18 unless:

- The child dies before then;
- The child is adopted (by you or another adult); or
- The child is emancipated (or freed from your control) by getting married, entering active military duty, or getting a court order.

The court can order a guardianship to end before the child turns 18, but only if the proposed alternative is in the child's best interests; that is, it would be *better for the child* than continuing the guardianship.

Note: If the child keeps living with you after turning 18, you can get financial help if the child is eligible for Kin-GAP or Extended Foster Care and you meet other conditions. See page 5 for more information about financial support generally.

15 Can the court replace me as guardian?

Yes. The court will consider replacing you as guardian if asked by:

- You, the guardian;
- Any other interested adult; or

- The child, if 14 years old or older.

The judge will replace you only if the situation has changed and it is in the child's best interests.

16 How is guardianship different from adoption?

Both a guardian and an adoptive parent have legal and physical custody of the child in place of the birth parents. But there are many differences.

Permanence. In a guardianship, the parent's rights are only *suspended*. The court can end a guardianship and give the parents back their rights if that would be in the child's best interests. In an adoption, parental rights are *permanently ended*. The adoptive parent is the child's legal parent. The birth parents cannot get their rights back.

Visitation. In a guardianship, the court can make an order allowing the parents or other relatives to visit a child. The guardian must obey the visitation order, as well as all other court orders. In an adoption, parents and other relatives lose their rights to visit the child unless the court and the adoptive parents agree that they can have contact after the adoption.

Duration. A guardianship lasts until the child turns 18 unless something happens to end the guardianship before then. (A court can order a guardianship to end if that is in the child's best interests.) An adoption is intended to last forever. A court can end an adoption only by terminating parental rights in a new juvenile or family law case.

Court oversight. The court controls a guardianship and can make orders, including to replace the guardian or end the guardianship, if someone asks and the request is in the child's best interests. The court does not oversee an adoption once it is final.

Inheritance. A child in a guardianship can inherit property from a parent if the parent dies without a will. If the court knows the child might inherit property, it may appoint a "guardian of the estate" to manage the property. An adopted child usually has no right to inherit from a birth parent, but may receive a gift from a birth parent's will or trust.

WHAT ARE A GUARDIAN'S RIGHTS AND DUTIES?

Subject to the court's orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would.

Specifically, that means:

17 Arrange a place for the child to live

If you move the child to a new address in California, you must notify the court in writing. To move the child out of California, you must get court approval first. Use form JV-180 to ask the court to approve. Other states have different guardianship laws. If you plan to move to another state, find out about your legal rights and duties in that state.

18 Arrange for the child's health care

You can **consent to (allow)** most medical or dental treatment for the child. But if the child is at least 14 years old and does not want to have a non-emergency surgery, you must first get permission from the court.

The law also allows older and more mature children to get some medical treatment on their own without your approval, including:

- Outpatient mental health treatment;
- Reproductive health care; and
- Drug and alcohol treatment.

19 Provide for the child's education

You can choose the child's school and learning programs just as a parent can. In special situations, the court may also be involved in these decisions. Pay attention to how the child does in school, and meet with the child's teachers. If the child needs special education or other specialized services, you can also ask the school or other providers for these services.

20 Access social services

You can get help for the child from other programs, such as:

- Head Start;
- Regional centers for persons with developmental delays or disabilities;
- Health care services; and
- After-school care.

21 Give consent to the child's marriage

You can allow the child to marry, but you must get the court's permission first. Once the child gets married, the guardianship will end.

22 Give consent to the child's military service

You can allow the child to enlist in the U.S. military. Once the child enters active duty, the guardianship will end.

23 Give consent for the child's driver's license

The child cannot get a driver's license without your written permission. (See also the duties described below.)

24 Pay for harm caused by child's driving

You will have to pay for any damage the child causes when driving. The law limits how much money you can be forced to pay. If you're concerned about this duty, you should talk to a lawyer.

You must get **insurance** to cover the child when driving. (The child cannot get a license without your written permission.) If you change your mind later, you can sign a form at the DMV to cancel the child's driver's license.

25 Pay for harm caused by child's other acts

Willful misconduct. In most cases, a guardian can be made to pay only for harm to another person caused by the child's willful misconduct. There is usually a limit about how much you may need to pay.

Negligent conduct. You can be made to pay for harm caused by the child's negligent conduct. If you're concerned about this duty, you should talk to a lawyer.

26 Pay for the child's needs

The parents are still legally responsible for child support, but you can accept this responsibility. You can get money to help you support the child. See page 5 for more information.

27 Obey all court orders

The court may require you to accept other duties. For example, the judge may order you to take the child to visit a parent or other relative. You must do what the court orders.



WHAT FINANCIAL SUPPORT CAN I RECEIVE?

You may be able to get financial help from the county, state, or federal government. The type of help depends on the child's eligibility and their relationship to you.

Important! Before you become the child's guardian, ask the child's social worker or probation officer or a lawyer if you will qualify for financial help. For a detailed comparison of services and supports available to foster parents, relative caregivers, and guardians, read *Comparison Between Guardianship and Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

If the child is related to you

If you become the guardian of a child who is a relative, you may qualify for financial help from these programs:

- **Kin-GAP program:** If the child has lived with you for at least six months after resource family approval, you sign a written agreement, and the court dismisses the case, you can qualify for Kin-GAP payments. Kin-GAP gives you the same monthly payments as a foster parent caring for a foster child, including any rate the county might pay to care for the child's special needs. You can receive Kin-GAP in any county or state, but the amount may change based on where you live. In California, the payments are the same amount as foster care payments.
- **Approved Relative Caregiver (ARC) or foster care program:** If the court keeps the juvenile case open after appointing you guardian, you can receive ARC or foster care payments instead of Kin-GAP.
- **CalWORKs (cash assistance):** In very rare situations, you may not qualify for Kin-GAP, foster care, or ARC payments. In those cases, you may still qualify for CalWORKs payments. If you have a low income, you may get a full CalWORKs grant. If your income is too high to qualify for a full grant, you may still receive a "child-only" CalWORKs grant.
- **Health care:** Children who qualify for Kin-GAP can get health care through Medi-Cal.

- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults. The services available depend on the child's age when Kin-GAP payments started.

If the child is NOT related to you

In California, guardians who are not related to the child are eligible for foster care payments from the state. You can receive these payments in any county or state, but the amount may change based on where you live. Before you move, ask if the rate will change! If you receive these payments, a case worker will visit you every six months.

- **Health care:** Children who qualify for foster care payments can get health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults.

If you keep supporting the child after age 18

Payments can continue after the child turns 18 if you continue to care for and support the youth, the youth meets all other eligibility requirements, and you both sign written agreements.

Generally, Kin-GAP payments end when a child turns 18, *unless* the payments started after the child turned 16 (they continue until age 21) *or* the child has a mental or physical disability (funding continues until 21) *or* the child is in high school (funding continues until 19 or graduation).

Important! Talk to the child's social worker or probation officer or a lawyer a few months *before* the child turns 18 to make sure the child doesn't miss any payments.

Other financial help

If you do not qualify for Kin-GAP or foster care payments, you may be able to get Social Security, Supplemental Security Income (SSI), Medi-Cal, or other financial help.

You can also get help and information from the local agencies on the attached list. *[Attach a list of agencies and their contact information]:*

Deferred

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules and Forms: Probate Conservatorships

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC 330 and GC 331; revoke form GC 332

Committee or other entity submitting the proposal:

Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended February 15, 2022

Project description from annual agenda: Assembly Bill 1194 (Stats. 2021, ch. 417), among other things, amends Probate Code section 1471 to require the court to appoint counsel for an unrepresented conservatee, proposed conservatee, or person alleged to lack legal capacity in specified proceedings, and to clarify counsel's duties to the client. AB 1194 also amends Probate Code sections 1826 and 2253 to require the court, contingent on the appropriation of funding, to keep confidential specific information in the court investigator's report, as well as to modify other duties. Notwithstanding the funding contingency, section 1826 requires the council to update the rules of court and forms to implement that section's requirements. The committee will consider whether conforming rule amendments or revisions to forms, including forms GC-330, GC-331, and GC-332, are needed.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR22-19

Title

Rules and Forms: Probate Conservatorships

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 7.576;
amend rules 7.575, 7.756, and 7.1060; repeal
rules 7.1052, 7.1053, and 7.1054; revise
forms GC-330 and GC-331; revoke form
GC-332

Proposed by

Probate and Mental Health Advisory
Committee

Hon. Jayne Chong-soon Lee, Chair

Action Requested

Review and submit comments by May 13,
2022

Proposed Effective Date

January 1, 2023

Contact

Corby Sturges, 415-865-4507

Corby.Sturges@jud.ca.gov

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes adopting one rule of court, amending three rules, repealing three rules, revising two forms, and revoking one form to implement requirements in Assembly Bill 1194 (Stats. 2021, ch. 417), which revised the procedural and substantive law governing the establishment, court oversight, and termination of probate conservatorships. Amendment of one rule and revision of one form are expressly mandated by statute.

Background

AB 1194 amends the laws governing the appointment of a probate conservator, the court's oversight of the conservator, and the procedures for terminating a conservatorship in several important respects that require changes to the California Rules of Court and Judicial Council forms.¹ The law strengthens and clarifies procedural protections for conservatees and proposed conservatees by requiring appointment of counsel in all cases in which a conservatee, proposed

¹ The legislation also, subject to an appropriation of funds, authorizes the courts to impose specific penalties on professional fiduciaries for violations of their duties and requires courts to report the penalties to the Professional Fiduciaries Bureau. See Bus. & Prof. Code, §§ 6563, 6580; Prob. Code, §§ 1051(d), 1851.6, 2112, 2653. These penalties and reporting requirements are beyond the scope of this proposal.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

conservatee, or person alleged to lack legal capacity has not retained counsel and does not plan to do so; specifying additional required elements for initial and review investigations; increasing the frequency of mandatory investigation and court review of established conservatorships; and shifting the burden of proof to favor terminating conservatorships. The law also amends the standards and procedures for allowing compensation of conservators and their attorneys.²

In its amendments to Probate Code section 1826(g), AB 1194 requires the Judicial Council, on or before January 1, 2023, to update rules of court and Judicial Council forms as necessary to implement the bill's changes to that section.³ Additional substantive and procedural changes in the bill require the other rule amendments and form revisions in the proposal to avoid inconsistency with statute.

The Proposal

To implement the requirements and procedures enacted by AB 1194, the Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2023:

Amend rule 7.575

Rule 7.575(b) would be amended to reflect the amendments to section 2620(c) by AB 1194 and AB 2844 (Stats. 2020, ch. 221) authorizing a conservator or guardian to submit original account statements or verified electronic statements, including computer-generated printouts of verified electronic statements, in support of each court accounting, subject to specific conditions.

Adopt rule 7.576

Rule 7.576 would combine the provisions of existing rules 7.1052(c), 7.1053, and 7.1054, with slight amendments, to form a single new rule governing the duties of a conservator of the estate to file and serve a final account when the conservator's administration of the estate terminates for any reason, including removal, resignation, or termination of the conservatorship.

Amend rule 7.756

Rule 7.756(a) would be amended to reflect the restriction added by AB 1194 to the court's authority under sections 2640 and 2641 to allow just and reasonable compensation requested by a conservator or guardian for services rendered only if those services were in the best interest of the conservatee or ward.

Repeal rules 7.1052, 7.1053, and 7.1054

Rule 7.1052(a) and (b) summarizes the previous statutory requirements for terminating a conservatorship to an extent that may be misleading. To attempt to amend the rules to conform to

² The courts' performance of many of the duties imposed by AB 1194 are contingent on the appropriation of funds identified for that purpose. The committee nevertheless proposes these amendments and revisions now because some are expressly mandated, others implement duties or requirements that do not depend on funding, and still others modify rules or forms that already implement existing statutory duties that themselves are contingent on an appropriation.

³ All subsequent statutory references are to the Probate Code unless otherwise specified.

the detailed requirements in amended sections 1860, 1860.5, 1862, and 1863 would either increase the potential for confusion or would require extensive repetition of statutory language. The committee therefore recommends repealing these subdivisions to let the amended statutes speak for themselves. Rules 7.1052(c), 7.1053, and 7.1054 address the duties of a conservator of the estate to file and serve the conservator's final account. These rules would be repealed, consolidated into new rule 7.576, and placed in chapter 12 of the Probate Rules, which governs accounts and reports.

Amend rule 7.1060

Rule 7.1060 would be amended to repeal subdivision (c), which refers exclusively to form GC-332. The committee proposes revoking form GC-332 in this proposal, below.

Revise *Order Appointing Court Investigator (form GC-330)*

Form GC-330 would be updated to conform to the amendments to the court investigator's duties under section 1826, which governs investigations in response to a petition to appoint a probate conservator, and section 2253, which governs investigations in response to a temporary conservator's proposal to fix the residence of a temporary conservatee at a place other than the place where the conservatee resided before the commencement of proceedings.

Proposed revisions include:

- Incorporating into items 1f and 3c the requirement that investigators gather and review relevant medical reports regarding the proposed conservatee from the person's primary care physician and other relevant mental and physical health care providers;
- Incorporating into items 1g, 1h, and 3d the requirement that confidential medical information and confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) be placed in a separate attachment, and that the attachment be omitted from copies of the report sent to specified persons;
- Deleting from item 3 the court's discretion, on a finding of good cause, to dispense with the requirement to conduct an investigation if a temporary conservator has requested court permission to move the temporary conservatee from their personal residence. AB 1194 eliminated this discretion from section 2253(b).

Additional revisions are proposed to promote consistency, clarity, and simplicity.

Revise *Order Appointing Court Investigator (Review and Successor Conservator Investigations) (form GC-331)*

Form GC-331 would be updated to conform to the amendments to the court investigator's duties under sections 1850, 1850.5, and 1851 in review investigations. Proposed revisions include:

- Adding to item 1b the duties to determine whether the conservatee still meets the criteria for appointment of a conservator and, if so, whether the conservatorship remains the least restrictive alternative needed for the conservatee's protection;

- Adding a new item 1c to reflect the requirement that the investigator determine whether the appointment order should be amended to modify the powers and duties of the conservator to maintain the conservatorship as the least restrictive arrangement needed for the conservatee's protection;
- Revising item 1d to conform to section 1851(a)(1)(E), as amended by AB 1194 and SB 589 (Stats. 2015, ch. 736, § 11), regarding the determination of the conservatee's capability to communicate, with or without accommodations, a desire to participate in the voting process and the possibility of restoring the voting rights of a previously disqualified conservatee;
- Revising item 1i to reflect the investigator's duty in section 1851(c), as amended by AB 1194, to recommend whether to continue, modify, or terminate a limited conservatorship;
- Incorporating into items 1l and 1m the requirements that confidential medical information and confidential information obtained CLETS be placed in a separate attachment to the report, and that the attachment be omitted from copies of the report sent to specified persons;
- Revising items 1m and 3h to update the manner for delivering the investigator's report under section 1851(b)(1), as amended by AB 1194 and AB 976 (Stats. 2017, ch. 319, § 40) to include any manner authorized by section 1215, including personal delivery, delivery by mail, and electronic delivery subject to the recipient's consent; and
- Revising item 3f to conform to the requirements for appointment of counsel under section 1471, as amended by AB 1194.

Revoke Order Setting Biennial Review Investigation and Directing Status Report Before Review (form GC-332)

AB 1194 amended section 1850(a)(2) to eliminate the court's discretion to set the next annual statutory review in two years if, at the first or any subsequent annual review, the court determined that the conservator was acting in the conservatee's best interest. Because form GC-332 was intended to be used only when the court exercised this discretion, it no longer serves any purpose and would be revoked.

Alternatives Considered

The committee considered proposing additional rule amendments and form revisions related to the establishment, oversight, and termination of conservatorships, but elected to defer further changes in anticipation of further legislation. The committee agreed to request specific comment on developing an additional form for appointment of an investigator and attempting to specify by rule of court the factors that a court should consider in determining whether services rendered by a conservator or guardian were in the best interest of the conservatee or ward, as required by amendments to sections 2640 and 2641.

The committee did not consider taking no action. AB 1194 expressly requires the Judicial Council to update the rules and forms affected by its amendments to section 1826. Rule 7.1060 and form GC-330 are covered by this mandate. The other rules and forms in the proposal would be inconsistent with current law without amendment or revision.

Fiscal and Operational Impacts

The proposed rule amendments and form revisions would impose indeterminate costs on the courts attendant to changing their operational procedures. These procedural changes are, however, required by statute and are, therefore, to a large extent unavoidable. It is possible that some changes—for example, the authority to accept verified electronic account statements in support of conservators' required accountings—could lead to marginal cost savings.

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 the committee develop a new form for the court to use to appoint a court investigator to conduct an investigation under section 1851.1 on a petition to transfer an out-of-state conservatorship into California?
- Would rules—in addition to rules 7.751(b) and 7.756—articulating standards or factors the court should consider in determining whether services rendered by a conservator or guardian were in the best interest of the conservatee or ward be appropriate and useful?

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 3 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. Cal. Rules of Court, rules 7.575, 7.576, 7.756, 7.1052, 7.1053, 7.1054, and 7.1060, at pages 6–10
2. Forms GC-330, GC-331, GC-332, at pages 11–16
3. Link A: AB 1194 (showing amendments),
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB1194&showamends=true

Rule 7.576 of the California Rules of Court would be adopted, rules 7.575, 7.756, and 7.1060 would be amended, and rules 7.1052, 7.1053, and 7.1054 would be repealed, effective January 1, 2023, to read:

1 **Rule 7.575. Accounting of conservators and guardians**

2
3 * * *

4
5 (a) * * *

6
7 (b) **Supporting documents**

8
9 Each accounting filed with the court must include the supporting documents,
10 including all ~~original~~ account statements, specified in Probate Code section 2620(c)
11 ~~of the Probate Code~~.

12
13 ~~(1) If a conservator or guardian receives a statement from the issuing institution~~
14 ~~in electronic form but not in paper form, the court has discretion to accept a~~
15 ~~computer-generated printout of that statement as an original in satisfaction of~~
16 ~~the requirements in section 2620(c) if:~~

17
18 ~~(A) The fiduciary submitting the printout verifies under penalty of perjury~~
19 ~~that the statement was received in electronic form and printed without~~
20 ~~alteration; and~~

21
22 ~~(B) The printout is an “original,” as defined in Evidence Code section 255.~~

23
24 (1) An account statement includes:

25
26 (A) An original account statement; or

27
28 (B) A verified electronic statement.

29
30 (2) ~~This rule does not authorize a fiduciary to submit, or a court to accept, a copy~~
31 ~~of a statement in support of an accounting filed under section 2620. A court~~
32 ~~may also accept a computer-generated printout of an original verified~~
33 ~~electronic statement if the fiduciary verifies that the statement was received~~
34 ~~in electronic form and printed without alteration.~~

35
36 (3) A verification under this subdivision must be executed by the fiduciary as
37 required by Code of Civil Procedure section 2015.5.

38
39 (c)–(f) * * *

1 **Rule 7.576. Final account of conservator of the estate**

2
3 **(a) Filing and approval of final account**

4
5 A conservator of the estate whose administration is terminated for any reason,
6 including removal, resignation, or termination of the conservatorship, must file and
7 obtain the court’s approval of a final account of the administration.
8

9 **(b) Delivery of final account of removed or resigned conservator**

10
11 A conservator of the estate who has resigned or been removed must deliver a copy
12 of the conservator’s final account and the petition for its settlement with the notice
13 of hearing required by Probate Code section 1460(b)(1) to the successor
14 conservator of the estate in any manner permitted by Probate Code section 1215,
15 unless the court dispenses with that notice.
16

17 **(c) Delivery of final account after termination of conservatorship**

18
19 After termination of a conservatorship, a conservator of the estate must deliver a
20 copy of the conservator’s final account and the petition for its settlement with the
21 notice of hearing required by Probate Code section 1460(b)(2)–(3) to both the
22 former conservatee and the spouse or domestic partner of the former conservatee in
23 any manner permitted by Probate Code section 1215, unless the court dispenses
24 with that notice.
25
26

27 **Rule 7.756. Compensation of conservators and guardians**

28
29 **(a) Standards for determining just and reasonable compensation**

30
31 The court may consider the following nonexclusive factors in determining just and
32 reasonable compensation for a conservator from the estate of the conservatee or a
33 guardian from the estate of the ward for services rendered in the best interest of the
34 conservatee or ward up to that time:
35

- 36 (1) The size and nature of the conservatee’s or ward’s estate;
37
38 (2) The benefit to the conservatee or ward, or ~~his or her~~ the estate, of the
39 conservator’s or guardian’s services;
40
41 (3) The necessity for the services performed;
42
43 (4) The conservatee’s or ward’s anticipated future needs and income;

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- (5) The time spent by the conservator or guardian in the performance of services;
- (6) Whether the services performed were routine or required more than ordinary skill or judgment;
- (7) Any unusual skill, expertise, or experience brought to the performance of services;
- (8) The conservator’s or guardian’s estimate of the value of the services performed; and
- (9) The compensation customarily allowed by the court in the community where the court is located for the management of conservatorships or guardianships of similar size and complexity.

(b) No single factor determinative

No single factor listed in (a) should be the exclusive basis for the court’s determination of just and reasonable compensation for services rendered in the best interest of the conservatee or ward.

(c) * * *

~~**Rule 7.1052. Termination of conservatorship**~~

~~**(a) Operation of law or court order**~~

~~A conservatorship of the person or estate may terminate by operation of law or may be terminated by court order if the court determines that it is no longer required.~~

~~**(b) Conservator of the person**~~

~~Under Probate Code section 1860(a), a conservatorship of the person terminates by operation of law when the conservatee dies, and the conservator of the person need not file a petition for its termination.~~

~~**(c) Duty of conservator of estate on termination**~~

~~A conservator of the estate whose administration is terminated by operation of law or by court order must file and obtain the court’s approval of a final account of the administration.~~

1
2
3 **Rule 7.1053. Service of final account of removed or resigned conservator**
4

5 A resigned or removed conservator of the estate must serve a copy of the conservator's
6 final account and the petition for its settlement with the notice of hearing that must be
7 served on the successor conservator of the estate under Probate Code section 1460(b)(1),
8 unless the court dispenses with such service.
9

10
11 **Rule 7.1054. Service of final account after termination of conservatorship**
12

13 After termination of the conservatorship, the conservator of the estate must serve copies
14 of the conservator's final account and the petition for its settlement with the notices of
15 hearing that must be served on the former conservatee and on the spouse or domestic
16 partner of the former conservatee under Probate Code sections 1460(b)(2) and (3), unless
17 the court dispenses with such service.
18

19
20 **Rule 7.1060. Investigations and reports by court investigators**
21

22 **(a) Order Appointing Court Investigator (form GC-330)**
23

24 *Order Appointing Court Investigator* (form GC-330) is an optional form within the
25 meaning of rule 1.35 of these rules, except as follows:
26

- 27 (1) A court may, by local rule, require that form GC-330 be used for orders
28 appointing court investigators and directing them to conduct all or any of the
29 investigations described in the form and to prepare, file, and serve deliver
30 copies of reports concerning those investigations. The local rule may also
31 prescribe procedures for the form's preparation, service, delivery to other
32 parties, and delivery to the court for execution and filing.
33

34 (2) * * *

35
36 **(b) Order Appointing Court Investigator (Review and Successor Conservator**
37 **Investigations) (form GC-331)**
38

39 *Order Appointing Court Investigator (Review and Successor Conservator*
40 *Investigations)* (form GC-331) is an optional form within the meaning of rule 1.35
41 of these rules, except as follows:
42

1 (1) A court may, by local rule, require that form GC-331 be used for orders
2 appointing court investigators and directing them to conduct all or any of the
3 review investigations under Probate Code sections 1850 or 1850.5 and 1851
4 or investigations concerning the appointment of successor conservators under
5 Probate Code sections 2684 and 2686 described in the form and to prepare,
6 file, and ~~serve~~ deliver copies of reports concerning those investigations. Form
7 GC-331 ~~is to~~ must be prepared only by the court ~~only~~.

8
9 (2) * * *

10
11 ~~(e) ***Order Setting Biennial Review Investigation and Directing Status Report Before***~~
12 ~~***Review (form GC 332)***~~

13
14 ~~*Order Setting Biennial Review Investigation and Directing Status Report Before*~~
15 ~~*Review (form GC 332)*~~ is an optional form within the meaning of rule 1.35 of these
16 rules, ~~except as follows:~~

17
18 ~~(1) A court may, by local rule, require that form GC 332 be used for orders~~
19 ~~setting biennial review investigations and directing status reports under~~
20 ~~Probate Code section 1850(a)(2). Form GC 332 is to be prepared by the court~~
21 ~~only.~~

22
23 ~~(2) A court may, by local rule, require that a general order, a court prepared~~
24 ~~order, or a local form order instead of form GC 332 be used concerning the~~
25 ~~matters described in form GC 332.~~

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	CASE NUMBER:

To (name):

You are hereby appointed Court Investigator in the matter above.

1. **A Petition for Appointment of a Probate Conservator (form GC-310) has been filed. YOU ARE DIRECTED TO:**
- a. Conduct the interviews required by Probate Code section 1826(a)(1). Interview the proposed conservatee personally.
 - b. Provide to the proposed conservatee all the information required by Probate Code section 1826(a)(2).
 - c. Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend.
 - d. Make all determinations required by Probate Code section 1826(a)(4)–(8). In making the determination required by section 1826(a)(4), review the allegations of the *Petition* as to why the appointment of a conservator is necessary and refer to the *Confidential Supplemental Information* (form GC-312) submitted by the petitioner, as well as any medical reports received. Consider the facts alleged in form GC-312 and the medical reports that address each of the categories specified in Probate Code section 1821(a)(1)–(5). Determine, to the extent practicable or possible, whether you believe the proposed conservatee suffers from one or more of the mental function deficits listed in Probate Code section 811(a) and, if so, whether one or more of those deficits significantly impairs the proposed conservatee's ability to understand and appreciate the consequences of their actions in connection with any of the functions described in Probate Code section 1801(a) (if a conservator of the person is sought) or section 1801(b) (if a conservator of the estate is sought). Describe all observations that support your determinations.
 - e. Determine if the proposed conservatee is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process.
NOTE: Every person is presumed competent to vote. The proposed conservatee may not be disqualified from voting unless the court makes the determination above and appoints a conservator. The proposed conservatee may not be disqualified from voting on the basis that the proposed conservatee does, or would need to do, any of the following to complete an affidavit of voter registration: (1) signs the affidavit of voter registration with a mark or a cross; (2) signs the affidavit of voter registration by means of a signature stamp; (3) completes the affidavit of voter registration with the assistance of another person; or (4) completes the affidavit of voter registration with reasonable accommodations.
 - f. Gather and review relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health providers.
 - g. Report to the court in writing—placing all confidential medical information or confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) in a separate attachment—at least five days before the hearing, concerning all the foregoing, including the proposed conservatee's express communications concerning (1) representation by legal counsel; and (2) if the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefers that another person act as conservator.
 - h. Deliver a copy of your report, omitting any attachment containing confidential medical information or confidential information obtained from CLETS, in any manner permitted by Probate Code section 1215, at least five days before the date set for hearing,
 - (1) to all persons listed in Probate Code section 1826(a)(13), **except** for the persons listed in attachment 1h(1) because the court has determined that delivery to those persons will harm the proposed conservatee; and
 - (2) to the persons listed in Attachment 1h(2) (specify names and addresses in the attachment).
 - i. Comply with the other orders specified in Attachment 1i.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name):	<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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2. **A Petition for Appointment of Temporary Conservator (form GC-111) has been filed. YOU ARE DIRECTED TO:**
- Conduct the interviews required by Probate Code section 2250.6(a)(1) before the hearing on the petition or, if that is not feasible, conduct the interviews required by section 2250.6(b)(1) within two court days after the hearing. In either case, interview the temporary conservatee or proposed temporary conservatee personally.
 - Provide to the temporary conservatee or proposed temporary conservatee the information in Probate Code section 2250.6(a)(2) before the hearing or, if that is not feasible, the information in section 2250.6(b)(2) within two court days after the hearing.
 - Make the determinations required by Probate Code section 2250.6(a)(3)–(5) before the hearing on the petition unless it is not feasible to do so.
 - Report to the court in writing before the hearing on the petition concerning all of the activities discussed in item 2a–c, above, that you are able to complete before the hearing.
 - If you cannot visit the temporary conservatee until after the hearing at which a temporary conservator was appointed, and the temporary conservatee objects to the appointment of the temporary conservator or requests an attorney, report this information to the court promptly and in no event more than three court days after the date of your visit with the temporary conservatee.
 - If it appears to you that the temporary conservatorship is inappropriate, report this determination in writing to the court immediately, and in no event more than two court days after you make the determination.
3. **The temporary conservator has requested an order under Probate Code section 2253 to change the residence of the temporary conservatee. YOU ARE DIRECTED TO:**
- Personally interview and inform the temporary conservatee of the contents of the request by the temporary conservator for authority to change the temporary conservatee's residence; of the nature, purpose, and effect of the proceedings; and of the right to oppose the request, attend the hearing, and be represented by legal counsel.
 - Make the determinations required by Probate Code section 2253(b)(3)–(9).
 - Gather and review relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health care providers.
 - At least two days before the hearing on the request, report your findings concerning the foregoing in writing to the court, placing all confidential medical information and confidential information from CLETS in a separate attachment. Include in your report the temporary conservatee's express communications concerning representation by legal counsel and whether the temporary conservatee is not willing to attend the hearing and does not wish to contest the request.
 - Comply with the other orders specified in Attachment 3e.
4. **A request for exclusive authority to give consent for medical treatment under Probate Code section 1880 has been included in the petition for appointment on form GC-310 or filed as a separate petition on form GC-380.**
- The petition alleges that the conservatee or proposed conservatee is not willing to attend the hearing, or the court has received an affidavit or certificate attesting to the medical inability of the conservatee or proposed conservatee to attend the hearing.
- YOU ARE DIRECTED TO:**
- Interview the conservatee or proposed conservatee personally and inform the conservatee or proposed conservatee of the contents of the petition; of the nature, purpose, and effect of the proceeding; and of the right to oppose the petition, attend the hearing, and be represented by legal counsel.
 - Make the determinations required by Probate Code section 1894(c)–(f).
 - At least five days before the hearing on the petition, report your findings concerning the foregoing in writing to the court, and include in your report the conservatee's express communications concerning representation by legal counsel and whether the conservatee is not willing to attend the hearing and does not wish to contest the petition.
 - Comply with the other orders specified in Attachment 4d.
5. Number of pages attached:

Date:

JUDICIAL OFFICER SIGNATURE FOLLOWS LAST ATTACHMENT

FOR PREPARATION BY THE COURT ONLY	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR (Review and Successor Conservator Investigations)* <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	CASE NUMBER: _____

To (name):

You are hereby appointed Court Investigator in the matter above.

1. **A review and investigation are required under Probate Code sections 1850 or 1850.5 and 1851.**

YOU ARE DIRECTED TO:

- a. (1) Without prior notice to the conservator,
 (2) After prior notice to the conservator because of necessity or to prevent harm to the conservatee, visit and inform the conservatee personally that the conservatee is under a conservatorship and give the name of the conservator to the conservatee.
- b. Make the determinations required by Probate Code section 1851(a)(1)(A)–(E), including (1) whether the conservatee still meets the criteria for appointment of a conservator under section 1801, (2) whether the conservatorship remains the least restrictive alternative needed for the conservatee's protection, and (3) whether the conservator is acting in the best interest of the conservatee. This last determination must be based on an examination of the conservatee's placement; the quality of care, including physical and mental treatment; and the conservatee's finances and must include, to the greatest extent possible, interviews with the conservator, the conservatee's spouse or registered domestic partner, and relatives within the first degree, or, if none, the conservatee's relatives within the second degree.
- c. If you determine that the conservatee still meets the criteria for appointment of a conservator, determine whether the powers and duties of the conservator should be modified to maintain the conservatorship as the least restrictive alternative needed for the conservatee's protection.
- d. Determine if the proposed conservatee is currently incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process and may be disqualified from voting under Elections Code section 2208 or, if previously disqualified, may have their voting rights restored under Elections Code section 2209.
- e. The court has made an order or orders under (select all that apply):
 (1) Probate Code section 1873 (power of conservatee to enter into transactions).
 (2) Probate Code section 1880 (conservatee's capacity to give informed consent to medical treatment).
 (3) Probate Code section 1901 (conservatee's capacity to marry).
 Determine whether the current condition of the conservatee is such that the terms of the order or orders checked above should be modified or the order or orders revoked.
- f. To the extent practicable, review the conservator's accounting with the conservatee if the conservatee has sufficient capacity.
- g. Inform the court immediately if, at any time, you are unable to locate the conservatee.
- h. (If the conservator holds either of the powers granted under Probate Code section 2356.5(b)–(c)) (1) Advise the conservatee specifically that the conservatee has the right to object to the conservator's powers granted under section 2356.5; and (2) determine whether the conservatee objects to the conservator's powers under section 2356.5, whether the powers granted under section 2356.5 are warranted, and whether a change to those powers is warranted.
- i. (For limited conservatorship only) Recommend whether to continue, modify, or terminate the limited conservatorship.

* This form is intended for use to order a review investigation and report or an investigation and report before appointment of a successor conservator. The court may use *Order Appointing Court Investigator* (form GC-330) to order an initial or other investigation and report under Probate Code sections 1826, 1894, 2250.6, and 2253. See Cal. Rules of Court, rule 7.1060.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name):	CASE NUMBER:
CONSERVATEE	

1. j. (For a conservatorship existing on December 31, 1980, in which the conservatee has not been adjudged incompetent) Determine whether an order should be made under Probate Code section 1873 broadening the power of the conservatee.
- k. Certify your findings and determinations, including a statement of the facts on which the findings are based, in writing to the court and submit the report not less than 15 days before the date of review under Probate Code section 1850. Do not disclose confidential medical information or confidential criminal history information from the California Law Enforcement Telecommunications System (CLETS) in the body of your report. Place all such information in one or more separate attachments to the report.
- l. At the same time you certify and submit your report to the court, deliver copies in any manner authorized by Probate Code section 1215 to the conservatee, the conservator, and the attorneys of record for the conservator and the conservatee.
- m. Deliver copies of your report, modified to omit any attachment containing confidential medical information or confidential information from CLETS, to the conservatee's spouse or registered domestic partner and relatives within the first degree or, if there are no such relatives, to the conservatee's next closest relative
 except for any person named in Attachment 1m because the court has determined that delivery to that person will harm the conservatee.
- n. Comply with the other orders specified on Attachment 1n.
2. The court has ordered a review investigation
- a. on its own motion.
- b. at the request of (name): _____, an interested person.

YOU ARE DIRECTED TO:

- c. Conduct a review investigation of the aspects of the conservatorship specified below and report your findings and conclusions to the court no later than (date): _____.

Continued in Attachment 2c.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ <div style="text-align: right; padding-right: 50px;">CONSERVATEE</div>	CASE NUMBER: _____
--	--------------------

3. **A petition for the appointment of a successor conservator has been filed.**

- a. The petition does not **state** that the conservatee will be present at the hearing on the petition, which is scheduled as follows: Date: _____ Time: _____ Dept.: _____
- b. The petition **stated** that the conservatee would be present at the hearing on the petition, but the conservatee failed to appear at the hearing. The hearing has been continued to the following date, time, and department:
 Date: _____ Time: _____ Dept.: _____

YOU ARE DIRECTED TO:

- c. Interview the conservatee personally.
- d. Inform the conservatee of the nature of the proceeding to appoint a successor conservator, the name of the proposed successor conservator, and the conservatee's rights to appear personally at the hearing, to object to the person proposed as successor conservator, to nominate a person to be appointed as successor conservator, to be represented by legal counsel if the conservatee chooses, and to have legal counsel appointed by the court if the conservatee does not retain legal counsel.
- e. Determine whether the conservatee objects to the person proposed as successor conservator or prefers another person to be appointed.
- f. **Determine whether the conservatee is represented by legal counsel or plans to retain legal counsel. If the conservatee is not represented by legal counsel but plans to retain legal counsel, determine the name of an attorney the conservatee wishes to retain. If the conservatee is not represented by legal counsel and does not plan to retain legal counsel, inform the conservatee that the court will appoint counsel to represent them.**
- g. Report to the court in writing, at least five days before the hearing or continued hearing, concerning items (c)–(f), including the conservatee's express communications concerning representation by legal counsel and whether the conservatee objects to the person proposed as successor conservator or prefers that some other person be appointed.
- h. **Deliver by any method permitted under Probate Code section 1215, at least five days before the hearing or continued hearing, a copy of the report identified in item 3(g) to the attorneys, if any, for the petitioner and the conservatee and to the following additional persons (specify):**

Continued on Attachment 3h.

4. Number of pages attached: _____

Date: _____

JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

FOR PREPARATION BY THE COURT ONLY

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:
 MAILING ADDRESS:
 CITY AND ZIP CODE:
 BRANCH NAME:

CONSERVATORSHIP OF THE PERSON ESTATE OF

(Name):

CONSERVATEE

ORDER SETTING BIENNIAL REVIEW INVESTIGATION AND DIRECTING STATUS REPORT BEFORE REVIEW

Conservatorship Limited Conservatorship

CASE NUMBER:

TO (name): _____, court investigator:

1. Biennial review investigation

- a. In its review of the conservatorship for the period ending on (date) _____, including the report of the investigator named above, the court has determined that the conservator is acting in the best interests of the conservatee.
- b. The next review in this conservatorship is to cover a period of two years ending on (date): _____.

2. Investigation and status report before review

YOU ARE DIRECTED TO conduct an investigation under Probate Code section 1851(a) one year before the review described in 1b and file a status report in the case file regarding whether the conservatorship still appears to be warranted and whether the conservator is acting in the best interests of the conservatee regarding the conservatee's placement; quality of care, including physical and mental treatment; and finances.

3. Additional orders

Comply with the following additional orders:

Continued on Attachment 3.

4. Number of pages attached: _____

Date:

JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Domestic Violence: Rule and Form Changes to Implement New Laws

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Repeal rule 5.495; adopt forms DV 105(A), DV 125, DV 820, DV 830, DV 840/FL 840; revise forms DV 100, DV 105, DV 109, DV 110, DV 116, DV 120, DV 120 INFO, DV 130, DV 140, DV 500 INFO, DV 505 INFO, DV 520 INFO, DV 530 INFO, EPO-001; revise form DV 800/JV 252 and renumber as form DV 800/JV 270; revise form DV 800/JV 252 INFO and renumber as form DV 800/JV 270 INFO; revoke forms DV 108, DV 145, DV 150

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; frances.ho@jud.ca.gov; (415) 865-7662

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): 11-2-21

Project description from annual agenda: This proposal implements changes in the law, as described in item 1 of the annual agenda for the Family and Juvenile Law Advisory Committee Annual Agenda:

1a) AB 277 (Valladares) Domestic violence: victims: address confidentiality (Ch. 457, Stats. of 2021)

Requires, by January 1, 2023 the inclusion of information about the Safe at Home address confidentiality program on Judicial Council forms relating to domestic violence.

1c) SB 24 (Caballero) Domestic violence: protective orders: information pertaining to a child (Ch. 129, Stats. of 2021)
Revises existing protections against a third party's disclosure of a minor's protected information under a domestic violence restraining order.

1d) SB 320 (Eggman) Domestic violence protective orders: possession of a firearm (Ch. 685, Stats. of 2021)
Changes court procedures for issuing domestic violence restraining orders in order to better effectuate the requirement in existing law that a party subject to such an order must relinquish their firearms and ammunition. Codifies existing Rules of Court related to the relinquishment of a firearm by a person subject to a domestic violence restraining order and requires the court to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm or ammunition relinquishment order.

1e) SB 538 (Rubio) Domestic violence and gun violence restraining orders (Ch. 686, Stats. of 2021)
Requires courts, by July 1, 2023, to provide for electronic filing and remote appearances in the context of domestic violence restraining orders (DVROs) and gun violence restraining orders (GVROs). This bill also specifies that there are no filing fees related to a petition for a DVRO or a GVRO.

1f) SB 374 (Min) Protective orders: reproductive coercion (Ch. 135, Stats. of 2021)
Revises existing protections against a third party's disclosure of a minor's protected information under a domestic violence restraining order.

Agenda item 7: As lead of the Protective Order Working Group, the committee worked on joint issues with other advisory committees, including implementation of SB 538 (noted above), and AB 1057 on "ghost guns."

Agenda item 13: Forms that use gendered-terms have also been revised to refer to persons in gender-neutral terms (forms DV-105 and DV-140).

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

The following forms have not been highlighted to reflect proposed changes because the changes are substantial, rendering highlighting ineffective:

- DV-105
- DV-140
- DV-505-INFO
- DV-520-INFO
- DV-530-INFO
- DV-800/JV-270
- DV-800-INFO

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: Assembly Bill 277
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

INVITATION TO COMMENT

SPR22-20

Title Domestic Violence: Rule and Form Changes to Implement New Laws	Action Requested Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes Repeal rule 5.495; adopt forms DV-105(A), DV-125, DV-820, DV-830, DV-840/FL-840; revise forms DV-100, DV-105, DV-109, DV-110, DV-116, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, DV-505-INFO, DV-520-INFO, DV-530-INFO, EPO-001; revise form DV-800/JV-252 and renumber as form DV-800/JV-270; revise form DV-800/JV-252-INFO and renumber as form DV-800/JV-270-INFO; revoke forms DV-108, DV-145, DV-150	Proposed Effective Date January 1, 2023 Contact Frances Ho 415-865-7662 frances.ho@jud.ca.gov
Proposed by Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulsey, Cochair Hon. Amy M. Pellman, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes the adoption of five new Judicial Council forms and the revision of 16 forms to implement new laws enacted by Senate Bill 320 (Rubio; Stats. 2021, ch. 685), Senate Bill 24 (Caballero; Stats. 2021, ch. 129), Assembly Bill 1057 (Petrie-Norris; Stats. 2021, ch. 682), Senate Bill 538 (Rubio; Stats. 2021, ch. 686), Senate Bill 374 (Min; Stats. 2021, ch. 135), and Assembly Bill 277 (Valladares; Stats. 2021, ch. 457). The committee also recommends revoking three forms, as these forms would be combined with other existing forms, and repealing rule 5.495 of the California Rules of Court, which has been codified by SB 320.

The Proposal

This proposal is necessary to implement new changes in the law. As most litigants in domestic violence restraining order proceedings represent themselves, it is particularly important for the council to act quickly to ensure that litigants have access to the new remedies provided by the Legislature. The proposal also combines a number of existing forms, which the committee believes will make the remedies on those forms more accessible to litigants. The proposed rule and forms changes are listed below.

- Repeal rule 5.495 of the California Rules of Court.
- Adopt five Judicial Council forms:
 - *City and State Where Children Lived* (DV-105(A));
 - *Response to Request for Orders for Minor Children* (form DV-125);
 - *Prohibited Items Finding and Orders* (form DV-820);
 - *Notice of Noncompliance With Firearms and Ammunition Order, or Warrant* (form DV-830); and
 - *Notice of Compliance Hearing for Firearms and Ammunition* (form DV-840/FL-840).
- Revise 16 Judicial Council forms¹:
 - *Request for Domestic Violence Restraining Order* (form DV-100);
 - *Request for Child Custody and Visitation Orders* (form DV-105), retitled as *Request for Orders for Minor Children*;
 - *Notice of Court Hearing* (form DV-109);
 - *Temporary Restraining Order (Domestic Violence Prevention)* (form DV-110);
 - *Order on Request to Continue Hearing (Temporary Restraining Order)* (form DV-116);
 - *Response to Request for Domestic Violence Restraining Order* (form DV-120);
 - *How Can I Respond to a Request for Domestic Violence Restraining Order?* (form DV-120-INFO);
 - *Restraining Order After Hearing (Order of Protection)* (form DV-130);
 - *Child Custody and Visitation Order* (form DV-140), retitled as *Orders for Minor Children*;
 - *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO);
 - *How Do I Ask for a Temporary Restraining Order?* (form DV-505-INFO), retitled as *How to Ask for a Domestic Violence Restraining Order*;
 - *Get Ready for the Restraining Order Court Hearing* (form DV-520-INFO), retitled as *Get Ready for Your Restraining Order Court Hearing*;
 - *How to Enforce Your Restraining Order* (form DV-530-INFO);
 - *Proof of Firearms Turned In, Sold, or Stored* (form DV-800/JV-252), retitled and renumbered as *Proof of Surrender of Firearms, Firearm Parts, and Ammunition* (form DV-800/JV-270);

¹ Seven forms included in this proposal do not contain highlighting to reflect the changes made because the revisions were substantial. Those forms are DV-105, DV-140, DV-505-INFO, DV-520-INFO, DV-530-INFO, DV-800, and DV-800-INFO.

- *How Do I Turn In, Sell, or Store My Firearms?* (form DV-800-INFO/JV-252-INFO), retitled and renumbered as *How Do I Turn In, Sell, or Store Firearms, Firearm Parts, and Ammunition?* (form DV-800-INFO/JV-270-INFO); and
- *Emergency Protective Order* (form EPO-001).
- Revoke three Judicial Council forms:
 - *Request for Order: No Travel With Children* (form DV-108);
 - *Order: No Travel With Children* (form DV-145); and
 - *Supervised Visitation and Exchange Order* (form DV-150).

Senate Bill 320

Senate Bill 320 codifies rule 5.495, Firearm relinquishment procedures, and implements additional requirements for courts to comply with when the court receives information that a restrained person has or may have firearms or ammunition in their possession or control. At any stage in a domestic violence restraining order proceeding, if information regarding firearms or ammunition is presented, the court must:

1. Determine if the restrained person has firearms or ammunition;²
2. Determine if the restrained person is in violation of the relinquishment order;³
3. Notify law enforcement immediately of any violation and the contents of the restraining order;⁴ and
4. Notify a prosecuting agency of the violation and contents of the restraining order. This must happen two days after the finding of noncompliance, unless the restrained person shows they have fully complied.⁵

Courts also have the option of setting a hearing to review the restrained person's compliance with the court's orders.⁶

To implement SB 320, the committee proposes adopting three new forms: forms DV-820, DV-830, and DV-840. Form DV-820, *Prohibited Items Finding and Orders*, serves as an attachment to any order form in a domestic violence restraining order action. A general attachment is necessary because these findings and orders can be made at any stage of a domestic violence proceeding. Form DV-830, *Noncompliance With Firearms and Ammunition Order, or Warrant*, is a notice form that would be completed by the court to alert law enforcement or the prosecuting agency of the court's orders regarding noncompliance, and serve as a coversheet for the restraining order that has been violated. It could also be used to alert law enforcement of an existing warrant or warrants, as required by Family Code section 6303(e). This form would be confidential, as it could contain information from the California Law Enforcement

² Fam. Code, § 6322.5(a).

³ Fam. Code, § 6322.5(b)(3).

⁴ Fam. Code, § 6306(f).

⁵ Fam. Code, § 6389(c)(4).

⁶ Fam. Code, § 6322.5(c).

Telecommunications System (CLETS) such as criminal history information, or sensitive information like a social security number.⁷

Form DV-840, *Notice of Compliance Hearing for Firearms and Ammunition*, would be used when the issue of non-compliance arises after a long-term restraining order has been issued, and the court elects to set the matter for a review hearing. For example, if child custody is before the court and the protected person alleges that the restrained person possesses firearms, the court would need to issue a notice of court hearing if the restrained person was not present when the review hearing is set.

In addition to adopting the three new forms described above, the committee proposes to incorporate some or all of the items in form DV-820 into *Temporary Restraining Order* (form DV-110), and *Restraining Order After Hearing* (form DV-130). At the temporary order stage, the court may have sufficient information to make a finding regarding firearms or ammunition (item 6 on form DV-110) and may elect to set a review hearing (item 7 on form DV-110). At the hearing on whether a long-term restraining order should issue, the court would likely have more information, including whether the restrained person has complied with a temporary order, if one was granted. Because more information will be available to the court at the time of granting the restraining order after hearing, the committee proposes incorporating all the findings and orders listed on form DV-820 into form DV-130. The committee found it preferable to have all the firearms-related orders in one place on form DV-130 rather than using the attachment (form DV-820).

The committee further proposes repealing rule 5.495 of the California Rules of Court as that has now been codified by SB 320, and rules of court do not generally restate statutes.

Assembly Bill 1057 (relating to “ghost guns”)

Effective July 1, 2022, a “firearm” under the Domestic Violence Prevention Act will include firearm parts, specifically receivers, frames, and “firearm precursor parts” that are unfinished receivers and unfinished frames.⁸ The change is intended to include “ghost guns” (unserialized and untraceable firearms that can be bought online and assembled at home) in the items that restrained people cannot possess and must surrender. This means that a restrained person may not have these parts, for the duration of the order. This new definition of firearm will also apply to gun violence and juvenile restraining orders. Because this bill impacts three protective order forms series, this committee worked with the Civil and Small Claims Advisory Committee to harmonize the changes to the extent possible.⁹ Both committees recommend referring to receivers, frames, and unfinished receivers/frames as “firearm parts” rather than “firearms” or

⁷ Fam. Code, § 6306(f).

⁸ Pen. Code, § 16531.

⁹ The juvenile protective order proposal would implement AB 1057 and also convert the forms to a plain-language format consistent with the other civil protective order forms. The juvenile protective order proposal and the Civil and Small Claims Advisory Committee’s proposal can be found at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

“firearm precursor parts.” The committees also propose using the nomenclature “ghost guns” on the information forms.

Proof of Firearms Turned In, Sold, or Stored (form DV-800/JV-252) would be revised to include the new provisions about firearm parts from AB 1057. It would also be renamed *Proof of Surrender of Firearms, Firearm Parts, and Ammunition* and renumbered as form DV-800/JV-270. Similar revisions would be made to the current *How Do I Turn In, Sell, or Store My Firearms?* (form DV-800-INFO/JV-252-INFO). It would be renamed *How Do I Turn In, Sell, or Store Firearms, Firearm Parts, and Ammunition?* and renumbered as form DV-800-INFO/JV-270-INFO.

For the revised forms DV-800/JV-270 and GV-800, the committees propose reorganizing the form to improve usability. Specifically, the form has been reorganized so that all the information fields the restrained person must complete are listed consecutively on pages 1 and 2. At the top of the form, all users (restrained person, licensed gun dealer, and law enforcement) can clearly see a list of the pages they are responsible for completing. The committees are also interested in collecting additional information, such as whether a specific firearm was stored or sold to a licensed gun dealer (see page 3 of form DV-800/JV-270). The committee is seeking specific comment on whether it would be helpful or relevant for courts to know whether a firearm or other prohibited item was stored, or seized by law enforcement (see page 4 of form DV-800/JV-270).

The *Emergency Protective Order* (EPO-001) would also be revised to reflect the new requirements for relinquishing firearm parts and ammunition; and include “coercive control” as prohibited behavior. Forms DV-100, DV-109, DV-110, DV-120, DV-130, DV-120-INFO, DV-500-INFO, DV-505-INFO, DV-520-INFO and DV-530-INFO have all been updated to reflect the new language regarding firearms.

Senate Bill 24 (Calley’s Law)

Effective January 1, 2023, SB 24 would allow the court, when granting a domestic violence restraining order, to restrict a parent’s access to certain information regarding their child, including health and school records. It would also require certain providers to have protocols in place to properly safeguard the child’s information when these orders are issued. To implement SB 24, the committee proposes adding an item on the request and a parallel item on the order (item 9 on form DV-105 and item 11 on form DV-140). As described below, the committee proposes combining forms DV-105 and DV-108, so that the orders related to minor children are all on one form. The order form would also parallel the request by combining current forms DV-140, DV-145, and DV-150 into revised form DV-140 and retitling it *Orders for Minor Children*.

Senate Bill 538

Effective January 1, 2022, parties and witnesses in a domestic violence or gun violence restraining order proceeding may appear remotely on a petition for a restraining order. This committee and the Civil and Small Claims Advisory Committee recommend a number of

changes to the forms to include information regarding the option of appearing remotely and to use language that would capture remote appearances. For example, many of the forms are proposed to read “attend your hearing” as opposed to “go to” your court hearing. On the notice of court hearing (forms DV-109 and DV-116), parties will be advised of the option of appearing remotely and referred to the court’s website for more information. Under SB 538, courts will have to provide the option of e-filing in domestic violence and gun violence restraining order cases by July 1, 2023.¹⁰ Because some courts already provide the ability to e-file for these case types, the information forms direct people to their local courts to see if e-filing is available.

Senate Bill 374

Effective January 1, 2022, the definition of coercive control was expanded to include “reproductive coercion.”¹¹ To implement SB 374, the committee recommends adding the following language for the order forms:

- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

The above language is contained at item 9 of form DV-110 and item 12 of form DV-130.

The examples of reproductive coercion are also listed at item 10 on form DV-100 and on form DV-500-INFO. An example was also included at item 5 on form DV-100, and the committee is requesting specific comment on whether other examples of reproductive coercion should be listed instead of the one shown below:

Describe Abuse

In this section, explain how the person in (2) has been abusive. The judge will use this information to decide your request. Here are some examples of what "abuse" means under the law (*not a complete list*):

<ul style="list-style-type: none"> • harassed you • made repeated unwanted contact with you • tracked, controlled, or blocked your movements • kept you from getting food or basic needs • isolated you from friends, family, or other support • made threats based on actual or suspected immigration status • made you do something by force, threat, or intimidation • stopped you from accessing or earning money • tried to control your contraception, birth control, pregnancy, or access to related health information 	<ul style="list-style-type: none"> • hit, kicked, pushed, or bit you • injured you or tried to • threatened to hurt or kill you • sexually abused you • abused a pet or animal • destroyed your property • choked or strangled you • abused your children
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¹⁰ Assembly Bill 887 (Levine; Stats. 2021, ch. 681) would also require courts to provide e-filing as an option, but is inoperative until funds are appropriated.

¹¹ Fam. Code, § 6320(c)(5).

Assembly Bill 277

On or before January 1, 2023, form DV-500-INFO must include information about the Safe at Home program maintained by the California Department of Justice. This information has been included on the form at page 2, under “Confidential Address Program.” The form is currently available in four other languages: Spanish, Chinese (simplified), Korean, and Vietnamese. The revised form would be translated into these languages and made available by January 1, 2023.

Other changes to improve usability

Combining form DV-108 with form DV-105

The committee proposes combining the current child custody form with the form on child abduction. Without help, self-represented litigants may be less likely to use attachments. Combining these attachments into a single attachment may make it more likely that litigants will have access to these remedies. Additionally, because a statewide forms packet does not exist, some counties may not provide attachment DV-108 in the paper packet that they make available in courthouses.

In addition to combining these forms, the committee proposes a new layout for the child custody and visitation sections, including providing an explanation for what custody means under the law, and referring to parties in gender-neutral terms. The committee would like comment on whether the new layout for these two sections would be easier for self-represented litigants to understand and complete. The committee also proposes eliminating the questions that ask what child custody and visitation orders a petitioner would want after the hearing. Because a lot can change between the issuance of the temporary order and the time of the hearing, including parties reaching an agreement in mediation or the court making a finding of abuse that would trigger the application of Family Code section 3044, the committee believes that the request does not need to include the questions related to orders after the court hearing.

New forms DV-125 and DV-105(A)

Two new forms are also proposed for the request and orders related to minor children. The first is form DV-125, *Response to Request for Orders for Minor Children*, an optional form to respond to requests regarding minor children in common. Currently, form DV-105 can be used by either party to propose child custody and visitation orders. The committee believes that having a separate response form is more user-friendly, as not all the information on form DV-105 need be completed by the respondent, such as the children’s residence history, if undisputed, and the questions relating to child abduction (form DV-108). The second is form DV-105(A), *City and State Where Children Lived*, which is similar to FL-105(A), *Attachment to Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)*. This form would act as an attachment to form DV-105 to provide residence history for children who have not lived together the last five years, or used as an attachment to new response form DV-125 if respondent disputes the residence information provided by the petitioner.

Combining forms DV-145 and DV-150 with form DV-140

Form DV-140, *Orders for Minor Children*, would contain all the orders currently listed on forms DV-145 and DV-150, and include additional details regarding supervised visitation and exchanges (e.g., name of provider, non-professional provider’s relationship to child, and location of exchanges for exchanges supervised by a non-professional provider). The committee believes that providing additional information for these orders is consistent with the requirement under Family Code section 6323(c) that visitation orders ensure the safety of all families and include details such as the “time, day, place, and manner of transfer.” The committee also proposes to change the child abduction orders so that they can be issued against the respondent only (items 15–23 on form DV-140). The committee believes that this change is consistent with the requirements under Family Code section 3048, which requires the court to make specific findings to support these orders. The committee believes that the respondent should affirmatively make this request, with proper notice to the other side, and not in response to a domestic violence restraining order.

Changes to INFO forms

Significant revisions were made to three information forms: DV-505-INFO, DV-520-INFO, and DV-530-INFO. Form DV-505-INFO would be revised to focus on information related to completing and filing required forms and to answer some common questions that self-represented litigants might have. Detailed information regarding service was removed since form DV-200-INFO, *What Is “Proof of Personal Service”?*, contains detailed information regarding service. Form DV-520-INFO would be revised so that the information provided more closely aligns with the information provided on the new self-help website.¹² Form DV-530-INFO would be reformatted into two-column, and updated to reflect changes in the law (e.g. ghost guns and orders to protect children’s records).

Changes to reflect existing laws

The committee proposes to add step-siblings, step-grandparents, and step-grandchildren to the list of relatives in item 3 on form DV-100. These relationships were unintentionally omitted when the form was last revised and should be included as relationships consistent with Family Code section 6211(f).

The committee also proposes to revise the “Conflicting Orders—Priorities for Enforcement” found on the last page of forms DV-110 and DV-130. The Criminal Law Advisory Committee identified that the existing language does not accurately reflect the requirements under Penal Code section 136.2(e)(2), which prioritizes enforcement of criminal protective orders in pending cases for domestic violence offenses, specified sex offenses, and offenses requiring sex offender registration over a civil protective order against the same defendant. The specified sex offenses and offenses requiring sex offender registration were added as priorities in Assembly Bill 1498 (Stats. 2014, ch. 665). Further, Assembly Bill 1171 (Stats. 2021, ch. 626) repealed section 262 on spousal rape and amended 136.2(e)(2) to include “former 262.” Currently, all protective

¹² <https://selfhelp.courts.ca.gov/DV-restraining-order/prepare-court-date>.

orders include the same language regarding priority for enforcement. This new language would be used on all the order forms, as they become due for revisions.

Alternatives Considered

To implement SB 320, the committee considered incorporating all the findings and orders contained in proposed new form DV-820 into forms DV-110 and DV-116. The committee decided against this approach because it would be unlikely for the court to have information regarding noncompliance at the temporary restraining order stage. The committee also decided not to incorporate the findings and orders into form DV-116. As described above, the committee found it preferable to have all the firearms-related orders in one place on form DV-130. Since form DV-116 does not include the firearms relinquishment order, on balance, the committee did not believe that there was a substantial benefit to incorporating the contents of form DV-820, which would add an additional page to the form but not apply in many cases.

To implement AB 1057, the committee considered using some of the statutory language, including “firearm precursor parts.” The committee decided against this approach as it is not a term that is commonly understood. Instead, the committee proposes using “firearm parts” to include any receiver, frame, and unfinished receiver and frame as defined under Penal Code section 16531. The committee also considered maintaining the existing format for form DV-800/JV-270 but found the new layout more user-friendly to everyone who would complete the form (i.e., restrained person, licensed gun dealer, and law enforcement). The committee found it desirable to reformat the form so that all items that need to be completed by each user are listed together (e.g., all items for the restrained person to complete are listed on pages 1 and 2).

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly adopted and revised forms. Courts will also incur costs to incorporate the new and revised forms into the paper or electronic processes.

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?
- Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)?
- Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete?
- Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete?
- Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example?
- Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms? The proposal can be found at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

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 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. Cal. Rules of Court, rule 5.495, at pages 12–15
2. Forms DV-100, DV-105, DV-105(A), DV-108, DV-109, DV-110, DV-116, DV-120, DV-120-INFO, DV-125, DV-130, DV-140, DV-145, DV-150, DV-500-INFO, DV-505-INFO, DV-520-INFO, DV-530-INFO, DV-800, DV-800-INFO, DV-820, DV-830, DV-840/FL-840, EPO-001, at pages 16–99
3. Link A: Senate Bill 320,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB320
4. Link B: Senate Bill 24,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB24

5. Link C: Assembly Bill 1057,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1057
6. Link D: Senate Bill 538,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB538
7. Link E: Senate Bill 374,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB374
8. Link F: Assembly Bill 277,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB277

1 **Chapter 4. Protective Orders [Repealed]**

2
3 **Rule 5.495. Firearm relinquishment procedures [Repealed]**

4
5 **(a) — Application of rule**

6
7 This rule applies when a family or juvenile law domestic violence protective order
8 as defined in Family Code section 6218 or Welfare and Institutions Code section
9 213.5 is issued or in effect.

10
11 **(b) — Purpose**

12
13 This rule addresses situations in which information is presented to the court about
14 firearms and provides the court with options for appropriately addressing the issue.
15 This rule is intended to:

16
17 (1) — Assist courts issuing domestic violence protective orders in determining
18 whether a restrained person has a firearm in or subject to his or her
19 immediate possession or control.

20
21 (2) — Assist courts that have issued domestic violence protective orders in
22 determining whether a restrained person has complied with the court's order
23 to relinquish, store, or sell the firearm under Family Code section 6389(c).

24
25 **(c) — Firearm determination**

26
27 When relevant information is presented to the court at any noticed hearing that a
28 restrained person has a firearm, the court must consider that information to
29 determine, by a preponderance of the evidence, whether the person subject to a
30 protective order as defined in Family Code section 6218 or Welfare and Institutions
31 Code section 213.5 has a firearm in or subject to his or her immediate possession or
32 control in violation of Family Code section 6389.

33
34 **(d) — Determination procedures**

35
36 (1) — In making a determination under this rule, the court may consider whether the
37 restrained person filed a firearm relinquishment, storage, or sales receipt or if
38 an exemption from the firearm prohibition was granted under Family Code
39 section 6389(h).

40
41 (2) — The court may make the determination at any noticed hearing when a
42 domestic violence protective order is issued, at a subsequent review hearing,

1 or at any subsequent family or juvenile law hearing while the order remains
2 in effect.

3
4 (3) — If the court makes a determination that the restrained person has a firearm in
5 violation of Family Code section 6389, the court must make a written record
6 of the determination and provide a copy to any party who is present at the
7 hearing and, upon request, to any party not present at the hearing.

8
9 **(e) — Subsequent review hearing**

10
11 (1) — When presented with information under (c), the court may set a review
12 hearing to determine whether a violation of Family Code section 6389 has
13 taken place.

14
15 (2) — The review hearing must be held within 10 court days after the noticed
16 hearing at which the information was presented. If the restrained person is not
17 present when the court sets the review hearing, the protected person must
18 provide notice of the review hearing to the restrained person at least 2 court
19 days before the review hearing, in accordance with Code of Civil Procedure
20 414.10, by personal service or by mail to the restrained person's last known
21 address.

22
23 (3) — The court may for good cause extend the date of the review hearing for a
24 reasonable period or remove it from the calendar.

25
26 (4) — The court must order the restrained person to appear at the review hearing.

27
28 (5) — The court may conduct the review hearing in the absence of the protected
29 person.

30
31 (6) — Nothing in this rule prohibits the court from permitting a party to appear by
32 telephone under California Rules of Court, rule 5.9.

33
34 **(f) — Child custody and visitation**

35
36 (1) — If the court determines that the restrained person has a firearm in violation of
37 Family Code section 6389, the court must consider that determination when
38 deciding whether the restrained person has overcome the presumption in
39 Family Code section 3044.

40
41 (2) — An order for custody or visitation issued at any time during a family law
42 matter must be made in a manner that ensures the health, safety, and welfare
43 of the child and the safety of all family members, as specified in Family Code

1 section 3020. The court must consider whether the best interest of the child,
2 based on the circumstances of the case, requires that any visitation or custody
3 arrangement be limited to situations in which a third person, specified by the
4 court, is present, or that visitation or custody be suspended or denied, as
5 specified in Family Code section 6323(d).

6
7 (3) — An order for visitation issued at any time during a juvenile court matter must
8 not jeopardize the safety of the child, as specified in Welfare and Institutions
9 Code section 362.1.

10
11 **(g) — Other orders**

12
13 (1) — The court may consider a determination that the restrained person has a
14 firearm in violation of Family Code section 6389 in issuing:

15
16 (A) — An order to show cause for contempt under section 1209(a)(5) of the
17 Code of Civil Procedure for failure to comply with the court’s order to
18 surrender or sell a firearm; or

19
20 (B) — An order for money sanctions under section 177.5 of the Code of Civil
21 Procedure.

22
23 (2) — This rule should not be construed to limit the court’s power to issue orders it
24 is otherwise authorized or required to issue.

25
26 **Advisory Committee Comment**

27
28 When issuing a family or juvenile law domestic violence protective order as defined in Family
29 Code section 6218 or Welfare and Institutions Code section 213.5, ex parte or after a noticed
30 hearing, the court is required to order a restrained person “to relinquish any firearm in [that
31 person’s] immediate possession or control or subject to [that person’s] immediate possession or
32 control.” (Fam. Code, § 6389(c)(1).) Several mandatory Judicial Council forms — *Temporary*
33 *Restraining Order* (form DV 110), *Restraining Order After Hearing* (form DV 130), and *Notice*
34 *of Hearing and Temporary Restraining Order — Juvenile* (form JV 250) — include mandatory
35 orders in bold type that the restrained person must sell to or store with a licensed gun dealer or
36 turn in to a law enforcement agency any guns or other firearms within his or her immediate
37 possession or control within 24 hours after service of the order and must file a receipt with the
38 court showing compliance with the order within 48 hours of receiving the order. California law
39 requires personal service of the request for and any temporary protective order at least five days
40 before the hearing, unless the court issues an order shortening time for service. Therefore, by the
41 date of the hearing, the restrained person should have relinquished, stored, or sold his or her
42 firearms and submitted a receipt to the court.

1 Courts are encouraged to develop local procedures to calendar firearm relinquishment review
2 hearings for restrained persons.

3
4 Section (f) of this rule restates existing law on the safety and welfare of children and family
5 members and recognizes the safety issues associated with the presence of prohibited firearms.

6
7 Although this rule does not require the court to compel a restrained person to testify, the court
8 may wish to advise a party of his or her privilege against self incrimination under the Fifth
9 Amendment to the United States Constitution. The court may also consider whether to grant use
10 immunity under Family Code section 6389(d).

**DRAFT-3.16.22
Not approved by
the Judicial Council**

Instructions: To ask for a domestic violence restraining order, you will need to complete this form and other forms. After you complete this form, see next steps on page 12.

1 Person Asking for Protectiona. **Your name:** _____b. **Your age:** _____c. **! Address where you can receive court papers**

(This address will be used by the court and by the person in **2** to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

d. **! Your contact information (optional)**

(The court could use this information to contact you. If you don't want the person in **2** to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

e. **Your lawyer's information (if you have one)**

Name: _____ State Bar No.: _____

Firm Name: _____

2 Person You Want Protection Froma. **Full Name:** _____b. **Age (give estimate if you do not know exact age):** _____c. **Date of Birth (if known):** _____d. **Gender:** M F Nonbinarye. **Race:** _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**This is not a Court Order.**

3 Your Relationship to the Person in ②

(If you do not have one of these relationships with the person in ②, you are not eligible for this type of restraining order. You may be eligible for another type of restraining order. Learn more at www.courts.ca.gov/selfhelp-abuse.htm.)

Check all that apply

- a. We have a child or children together
(names of children): _____
- b. We are married or registered domestic partners.
- c. We used to be married or registered domestic partners.
- d. We are dating or used to date.
- e. We are or used to be engaged to be married.
- f. We are related. The person in ② is my (check all that apply):
- | | |
|---|--|
| <input type="checkbox"/> Parent, stepparent, or parent-in-law | <input type="checkbox"/> Brother, sister, sibling, sibling-in-law, or step-sibling |
| <input type="checkbox"/> Child, stepchild, or legally adopted child | <input type="checkbox"/> Grandparent, grandparent-in-law, or step-grandparent |
| <input type="checkbox"/> Child's spouse | <input type="checkbox"/> Grandchild, grandchild-in-law, or step-grandchild |
- g. We live together or used to live together. (If checked, answer question below):
Have you lived together with the person in ② as a family or household (more than just roommates)?
- Yes No (If no, you do not qualify for this kind of restraining order unless you checked one of the other relationships listed above.)

4 Other Restraining Orders and Court Cases

- a. Are there any restraining orders currently in place **or** that have expired in the last six months (examples: Did the police give you a restraining order that lasts a few days? Do you have one from the criminal court?)
- No
- Yes (If yes, give information below and attach a copy if you have one.)
- (1) (date of order): _____ (date it expires): _____
- (2) (date of order): _____ (date it expires): _____
- b. Are you involved in any other court case with the person in ②?
- No
- Yes (If you know, list where the case was filed (city, state, or tribe), the year it was filed, and case number.)
- Custody _____
- Guardianship _____
- Divorce _____
- Juvenile Court _____
- Criminal _____
- Other (what kind of case?): _____

This is not a Court Order.



Describe Abuse

In this section, explain how the person in (2) has been abusive. The judge will use this information to decide your request. Here are some examples of what "abuse" means under the law (*not a complete list*):

- harassed you
- made repeated unwanted contact with you
- tracked, controlled, or blocked your movements
- kept you from getting food or basic needs
- isolated you from friends, family, or other support
- made threats based on actual or suspected immigration status
- made you do something by force, threat, or intimidation
- stopped you from accessing or earning money
- tried to control your contraception, birth control, pregnancy, or access to related health information
- hit, kicked, pushed, or bit you
- injured you or tried to
- threatened to hurt or kill you
- sexually abused you
- abused a pet or animal
- destroyed your property
- choked or strangled you
- abused your children

5 Most recent abuse

a. Date of abuse (*give an estimate if you don't know the exact date*): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (*If yes, give names*): _____

c. Did the person in (2) use or threaten to use a gun or other weapon?
 No Yes (*If yes, describe gun or weapon*): _____

d. Did the person in (2) cause you any emotional or physical harm?
 No Yes (*If yes, describe harm*):

e. Did the police come? I don't know No Yes (*If the police gave you a restraining order, list it in (4).*)

f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in (2) abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

This is not a Court Order.

6 Has the person in 2 abused you in a different way from the abuse you described in 5? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

This is not a Court Order.



7 Is there other abuse by the person in 2 that you want the judge to know about? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

Check this box if you need more space to describe the abuse. You can use [form DV-101, Description of Abuse](#), and turn it in with this form. You can also use a separate sheet of paper, write "Describe Abuse" abuse at the top, and turn it in with this form.

This is not a Court Order.

8 Other Protected People

Do you want the restraining order to protect your children, family, or someone you live with?

- a. No
- b. Yes *(If yes, complete the section below):*

(1) <u>Full name</u>	<u>Age</u>	<u>Relationship to you</u>	<u>Lives with you?</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Check this box if you need to list more people. Use a separate piece of paper and write "DV-100, Other Protected People" at the top. Turn it in with this form.

(2) Why do these people need protection?

9 Does Person in (2) Have Firearms (Guns), Firearm Parts, or Ammunition?

- a. I don't know
- b. No
- c. Yes *(If you have information, complete the section below.)*

Describe guns, firearms, firearm parts, or ammunition	How many or amount?	Location, if known
(1) _____	_____	_____
(2) _____	_____	_____
(3) _____	_____	_____
(4) _____	_____	_____
(5) _____	_____	_____
(6) _____	_____	_____
(7) _____	_____	_____
(8) _____	_____	_____

This is not a Court Order.



Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different.
Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

10 **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not do the following things to me or anyone listed in **(8)**:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.

Disturbing the peace includes, but is not limited to:

- Isolating you from friends, relatives, or other support; keeping you from food or basic needs; controlling or keeping track of you, including your movements, contacts, actions, money, or access to services; **controlling or interfering with someone's contraception, birth control, pregnancy, or access to related health information; using force, threat, or intimidation to pressure someone to be or not be pregnant; and making you do something by force, threat, or intimidation, including threats related to actual or suspected immigration status.**
- Destroying your mental or emotional well-being. This can be done directly or indirectly, such as through someone else. This can also be done in any way, including by phone, text, or online.

11 **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or anyone listed in **(8)**.

12 **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from:

Check all that apply

- | | | |
|---|--|---|
| <input type="checkbox"/> Me. | <input type="checkbox"/> My vehicle. | <input type="checkbox"/> My children's school or childcare. |
| <input type="checkbox"/> My home. | <input type="checkbox"/> My school. | <input type="checkbox"/> Other (<i>please explain</i>): |
| <input type="checkbox"/> My job or workplace. | <input type="checkbox"/> Each person in (8) . | _____ |

b. How far do you want the person to stay away from all the places you checked above?

- 100 yards (300 feet) Other (*give distance in yards*): _____

This is not a Court Order.



12 Stay-Away Order (continued)

c. Do you and the person in ② live together or live close to each other?

 No Yes *(If yes, check one):* Live together *(If you live together, you can ask that the person in ② move out in 13.)* Live in the same building, but not in the same home Live in the same neighborhood Other *(please explain):* _____

d. Do you and the person in ② have the same workplace or go to the same school?

 No Yes *(If yes, check all that apply):* Work together at *(name of company):* _____ Go to the same school *(name of school):* _____ Other *(please explain):* _____**13 Order to Move Out**

a. I ask the judge to order the person in ② to move out of the home, located at:

(Give address): _____

b. I have a right to live at this address because:

 Check all that apply I own the home. I have lived at this address for _____ years, _____ months. My name is on the lease. I pay for some or all the rent or mortgage. I live at this address with my child(ren). Other *(please explain):* _____**14 Other Orders***(Describe any additional orders you want the judge to make to keep you, your children, or the people in ⑧ safe.):*_____

_____**15 Request for Orders for Minor Children**

Check this box if you have a child or children with the person in ② and want the judge to make orders to protect your children. You must also fill out [form DV-105, Request for Orders for Minor Children](#), and attach it to this form.

This is not a Court Order.

16 **Protect Animals**

a. (You may ask the court to protect your animals, your children’s animals, or the person in ②’s animals.)

	Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____
(4)	_____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in ② to:

Check all that apply

(1) Stay away from the animals by at least:

100 yards (300 feet) Other (give distance in yards): _____

(2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.

(3) Give me sole possession, care, and control of the animals because (check all that apply):

Person in ② abuses the animals. I take care of these animals.

I purchased these animals. Other (please explain): _____

17 **Control of Property**

a. I ask the judge to give **only me** temporary use, possession, and control of the property listed here (describe):

b. Explain why you want control of the property you listed:

18 **Health and Other Insurance**

I ask the judge to order the person in ② to **not** make any changes to any insurance or other coverage for me, the person in ②, or our children, including not being allowed to cancel, cash, borrow against, transfer, dispose of, or change the beneficiaries for the insurance.

19 **Record Communications**

I ask the judge to allow me to record calls or communications the person in ② makes to me, when those calls or communications violate this restraining order.

This is not a Court Order.



20 **Property Restraint** *(only if you are married or a registered domestic partner with the person in 2.)*

I ask the judge to order the person in 2 not to borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in 2 to notify me of any new or big expenses and to explain them to the court.

21 **Extend My Deadline to Give Notice to Person in 2**

(Usually, the judge will give you about two weeks to give notice, or to "serve" the person in 2 of your request. If you need more time to serve, the judge may be able to give you a few extra days.)

I ask the judge to give me more time to serve the person in 2 because *(explain why you need more time)*:

22 **Pay Debts (Bills) Owed for Property**

(If you want the person in 2 to pay any debts owed for property, list them and explain why. The amount can be for the entire bill or only a portion. Some examples include rent, mortgage, car payment, etc.)

a. I ask the judge to order the person in 2 to make these payments while the restraining order is in effect:

- (1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

Explain why you want the person in 2 to pay the debts listed above:

b. Special decision (finding) by the judge if you did not agree to the debt (optional)

(If you did not agree to the debt or debts listed above, you can ask the judge to decide (find) that one or more debts was made without your permission and resulted from the person in 2's abuse. This may help you defend against the debt if you are sued in another case.)

Do you want the judge to make this special decision (finding)?

- No Yes *(If yes, answer the questions below.)*

(1) Which of the debts listed above resulted from the abuse? *(check all that apply):*

- a(1) a(2) a(3)

(2) Do you know how the person in 2 made the debt or debts?

- No Yes

(If yes, explain how the person in 2 made the debt or debts):

This is not a Court Order.



Orders That You Want a Judge to Make at Your Court Date

Below is a list of orders that a judge cannot make right away but can make at your court date in a few weeks. The person in (2) must be notified of your court date before the judge can consider making any of the orders listed below. Check all the orders that you want the judge to make at your court date.

23 **Pay Expenses Caused by the Abuse**

I ask the judge to order the person in (2) to pay for things **caused directly** by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). Bring proof of these amounts to your court date.

Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____

24 **Child Support** *(this only applies if you have a minor child with the person in (2))*

Check all that apply

- a. I do not have a child support order and I want one.
- b. I have a child support order and I want it changed *(attach a copy if you have one)*.
- c. I now receive or have applied for TANF, Welfare, or CalWORKS.

25 **Spousal Support** *(this only applies if you are married or a registered domestic partner with person in (2))*

I ask the judge to order the person in (2) to give me financial assistance.

26 **Lawyer's Fees and Costs**

I ask that the person in (2) pay for some or all of my lawyer's fees and costs.

27 **Batterer Intervention Program**

I ask the judge to order the person listed in (2) to go to a 52-week batterer intervention program. (The goal of a batterer's intervention program is to stop abuse. There are weekly classes to teach accountability, abuse effects, and gender roles. If ordered to complete this program, the person in (2) would have to show proof to the judge that they enrolled and completed the program.)

28 **Transfer of Wireless Phone Account**

(If the person in (2) holds the rights to your cell phone account, you can ask the judge to transfer your number or your child's number to you. This means you will be financially responsible for these accounts. If you want to have control over a mobile device, like a cell phone, make this request at (17) .)

I ask the judge to order the wireless service provider to transfer the billing responsibility and rights to the wireless phone numbers listed below to me because the account currently belongs to the person in (2):

- a. My number Number of child in my care (including area code): _____
- b. My number Number of child in my care (including area code): _____

This is not a Court Order.



Automatic Orders That a Judge Can Make Right Away

29 No Guns, Other Firearms, Firearm Parts, or Ammunition

If the judge grants you a restraining order, the person in ② must turn in, sell, or store any guns, other firearms, firearm parts, or ammunition that they have or control. The person in ② would also be prohibited from buying firearms and ammunition.

30 Cannot Look for Protected People

If the judge grants you a restraining order, the person in ② will not be allowed to look for the address or location of any person protected by the restraining order, unless the court finds good cause not to make this order.

31 Additional pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

32 Your signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

33 Your lawyer's signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

1 You must complete at least three additional forms:

- [Form DV-110, Temporary Restraining Order \(only items 1, 2 and 3\)](#)
- [Form DV-109, Notice of Court Hearing \(only items 1 and 2\)](#)
- [Form CLETS-001, Confidential CLETS Information](#)
- **If you are asking for orders relating to your minor children, you must complete [form DV-105, Request for Orders for Minor Children](#), and [form DV-140, Orders for Minor Children](#).**

2 Turn in your completed forms to the court. Find out when your forms will be ready for pick up.

3 Once you get your forms back from the court, have someone "serve" a copy of all forms on the person in ②. The sheriff or marshal can do this for free. Learn more about how to "serve" your papers and prepare for your court date: <https://selfhelp.courts.ca.gov/sheriff-serves-your-request-restraining-order>.

4 If you are asking for child support, spousal support, or lawyer's fees, you must also complete [form FL-150, Income and Expense Declaration](#). If you are only asking for child support (item 23), you may be eligible to fill out a simpler form, FL-155. Read form DV-570 to see if you are eligible. Turn in your completed form to the court before your court date. You must also have someone mail or personally deliver a copy to the person in ②.

This is not a Court Order.

This form is attached to form DV-100.

Draft-3.22.22 Not approved by Judicial Council

1 Your Information

- a. Name: _____
- b. Relationship to children: Parent Legal Guardian Other (*describe*): _____

2 Person You Want Protection From

- a. Name: _____
- b. Relationship to children: Parent Legal Guardian Other (*describe*): _____
- (Check here to list a third parent or legal guardian and complete the section below.)
 Name: _____ Relationship to child: _____

3 Children

- a. Name: _____ Date of birth: _____
- b. Name: _____ Date of birth: _____
- c. Name: _____ Date of birth: _____
- d. Name: _____ Date of birth: _____
- e. Name: _____ Date of birth: _____

(Check here if you need more space. Write "DV-105, Children" at the top and attach it to this form.)

4 City and State Where Children Lived

- a. Have all the children listed in **3** lived together for the last five years?
 Yes (*Complete section 4b.*)
 No (*If no, complete 4b for the first child you listed above in 3a. Use form DV-105(A) for the other children.*)

b. List where the child or children have lived for the last five years. Start with their current location.

Dates (month/year)		City, State, and Tribal Land	Child or children lived with:		
From: _____	To present	<input type="checkbox"/> Check here if you want to keep the location private. (<i>List the state only.</i>)	Me	Person in 2	Other*
From: _____	Until: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
From: _____	Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
From: _____	Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
From: _____	Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Other* (*relationship to child*): _____

This is not a Court Order.



5 History of Court Cases Involving Children

a. Do you know about any other case involving any child listed in ③?

- No
- Yes *(If you know, list where the case was filed (city, state, or tribe), the year it was filed, and case number.)*
 - Custody _____
 - Divorce _____
 - Guardianship _____
 - Juvenile Court _____
 - Criminal _____
 - Other *(what kind of case?):* _____

b. Is there a current order for custody or visitation in effect?

- No
- Yes

If yes, describe the order and why you want to change the order. *(Attach a copy, if you have one.):*

Custody

In this section, you can ask a judge to make custody orders for your children. There are two types of custody in California: legal and physical custody.

- **Legal custody** means the person that makes decisions about the child's health, education, and welfare.
- **Physical custody** means the person that the child regularly lives with.

For both types of custody, parents can share custody (joint) or one parent can have full custody (sole). If a judge makes a custody order, the parent with custody cannot take the children out of California without permission from the court.

Check all the orders that you want a judge to make (order).

6 Custody of Children

- a. Legal Custody:
- Sole to me
 - Sole to Person in ②
 - Shared (held jointly) by persons in ① and ②.
 - Other *(describe):* _____

- b. Physical Custody:
- Sole to me
 - Sole to Person in ②
 - Shared (held jointly) by persons in ① and ②.
 - Other *(describe):* _____

This is not a Court Order.



Visitation (Parenting Time) with Children

In this section, you can ask a judge to make decisions on the parenting time for the person in (2). Visitation, or parenting time, means the schedule and exact times each parent spends with the child. If a parent does not get custody, that parent can still have time with the child if a judge believes it is safe and in the child's best interest.

7 **Visitation with Person in (2)**

a. **No visitation**, until it is safe for the children to visit with person in (2).

b. **Supervised (monitored) by a third person**

(To learn about supervised visitations, go to: selfhelp.courts.ca.gov/guide-supervised-visitacion.)

(1) Who do you want to supervise the visits? (Check one.)

Nonprofessional, like a trusted relative or friend (list name, if known): _____

Professional (list name, if known): _____

Professional fees paid by: Me _____ % Person in (2) _____ % Other: _____ %

(2) How often and how long should the visits be?:

Once a week, for (number of hours): _____

Twice a week, for (number of hours): _____ each visit.

Other (describe): _____

Check here if you want to use the visitation chart in (8) for a schedule.

c. **Visits with no supervision (unmonitored)**

(If you want the person in (2) to have visits with no supervision, make sure to give as much detail as you can, including when visits will happen, how often the visits should be, and who will be responsible for transporting the children. You can use the chart in (8) or write out the schedule you want below.)

(1) Check here if you want to use the chart in (8).

(2) Parenting plan (describe):

This is not a Court Order.



8 **Visitation Schedule**

Follow the schedule listed below: Every week. Every other week. Other _____

Starting (*date visits should start*): _____

Visitation Schedule	Time	Person to bring children to and from visit	Location of drop-off and pick-up
Monday	Start: _____ End, if applies: _____		
Tuesday	Start: _____ End, if applies: _____		
Wednesday	Start: _____ End, if applies: _____		
Thursday	Start: _____ End, if applies: _____		
Friday	Start: _____ End, if applies: _____		
Saturday	Start: _____ End, if applies: _____		
Sunday	Start: _____ End, if applies: _____		

9 **Stop Access to Children's School, Health, and Other Information**

(You can ask the judge to stop the person in **2** from having access to the children's school, health, and other records. If you want to make this request, complete the section below.)

a. I ask that the person in **2** **not** have access to the records or information for:

- All the children listed in **3**.
- For only the children listed here (*name of each child*):

b. From the following (*check all that apply*):

- Medical, dental, and mental health providers
- School and daycare providers
- Extracurricular activity providers, including summer camps and sports teams
- Employers (including volunteer and unpaid positions)
- Other (*describe*): _____



10 **No Travel With Children Without Permission**

- a. I ask the judge to order that: Person in ② Person in ① Other (name): _____
- b. Must have written permission from me, or a court order, to take the children outside of:
- California
 - County of (list): _____
 - Other place(s) (list): _____

Prevent Child Abduction (Kidnapping)

In this section, you can ask for protection if you believe that there is a risk that the person in ② will take the children out of California without your permission or hide them from you. If you do not want to ask for these orders, do not complete the rest of this form.

11 **Reasons I Am Afraid of Child Abduction**

I believe that there is a risk that the other parent will take our child out of California without my permission and hide the child from me, because the person in ②:

(Check all that apply)

- a. Has violated or threatened to violate a custody or visitation order.
- b. Does not have strong ties to California.
- c. Has done things recently that make it easy to take our children, like (check all that apply):
 - Quit a job Applied for a passport, birth certificate, or school or medical records
 - Closed a bank account Hid or destroyed documents
 - Sold or gotten rid of property Other (explain): _____
 - Sold a home or ended a lease
- d. Has a history of:
 - Abusing me Taking away or hiding our children from me
 - Child abuse Threatening to take away or hide our children from me
 - Abusing other partners Not cooperating with me in parenting
- e. Has a criminal record
- f. Has strong ties in:
 - Another county in California (list county): _____
 - Another state (list state): _____
 - Another country (list country): _____
- g. Is a citizen of another country (list country or countries): _____
 Does the person in ② have strong family, cultural, or emotional ties to that country? Yes No
- h. Give examples or reasons for your answers in ⑪ a–g:

The statements made above are made under penalty of perjury as declared on the request form (DV-100, ③2).



12 **Turn In and Do Not Apply for Passports or Other Important Documents**

I ask the judge to order the person in **(2)** to not apply for passports or other documents that can be used for travel, like visas and birth certificates, and to turn in the following documents: _____

by (date): _____ to (name of person to give documents to): _____

13 **Provide Travel Plan and Documents**

If the other parent is allowed to travel with our children, the other parent should be ordered to give me:

(Check all that apply.)

Children's travel schedule

Copies of round-trip airline tickets

Addresses and telephone numbers where the children can be reached

An open airline ticket for me in case the children are not returned.

Other (describe): _____

14 **Notify Other State of Travel Restrictions**

I ask the judge to order the person in **(2)** to register this order with (list state): _____ before the children can travel to that state for visits.

15 **Do Not Move With Children Without Permission**

I ask the judge to order that the other parent not move with our children without my written permission or the judge's permission.

16 **Post a Bond**

I ask the judge to order the person in **(2)** to post a bond for \$ _____.

If the person in **(2)** takes the children without my permission, I can use this money to bring the children back.

17 **Notify Foreign Embassy or Consulate of Passport Restrictions**

I ask the judge to order the person in **(2)** to notify (name of embassy or consulate): _____ of this order and to file proof of the notification with the court by (date): _____

18 **Foreign Custody and Visitation Order**

I ask the judge to order the person in **(2)** to get a custody and visitation order equal to the most recent U.S. order before the child can travel to (list country): _____ for visits.

(Note that foreign orders may be changed or enforced depending on the laws of the country.)

This form is attached to (check one):

- DV-105 (Use this form if you need more space to list residence history for other children.)
- DV-125 (Use this form to list where your children have lived for the last five years.)

Draft- 3.16.22
Not approved by
Judicial Council

Name of child or children: _____

(Start with their current location, and list where your children have lived for the last five years.)

Dates (month/year)		City, State, and Tribal Land	Child of children lived with:		
From: _____	To present	<input type="checkbox"/> Check here if you want to keep the location private. (List the state only.)	Me	Parent in (2)	Other*
		_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other* (relationship to child): _____

Name of child or children: _____

(Start with their current location, and list where your children have lived for the last five years.)

Dates (month/year)		City, State, and Tribal Land	Child or children lived with:		
From: _____	To present	<input type="checkbox"/> Check here if you want to keep the location private. (List the state only.)	Me	Parent in (2)	Other*
		_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____	Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other* (relationship to child): _____

Check here to list other children with a different residence history than the children you've already listed. Use another form DV-105(A) and attach it to this form.

This is not a Court Order.

Clerk stamps date here when form is filed.

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Judicial Council

Instruction: The person asking for a restraining order must complete items 1 and 2. The court will complete the rest of this form.

1 Name of Person Asking for Order:

2 Name of Person to Be Restrained:

The court will fill out the rest of this form.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2 :



Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above:

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website go to: www.courts.ca.gov/find-my-court.htm.

4 Temporary Restraining Orders (Any orders granted are attached on form DV-110.)

a. Temporary Restraining Orders (any order listed under Family Code section 6320):

(Check one):

- (1) [] All granted until the court hearing.
(2) [] All denied until the court hearing. (Reasons for denial are given below in b.)
(3) [] Partly granted and partly denied until the court hearing. (Reasons for denial are given below in b.)

b. Reasons for denial of some or all of the orders on form DV-100.

- (1) [] The facts given in the request (form DV-100) do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
(2) [] The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
(3) [] Other reasons for denial:



5 Confidential Information Regarding Minor

- a. A Request to Keep Minor's Information Confidential (form DV-160) was made and **granted** (see form DV-165, Order on Request to Keep Minor's Information Confidential, served with this form.)
- b. **If the request was granted, the information described on the order (form DV-165, item 7) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

6 Service of Documents by the Person in 1

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form (DV-109, Notice of Court Hearing) to the person in 2 along with a copy of all the forms indicated below:

- a. DV-100, Request for Domestic Violence Restraining Order (file-stamped)
- b. DV-110, Temporary Restraining Order (file-stamped) **IF GRANTED**
- c. DV-120, Response to Request for Domestic Violence Restraining Order (blank form)
- d. DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?
- e. DV-250, Proof of Service by Mail (blank form)
- f. DV-170, Notice of Order Protecting Information of a Minor, and DV-165, Order on Request to Keep Minor's Information Confidential (file-stamped), **IF GRANTED**
- g. Other (specify): _____

Judge's Signature

Date: _____

Judicial Officer**Right to Cancel Hearing: Information for the Person in 1**

- If item 4a(2) or 4a(3) is checked, the judge has denied some or all of the temporary orders you requested until the court hearing. The judge may make the orders you want after the court hearing. You can keep the hearing date, or you can cancel your request for orders so there is no court hearing.
- If you want to cancel the hearing, use form DV-112, Waiver of Hearing on Denied Request for Temporary Restraining Order. Fill it out and file it with the court as soon as possible. You may file a new request for orders, on the same or different facts, at a later time.
- If you cancel the hearing, do not serve the documents listed in item 6 on the other person.
- If you want to keep the hearing date, you must have all of the documents listed in item 6 served on the other person within the time listed in item 6.
- At the hearing, the judge will consider whether denial of any requested orders will jeopardize your safety and the safety of children for whom you are requesting custody or visitation.
- You must attend the hearing if you want the judge to make restraining orders or continue any orders already made. If you cancel the hearing or do not attend the hearing, any restraining orders made on form DV-110 will end on the date of the hearing.



To the Person in ① :

- The court cannot grant a long-term restraining order unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form, like form DV-200, *Proof of Personal Service*.
- For information about service, read form DV-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents. Read form DV-115-INFO, *How to Ask for a New Hearing Date*.

To the Person in ② :

- If you want to respond in writing, mail a copy of your completed form DV-120, *Response to Request for Domestic Violence Restraining Order*, to the person in ① and file it with the court. You cannot mail form DV-120 yourself. Someone age 18 or older — **not you** — must do it.
- To show that the person in ① has been served by mail, the person who mailed the form must fill out a proof of service form. Form DV-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the hearing.
- For information about responding to a restraining order and filing your answer, read form DV-120-INFO, *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date. Read form DV-115-INFO, *How to Ask for a New Hearing Date*.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. At the hearing, tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have. Read form DV-520-INFO, *Get Ready for Your Restraining Order Court Hearing*.
- At the hearing, the judge may make restraining orders against you that could last up to five years.
- The judge may also make other orders about your children, child support, spousal support, money, and property and may order you to turn in or sell any firearms, firearm parts, or ammunition that you own or have.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

—Clerk’s Certificate—

Clerk’s Certificate
[seal]

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

Draft-3.17.22
Not approved by the
Judicial Council

Instruction: The person asking for a restraining order must complete items 1, 2, and 3 only. The court will complete the rest of this form.

1 Protected Person (name):

2 Restrained Person

*Full Name:
*Gender: M F Nonbinary
*Age: (Give estimate, if age unknown.)
Date of Birth: Height: Weight:
Hair Color: Eye Color:
*Race:
Relationship to person in 1:
Address of restrained person:
City: State: Zip:
Type, number, and location of firearms, firearm parts, or ammunition:
(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

3 Other Protected People

In addition to the person named in 1, the people listed below are protected by the orders listed in 6 through 9.

Table with 3 columns: Full name, Relationship to person in 1, Age. Includes multiple rows for listing protected people.

Check here if you need to list more people. List them on a separate piece of paper, write "DV-110, Other Protected People" at the top, and attach it to this form.

(The court will complete the rest of this form)

4 Your Hearing Date (Court Date)



This order expires at the end of the hearing listed below:

Hearing Date: Time: a.m. p.m.

This is a Court Order.



This order must be enforced throughout the United States. See page 5.

To the Person in 2

The judge has granted temporary orders. See items 5 through 20. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

5 No Guns, Other Firearms, Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
 - Firearms, including any handgun, rifle, shotgun, and assault weapon;
 - Firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531); and
 - Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in or sold. (You may use form DV-800, Proof of Surrender of Firearms, Firearm Parts or Ammunition, for the receipt.)
- e. If a law enforcement officer served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must file a receipt with the law enforcement agency that proves all prohibited items have been turned in or sold.

6 Restrained Person Has Prohibited Items

The court finds that you have the following:

a. Firearms and/or firearm parts

Description	Location, if known	Check here if proof of compliance was received
(1) _____	_____	<input type="checkbox"/>
(2) _____	_____	<input type="checkbox"/>
(3) _____	_____	<input type="checkbox"/>
(4) _____	_____	<input type="checkbox"/>

b. Ammunition

Description	Amount, if known	Location, if known	Check here if proof of compliance was received
(1) _____	_____	_____	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>

This is a Court Order.



7 **Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed on form DV-109, item **3**, you must attend the court hearing listed below to prove that all prohibited items that you have or own were turned in, sold, or stored. If the judge listed any items in **6** of this order, this means that the judge has found that you have those items. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and will notify law enforcement and a prosecuting attorney of the violation.

Name and address of court, if different than court address listed on page 1



Date: _____ Dept.: _____
Time: _____ Room: _____

8 **Cannot Look for Protected People**

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

9 **Order to Not Abuse** Not requested Denied until the hearing Granted as follows:

You must not do the following things to the person in **1** and any person listed in **3**:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

This is a Court Order.



10 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 10a:
 - (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (explain): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

11 Stay-Away Order Not requested Denied until the hearing Granted as follows:

- a. You must stay at least (specify): _____ yards away from (check all that apply):

<input type="checkbox"/> Person in ①.	<input type="checkbox"/> School of person in ①.
<input type="checkbox"/> Home of person in ①.	<input type="checkbox"/> Persons in ③.
<input type="checkbox"/> Job or workplace of person in ①.	<input type="checkbox"/> Children’s school or child care.
<input type="checkbox"/> Vehicle of person in ①.	<input type="checkbox"/> Other (explain): _____
- b. Exception to 11a:
The stay-away orders do not apply:
 - (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
 - (2) For you to visit with your children for court-ordered contact or visits.
 - (3) Other (explain): _____

12 Order to Move Out Not requested Denied until the hearing Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (address): _____

13 Other Orders Not requested Denied until the hearing Granted as follows:

This is a Court Order.



14 Orders for Minor Children Not requested Denied until the hearing Granted as follows:

Granted on the attached form DV-140, Orders for Minor Children, and

(list other form): _____.

15 Protect Animals Not requested Denied until the hearing Granted as follows:

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16 Control of Property Not requested Denied until the hearing Granted as follows:

Until the hearing, **only** the person in ① can use, control, and possess the following property:

17 Health and Other Insurance Not requested Denied until the hearing Granted as follows:

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties —or their children, if any— for whom support may be ordered, or both.

18 Record Communications Not requested Denied until the hearing Granted as follows:

The person in ① may record communications made by the person in ② that violate this order.

This is a Court Order.



19 Property Restraint Not requested Denied until the hearing Granted as follows:

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted ⑧, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

20 Pay Debts Owed for Property Not requested Denied until the hearing Granted as follows:

The person in ② must make these payments until this order ends:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

21 Orders That May Be Made at the Hearing Date (Court Date)

If the person in ① checked any of these orders on form DV-100, a judge could grant them at your court date.

- Child Support • Lawyer’s Fees and Costs • Batterer Intervention Program
- Spousal Support • Pay Expensed Caused by Abuse • Transfer of Wireless Phone Account

22 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free.
Bring a copy of all the papers that you need to be served to the sheriff or marshal.

23 **Attached pages** *(All of the attached pages are part of this order.)*

- a. Number of pages attached to this eight-page form: _____
- b. Attachments include forms *(check all that apply)*:
- DV-140 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Warnings and Notices to the Restrained Person in ②**Your Address to Receive Court Orders**

If the judge makes a restraining order at the hearing (court date), which has the same orders as in this Temporary Restraining Order, you will get a copy of that order by mail at your last known address, which is written in ② on page 1. If your address was not listed on this form or is incorrect, contact the court. If you did not attend your hearing and want to know if the judge granted a restraining order against you, contact the court.

Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not attend your hearing (court date), the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve **form FL-150, *Income and Expense Declaration***, or **form FL-155, *Financial Statement (Simplified)***, if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve **form FL-150, *Income and Expense Declaration***, so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

This is a Court Order.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Conflicting Orders – Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced according to the following priorities (see Penal Code section 136.2 and Family Code sections 6383(h), 6405(b)):

1. **EPO:** If one of the orders is an *Emergency Protective Order* (form EPO-001), and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. **No-Contact Order:** If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. **Criminal Order:** If none of the orders include an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. **Family, Juvenile, or Civil Order:** If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Child Custody and Visitation

- Custody and visitation orders are on form DV-140. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- At items 10b(1) or 11b(1) of this order, the judge may allow the person in ② to have brief and peaceful contact with the person in ①, as needed to follow court-ordered visits. Conduct of the person in ② that is **not** brief and peaceful is a violation of this order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Draft- 3.16.22
Not approved by
Judicial Council

(Complete items 1 and 2 only.)

1 Protected Party: _____

2 Restrained Party: _____

(The court will complete the rest of this form)

3 Next Court Date

a. [] The request to reschedule the court date is denied.

Your court date is: _____

(1) Any Temporary Restraining Order (form DV-110) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. [] The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. See items 5-9 for more information.

Name and address of court, if different from above: _____

New Court Date

Date: _____ Time: _____
Dept.: _____ Room: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

4 Attend Court Hearing By Phone or Videoconference

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website go to: www.courts.ca.gov/find-my-court.htm.

5 Temporary Restraining Order

a. [] There is no Temporary Restraining Order (TRO) in this case until the next court date because:

(1) [] A TRO was not previously granted by the court.

(2) [] The court terminates (cancels) the previously granted TRO because:

b. [] A Temporary Restraining Order (TRO) is in full force and effect because:

(1) [] The court extends the TRO previously granted on (date): _____

It now expires on (date): _____ (If no expiration date is listed, the TRO expires at the end of the court date listed in 3b).

(2) [] The court changes the TRO previously granted and signs a new TRO (form DV-110).

c. [] Other (specify): _____

Warning and Notice to the Restrained Party: If 5b is checked, a domestic violence restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.



6 Reason Court Date Is Rescheduled

- a. There is good cause to reschedule the court date (*check one*):
- (1) The protected party has not served the restrained party.
- (2) Other (*explain*):

- b. This is the first time that the restrained party has asked for more time to prepare.
- c. The court reschedules the court date on its own motion.

7 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Protected party**

- (1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) You must have the restrained party personally served with a copy of this order and a copy of all documents listed on form [DV-109](#), item **6**, by (*date*): _____
- (3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (*date*): _____
- (4) The court gives you permission to serve the restrained party as listed on the attached form DV-117.
- (5) Other:
- _____
- _____
- _____
- _____

b. **Restrained party**

- (1) You do not have to serve the protected party because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) You must have the protected party personally served with a copy of this order by (*date*): _____
- (3) You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (*date*): _____
- (4) Other:
- _____
- _____
- _____
- _____

c. **Court**

- (1) Further notice is not required.
- (2) The court will mail a copy of this order to all parties by (*date*): _____
- (3) Other:
- _____
- _____
- _____
- _____

This is a Court Order.



8 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

9 Other Orders

10 Attached pages *(All of the attached pages are part of this order.)*

a. Number of pages attached to this three-page form: _____

b. Attachments include forms *(check all that apply)*:

DV-110 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for Request for Accommodations by Persons With Disabilities and Response (*form MC-410*). (Civil Code **section 54.8**.)

Instructions to Clerk

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk's Certificate

[seal]

I certify that this *Order on Request to Continue Court Hearing (Temporary Restraining Order) (CLETS-TRO)* (form DV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

**Draft- 3.16.22
Not approved by the Judicial Council**

Use this form if someone has asked for a domestic violence restraining order against you, and you want to respond in writing. You will need a copy of form DV-100, *Request for Domestic Violence Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

Do not use this form if you want to ask for your own restraining order. Read [form DV-500-INFO](#), *Can a Domestic Violence Restraining Order Help Me?* to find out more about this type of restraining order.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:**1 Name of Person Asking for Protection:***(See form DV-100, item 1):*

2 Your Name:**! Address where you can receive court papers**

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)

Your hearing date is listed on form DV-109, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, go to your hearing date. If you do not **attend your hearing**, the judge could grant a restraining order that could last up to five years.

This is not a Court Order.

How to complete this form: To answer the questions below, look at the form DV-100 filled out by the person in ①. Tip: When the restraining order forms say "the person in ②" that means you, and the "person in ①" means the person who is asking for a restraining order against you.

4 Information About You (see ② on form DV-100)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

5 History of Court Cases and Restraining Orders (see ④ on form DV-100)

The person in ① may have listed other court cases or restraining orders involving you. If information is incorrect or missing, use the space below to give information.

Check here if you are including a copy of restraining order or court order that you want the judge to know about.

6 Your Relationship to the Person in ①

In item ③ of form DV-100, has the person in ① correctly described your relationship with them?

Yes No If no, what is your relationship with the person in ①?:

7 Other Protected People

If the judge grants a restraining order, it can include family or household members of the person in ①. See ⑧ on form DV-100 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

8 Order to Not Abuse (see ⑩ on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



9 **No-Contact Order** (see **11** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

10 **Stay-Away Order** (see **12** on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

11 **Order to Move Out** (see **13** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

12 **Other Orders** (see **14** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

13 **Order for Minor Children** (see **15** on form DV-100)

- a. I am **not** the parent of the child listed in form DV-105, *Request for Orders for Minor Children*.
b. I am the parent of the child or children listed in form DV-105 (check all that apply below):

- (1) I agree to the order requested.
(2) I do not agree to the order requested, because: _____

- (3) I would agree to a different order (explain the orders that you would agree to, or use [form DV-125, Response to Request for Orders for Minor Children](#)):

Check here if you will complete form **DV-125** and attach it to this form.

This is not a Court Order.



14 **Protect Animals** (see **16** on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

15 **Control of Property** (see **17** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

16 **Health and Other Insurance** (see **18** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

17 **Record Communications** (see **19** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

18 **Property Restraint** (see **20** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

19 **Pay Debt (Bills) Owed for Property** (see **22** on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



20 **Pay Expenses Caused by the Abuse** (see **23** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

21 **Child Support** (see **24** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.
- c. I agree to pay guideline child support. (*Learn more about guideline child support at www.courts.ca.gov/selfhelp-support.htm.)*

22 **Spousal Support** (see **25** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

23 **Lawyer's Fees and Costs** (see **26** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

- c. I ask that the person in **1** pay for some or all of my lawyer's fees and costs.

24 **Batterer Intervention Program** (see **27** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



25 **Transfer Wireless Phone Account** (see 28 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

26 **Guns, Other Firearms, Firearm Parts, or Ammunition** (see 29 on form DV-100)

If you were served with form DV-110, *Temporary Restraining Order*, you must follow the orders in 7 on form DV-110. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form DV-110. You may use form DV-800, *Proof of Surrender of Firearms, Firearm Parts and Ammunition*, for the receipt.

Check all that apply

- a. I do not own or have any prohibited items (guns, firearms, prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or control to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
 - is attached has already been filed with the court.
- c. I ask for an exemption from the firearms prohibition under Family Code section 6389(h) because (explain): _____

27 **Cannot Look for Protected People** (see 30 on form DV-100)

- a. I agree to the order.
- b. I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to: _____

28 **Additional Reasons I Do Not Agree with the Request** (optional)

Explain why you do not agree to any of the orders requested by the person in 1 (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper and write “DV-120, Additional Reasons I Do Not Agree with the Request” at the top.

This is not a Court Order.



29 **My Out-of-Pocket Expenses**

If the request for restraining order is denied by the judge at the court hearing, I ask the judge to order the person in **1** to pay my out-of-pocket expenses because the temporary restraining order was granted without enough supporting facts. The expenses are:

For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____

30 **Additional Pages**

Number of pages attached to this form, if any: _____

31 **Your signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

32 **Your lawyer's signature** *(if you have one)*

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- If the person in **1** asked for child support, spousal support, or anyone is asking for lawyer's fees, you must complete [form FL-150, Income and Expense Declaration](#). If the person in **1** is only asking for child support (item 24 on form DV-100), you may be eligible to fill out a simpler form, [form FL-155](#). Read [form DV-570](#) to see if you are eligible to fill out form FL-155. Before your court date, you must file form FL-150 or FL-155 with the court. Then you must have a server mail a copy to the person in **1** and have your server complete [form DV-250, Proof of Service by Mail](#). After form DV-250 is completed, file it with the court.
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at: <https://selfhelp.courts.ca.gov/respond-domestic-violence-restraining-order>. More information is also available on [form DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?](#)

This is not a Court Order.

What is a Domestic Violence Restraining Order?

It is a court order that can help protect people who have been abused or threatened with abuse. Abuse can be physical or emotional. It can be spoken or written.

What does the order do?

A restraining order can include orders for you to:

- Not contact or harm the protected person, including children or others listed as protected people
- Stay away from all protected people
- Not have any guns, firearms (including "ghost guns"), firearm parts, or ammunition
- Move out of the place that you share with the protected person
- Follow custody and visitation orders
- Pay child support
- Pay spousal support
- Obey property orders

Who can ask for a domestic violence restraining order?

The person requesting the order must have a relationship with you:

- Someone you date or used to date
- Married, registered domestic partners, separated, engaged, or divorced
- Someone you live or lived with (more than a roommate)
- A parent, grandparent, sibling, child, or grandchild related by blood, marriage, or adoption

What if I have children with the person asking for a restraining order?

A restraining order can include orders for your children, including child custody and visitation. If the court made orders for your children, the orders would be listed on form DV-140, *Orders for Minor Children*.

What if I want to leave the county or state?

You must still comply with the restraining order, including custody and visitation orders. The restraining order is valid anywhere in the United States.

I was served with form DV-100, DV-109, or DV-110. What do I do now?

Read the papers very carefully. Your court hearing is listed on form DV-109. You should attend the court hearing if you do not agree to the orders requested. If you do not attend, the judge can make orders against you without hearing from you. If you were served with form DV-110, this means that the judge granted a temporary restraining order against you. You must follow the orders. Look at form DV-100 to see what the other side has asked the judge to order.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine. You must still follow the orders even if you are not a U.S. citizen. If you are worried about your immigration status, talk to an immigration lawyer.

How long does the order last?

If there is a temporary restraining order in effect, it will last until the hearing date. At your court hearing, the judge will decide whether to extend the order or cancel the order. The judge can extend the order for up to five years. Custody, visitation, child support, and spousal support orders can last longer than five years and they do not end when the restraining order ends.

Do I need a lawyer?

It's possible to go through this process without a lawyer. But having a restraining order against you may have a lot of consequences, and you may want to hire a lawyer. If you don't hire a lawyer, you can get free help from your court's self-help center. Find your local court's self-help center at: www.courts.ca.gov/selfhelp.

What if I was arrested or have criminal charges against me?

Anything you say at your court hearing or write in your papers could be used against you in a criminal case. Talk to a lawyer if you have any concerns.



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

What are my next steps?

1 Turn in or sell prohibited items

If there is a temporary restraining order against you (see form DV-110), then you must immediately turn in, sell, or store any guns, firearms, firearm parts, or ammunition that you have or own. You must then prove to the court that you've complied with the orders. Bring form DV-800/JV-270, *Proof of Surrender of Firearms, Firearm Parts, and Ammunition*, to a gun dealer or law enforcement when you turn in your firearms. After DV-800/JV-270 is complete, file it with the court. Read [Form DV-800-INFO/JV-270-INFO, How Do I Turn In, Sell, Or Store Firearms, Firearm Parts, and Ammunition?](#), for more information.



2 Respond to the request, in writing (optional)

If you want the judge and other side to know if you agree or disagree with the request, you can fill out [form DV-120, Response to Request for Domestic Violence Restraining Order](#). There is no court fee to file this form. After you fill out the form, file it with the court and “serve” the form on the person asking for the restraining order. “Serve” means to have someone 18 years old or older mail a copy to the person asking for the restraining order. You cannot be the one to mail your papers. The person who mails your form must fill out [form DV-250, Proof of Service by Mail](#). After form DV-250 is completed, file it with the court.

3 Prepare for your court hearing

Your court hearing is listed on form DV-109, *Notice of Court Hearing*. You can attend in person or remotely (by phone or videoconference). If you want to attend remotely, go to the court's website for more information. If you have evidence or witnesses, have them ready for your court hearing. At the hearing, you and the other side will have the opportunity to tell your side of the story. For more information, read [form DV-520-INFO, Get Ready for the Restraining Order Court Hearing](#). If you need more time to prepare your case, you may ask for a new court date. Read form DV-115-INFO, *How to Ask For a New Hearing Date*, for more information.

What if I need an interpreter?

You may use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one.



What if I have a disability and need an accommodation?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Can I use the restraining order to get divorced or end a domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

What if I need a restraining order against the other person?

Do not use [form DV-120](#) to request a domestic violence restraining order. For information on how to file your own restraining order, read [Form DV-505-INFO](#). You can also ask the court clerk about free or low-cost legal help.

What if I am a victim or survivor of domestic violence?

The National Domestic Violence Hotline provides free and private safety tips. Help is available in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

(This form is attached to form DV-120.)

Draft-3.22.22 Not approved
by Judicial Council

How to complete this form: To answer the questions below, look at the form DV-105 filled out by the person in ①. Tip: Where form DV-105 refers to "person in ②," that means you. If you need more space to complete your answer, you can use a separate piece of paper and attach it to this form. Include a title at the top of the paper (example: DV-125, Custody).

① Person Asking for Protection (see ① on form DV-105)

- a. Name: _____
- b. Relationship to children: Parent Legal Guardian Other (describe): _____

② Your Information

- a. Name: _____
- b. Relationship to children: Parent Legal Guardian Other (describe): _____

③ Children (see ③ on form DV-105)

- a. I am the parent of the child or children listed on form DV-105.
- b. I am **not** the parent of all the children listed on form DV-105.
- c. I am **not** the parent of the following children (list names):

- d. Other (describe): _____

④ City and State Where Children Lived (see ④ on form DV-105)

- a. I agree with the information given by the person in ①.
- b. I do not agree. (Use form DV-105(A) to list where the children have lived.)

⑤ History of Court Cases Involving Children (see ⑤ on form DV-105)

The person in ① may have listed other court cases involving your children. If information is incorrect or missing, use the space below to give information. List where the case was filed (city, state, or tribe), the year the last order was made, and case number.)

- Custody _____
- Guardianship _____
- Divorce _____
- Juvenile Court _____
- Criminal _____
- Other (what kind of case?): _____

- Check here if you are attaching a copy of a custody or visitation order.

This is not a Court Order.

6 **Custody** (see **6** on form DV-105)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____

c. I would agree to a different order:

(1) Legal Custody (*The person that makes decisions about the child's health, education, and welfare.*)

- Sole to Person in **1**
- Sole to Person in **2**
- Shared (held jointly) by persons in **1** and **2**.
- Other (*name*): _____

(2) Physical Custody (*The person that the child regularly lives with.*)

- Sole to Person in **1**
- Sole to Person in **2**
- Shared (held jointly) by persons in **1** and **2**.
- Other (*name*): _____

7 **Visits with Children** (see **7** on form DV-105)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____

c. I would agree to a different order:

(Give as much detail as you can about the parenting time you want, including when visits will happen, how often the visits should be, and who will be responsible for transporting the children. You can write out the schedule you want below or use the chart in **8**.)

(1) Parenting plan (*describe*):

(2) Check here if you want to use the chart in **8**.

This is not a Court Order.

8 **Visitation Schedule**Follow the schedule listed below: Every week. Every other week. Other _____

Visitation Schedule	Time	Person to bring children to and from visit	Location of drop-off and pick-up
Monday	Start: _____ End, if applies: _____		
Tuesday	Start: _____ End, if applies: _____		
Wednesday	Start: _____ End, if applies: _____		
Thursday	Start: _____ End, if applies: _____		
Friday	Start: _____ End, if applies: _____		
Saturday	Start: _____ End, if applies: _____		
Sunday	Start: _____ End, if applies: _____		

9 **Stop Access to Children's School, Health, and Other Information** (see **9** on form DV-105)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____

- c. I would agree to a different order (describe the order you would agree to):

10 **Request for Orders to Prevent Child Abduction** (see **11**–**18** on form DV-105)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____

- c. I would agree to a different order (describe the order you would agree to):

11 The statements made on this form are made under penalty of perjury as declared on the response form (DV-120).**This is not a Court Order.**

Clerk stamps date here when form is filed.

Draft- Not approved by Judicial Council-3.17.22

Original Order Amended Order

1 Protected Person (name):

2 Restrained Person

*Full Name:
*Gender: M F Nonbinary
*Age: (Give estimate, if age unknown.)
Date of Birth: Height: Weight:
Hair Color: Eye Color:
*Race:
Relationship to person in 1:
Address of restrained person:
City: State: Zip:
(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

3 Other Protected People

In addition to the person in 1, the following persons are protected by orders as indicated in items 11 through 14.

Table with 3 columns: Full name, Relationship to person in 1, Age

4 Expiration Date

This restraining order, except the orders noted below,* end on:
(date): at (time): a.m. p.m. or midnight
*Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. Custody, visitation, and child support orders usually end when the child is 18.

- If no date is written, the restraining order ends three years after the date of the hearing in item 5 a.
If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 9.

This is a Court Order.



5 Hearing

- a. The hearing was on *(date)*: _____ with *(name of judicial officer)*: _____
- b. These people attended the hearing *(check all that apply)*:
 - The person in ① The lawyer for the person in ① *(name)*: _____
 - The person in ② The lawyer for the person in ② *(name)*: _____

6 Future Court Hearing



The person in ① person in ② must attend court on:
 Date: _____ Department: _____
 Time: _____ a.m. p.m. to review *(list issues)*: _____

To the Person in ②

The court has granted a long-term restraining order. See ⑦ through ⑲. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

7 No Guns, Other Firearms, Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
 - Firearms, including any handgun, rifle, shotgun, and assault weapon;
 - Firearm parts (receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531); and
 - Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. Within 48 hours of receiving this order, you must file a receipt with the court to prove that all prohibited items have been turned in or sold. (You may use [form DV-800/JV-270, Proof of Surrender of Firearms, Firearm Parts, and Ammunition](#), for the receipt.)
- e. If a law enforcement officer served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must file a receipt with the law enforcement agency that proves all prohibited items have been turned in or sold.
- f. Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm *(make, model, and serial number of firearm)*: _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



8 **Restrained Person Has Prohibited Items**

The court finds that you have the following firearms, firearm parts, or ammunition:

a. Firearms and/or firearm parts

Description	Location, if known	Check here if proof of compliance was received
(1) _____	_____	<input type="checkbox"/>
(2) _____	_____	<input type="checkbox"/>
(3) _____	_____	<input type="checkbox"/>
(4) _____	_____	<input type="checkbox"/>

b. Ammunition

Description	Amount, if known	Location, if known	Check here if proof of compliance was received
(1) _____	_____	_____	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>

Check here to list additional items. List them on a separate piece of paper, write "DV-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on *(date)*: _____
The court has not received a receipt or proof of compliance for all the items listed in **8**.

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency)*: _____

c. Notify Prosecutor
If you do not provide a receipt or proof of compliance within two days of today's hearing, by: *(date and time)*: _____
the court will notify the *(name of prosecuting agency)*: _____

10 **Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **6** to prove that all prohibited items have been properly turned in, sold, or stored.

This is a Court Order.



11 Cannot Look for Protected People

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

12 Order to Not Abuse

You must not do the following things to the person in ① and any person listed in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- “Disturb the peace” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

13 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to 13a:

- (1) You may have brief and peaceful contact with the person in ① to only communicate about your children for court-ordered visits.
- (2) You may have contact with your children only during court-ordered contact or visits.
- (3) Other (*explain*): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



14 **Stay-Away Order**

a. You **must** stay at least (*specify*): _____ yards away from (*check all that apply*):

- Person in ①.
- Home of person in ①.
- Job or workplace of person in ①.
- Vehicle of person in ①.
- School of person in ①.
- Persons in ③.
- Children’s school or child care.
- Other (*specify*): _____

b. Exception to 14a:

The stay-away orders do not apply:

- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) For you to visit with your children for court-ordered contact or visits.
- (3) Other (*explain*): _____

15 **Order to Move Out**

You must move out immediately from (*address*):

16 **Other Orders**

17 **Orders for Minor Children**

The judge has granted orders regarding a child or children. The orders are included on **form DV-140**, and (*list other form*): _____

18 **Protect Animals**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This is a Court Order.



19 **Control of Property**

Only the person in ① can use, control, and possess the following property:

20 **Health and Other Insurance**

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their children, if any, for whom support may be ordered, or both.

21 **Record Communications**

The person in ① may record communications made by the person in ② that violate this order.

22 **Property Restraint**

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted the order in ⑬, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

23 **Pay Debts (Bills) Owed for Property**

a. You must make these payments until this order ends:

(1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
(2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
(3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

b. The court finds that the debt or debts listed above in a(1) a(2) a(3) were the result of abuse in this case, and made without the person in ①'s agreement.

This is a Court Order.



24 **Pay Expenses Caused by the Abuse**

You must pay the following:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

25 **Child Support**

Child support is ordered on the attached [form FL-342](#), *Child Support Information and Order Attachment* or (*specify other form*): _____

26 **Spousal Support**

Spousal support is ordered on the attached [form FL-343](#), *Spousal, Partner, or Family Support Order Attachment* or (*specify other form*): _____

27 **Lawyer’s Fees and Costs**

You must pay the following lawyer’s fees and costs:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

28 **Batterer Intervention Program**

- a. The person in **(2)** must go to and pay for a probation certified 52-week batterer intervention program and show proof of completion to the court.
- b. The person in **(2)** must enroll by (*date*): _____ or if no date is listed, must enroll within 30 days after the order is made.
- c. The person in **(2)** must complete, file, and serve [form DV-805](#), *Proof of Enrollment for Batterer Intervention Program*.

29 **Transfer of Wireless Phone Account**

The court has made an order transferring one or more wireless service accounts from you to the person in **(1)**. These orders are contained on [form DV-900](#), *Order Transferring Wireless Phone Account*.

This is a Court Order.



30 Service

- a. **No other proof of service is needed.** The people in ① and ② attended the hearing or agreed in writing to this order.
- b. **The person in ② did not attend the hearing.** Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. *(Check all that apply):*
 - (1) This order can be served by mail. The judge's orders in this form are the same as in form DV-110 except for the expiration date. The person in ② must be served, either by mail or in person.
 - (2) This order must be personally served. The judge's orders in this form are different from the orders in form DV-110, or form DV-110 was not issued. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by (date): _____
 - (B) Mail at the person in ②'s last known address by (date): _____
- c. **Proof of service of form FL-300 to modify the orders in form DV-130 was presented to the court.**
 - (1) The people in ① and ② attended the hearing or agreed in writing to this order. No other proof of service is needed.
 - (2) The person in ① in ② did not attend the hearing and must be personally served (given) a copy of this amended (modified) order.

31 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free.
Take a copy of all the papers that you need to be served to the sheriff or marshal.

32 Attached pages

All of the attached pages are part of this order.

a. Number of pages attached to this 10-page form: _____

b. Attachments include forms *(check all that apply):*

- DV-140 DV-900 FL-341(C) FL-342 FL-343 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in item ⑤(a) on page 2; or
- The date next to the judge’s signature on this page.

The orders end on the expiration date in item ④ on page 1. If no date is listed, they end three years from the hearing date.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code, section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b)-(c).)

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

This is a Court Order.



Orders for Minor Children

Orders for minor children are listed on form DV-140 or another attached form. If the judge made custody or visitation orders, look at items 13 and 14 of this order to see if the judge granted an exception for brief and peaceful contact with the person in 1 as needed to follow court-ordered visits. Conduct of the person in 2 that is not brief and peaceful is a violation of this order.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **EPO:** If one of the orders is an *Emergency Protective Order* (form EPO-001) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. **No-Contact Order:** If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. **Criminal Order:** If none of the orders include an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. **Family, Juvenile, or Civil Order:** If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(The clerk will fill out this part.)

*Clerk's Certificate
[seal]*

—Clerk's Certificate—

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

This form is attached to (*check one*): DV-110 DV-130

Draft - 3.22.22

Not approved by
the Judicial Council

1 Name of Protected Person: _____
 Relationship to children: Parent Legal Guardian Other (*describe*): _____

2 Name of Restrained Person: _____
 Relationship to children: Parent Legal Guardian Other (*describe*): _____

(*Check here to list a third parent or legal guardian and complete the section below.*)

Name _____ Relationship to child: _____

3 Children

a. Name: _____ Date of birth: _____
 b. Name: _____ Date of birth: _____
 c. Name: _____ Date of birth: _____
 d. Name: _____ Date of birth: _____
 e. Name: _____ Date of birth: _____

(*Check here if you need more space. Write "DV-105, Children" at the top and attach it to this form.*)

4 Child Custody

a. Legal Custody (*The person that makes decisions about the child's health, education, and welfare.*)

- Sole to Person in **1**
 Sole to Person in **2**
 Shared (held jointly) by persons in **1** and **2**.
 Other (*name*): _____

b. Physical Custody (*The person that the child regularly lives with.*)

- Sole to Person in **1**
 Sole to Person in **2**
 Shared (held jointly) by persons in **1** and **2**.
 Other (*name*): _____

5 No visitation (parenting time) with Person in **2 until further order of the court.**

(If this form is attached to form DV-110, *Temporary Restraining Order*, this means that the judge has stopped your right to visit with your children temporarily. If you do not agree with this order, attend your court hearing.)

This is a Court Order.



6 **Supervised (Monitored) Visitation**

- a. Person to be supervised: Person in **1** Person in **2** by: _____
- b. Nonprofessional (*name and relationship to child, if known*): _____
- c. Professional (*name, if known*): _____
- (1) Fees paid by: Person in **1** _____ % Person in **2** _____ % Other: _____ %
- (2) Person in **1** contact provider by (*date*): _____
 Person in **2** contact provider by (*date*): _____
- d. Provider's contact information, if known
 Address: _____
 Telephone: _____
- e. Schedule of supervised visits
- (1) Once a week, for (*number of hours*): _____
- (2) Twice a week, for (*number of hours*): _____ each visit.
- (3) Follow the Visitation Schedule listed in **8**, starting (*date*): _____
 Every week 1st and 3rd weeks of each month 2nd and 4th weeks of each month
 Other (*describe*): _____
- (4) Other schedule (*describe*): _____

7 **Supervised (Monitored) Child Exchanges** (*use item 9 to list visitation schedule*)

- a. Person to be supervised: Person in **1** Person in **2** by: _____
- b. Nonprofessional (*name and relationship to child*): _____
 Safe location for exchanges: _____
 (For more information on safe locations, go to selfhelp.courts.ca.gov/guide-supervised-visitation.)
- c. Professional (*list name, if known*): _____
- (1) Fees paid by: Person in **1** _____ % Person in **2** _____ % Other: _____ %
- (2) Person in **1** contact provider by (*date*): _____
 Person in **2** contact provider by (*date*): _____
- (3) Location of exchanges to be decided by provider.
- d. Provider's contact information, if known
 Address: _____
 Telephone: _____

This is a Court Order.

8 **Visits With No Supervision (Unmonitored)**

a. Person in **1** Person in **2** will visit with the children as follows:

b. Follow the Visitation Schedule listed in **9**, starting (date): _____

Every week 1st and 3rd weeks of each month 2nd and 4th weeks of each month

Other (describe): _____

c. Visitation schedule described below:

9 **Visitation Schedule for Person in 2**

	Time	Person to bring children to and from visit	Location of drop-off and pick-up
Monday	Start: _____ End, if applies: _____		
Tuesday	Start: _____ End, if applies: _____		
Wednesday	Start: _____ End, if applies: _____		
Thursday	Start: _____ End, if applies: _____		
Friday	Start: _____ End, if applies: _____		
Saturday	Start: _____ End, if applies: _____		
Sunday	Start: _____ End, if applies: _____		



10 **Other Orders**

(Describe additional orders or refer to an attachment (e.g. FL 341(C), Children's Holiday Schedule Attachment).)

11 **Stop Access to Children's School, Health, and Other Information**

a. The person in **2** must **not** have access to the records or information for:

- All the children listed in **3**.
- For only the children listed here (*name of each child*):

b. From the following (*check all that apply*):

- Medical, dental, and mental health providers
- School and daycare providers
- Extracurricular activity providers, including summer camps and sports
- Employers (including volunteer and unpaid positions)
- Other (*describe*): _____

12 **No Travel With Children Without Permission**

- Person in **1** Person in **2** Other (*name*): _____

must have written permission from the other parent, or a court order, to take the children outside of:

- a. State of California
- b. United States
- c. Other place(s) (*list*): _____

13 **Jurisdiction and Notice**

This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400). The responding party was given notice consistent with the laws of the State of California.

14 **Country of Habitual Residence**

The country of habitual residence of the child or children in this case is The United States
 or Other (*specify*): _____.

15 **Penalties for Violating This Order**

If you violate this order, you may be subject to civil or criminal penalties, or both.



Orders to Prevent Child Abduction (Kidnapping)

16 Court Findings

There is a risk that the person in ② might take the children without permission because that parent:

- a. Has violated or threatened to violate a custody or visitation order.
- b. Does not have strong ties to California.
- c. Has done things recently that make it easy to take our children, like *(check all that apply)*:
- | | |
|---|--|
| <input type="checkbox"/> Quit a job | <input type="checkbox"/> Sold a home or ended a lease |
| <input type="checkbox"/> Closed a bank account | <input type="checkbox"/> Hid or destroyed documents |
| <input type="checkbox"/> Sold or gotten rid of property | <input type="checkbox"/> Applied for a passport, birth certificate, or school or medical records |
- d. Has a history of:
- | | |
|---|--|
| <input type="checkbox"/> Abusing me | <input type="checkbox"/> Taking away or hiding our children from me |
| <input type="checkbox"/> Child abuse | <input type="checkbox"/> Threatening to take away or hide our children from me |
| <input type="checkbox"/> Abusing other partners | <input type="checkbox"/> Not cooperating with me in parenting |
- e. Has a criminal record
- f. Has strong ties in:
- | | |
|--|-------|
| <input type="checkbox"/> Another county in California <i>(list county)</i> : | _____ |
| <input type="checkbox"/> Another state <i>(list states)</i> : | _____ |
| <input type="checkbox"/> Another country <i>(list country)</i> : | _____ |
- g. Is a citizen of another country *(list country)*:

17 Turn In and Do Not Apply for Passports or Other Important Documents

Person in ② must not apply for passports or other documents that can be used for travel, like visas and birth certificates, and must turn in the following documents: _____

by *(date)* _____ to *(name)*: _____

18 Provide Travel Plan and Documents

Person in ② must give the person in ① the following before traveling with the children:

(Check all that apply.)

- Children's travel schedule
- Copies of round-trip airline tickets
- Addresses and telephone numbers where children can be reached
- An open airline ticket for the person in ① in case the children are not returned
- Other *(describe)*: _____



19 **Notify Other State of Travel Restrictions**

Person in **2** must register this order with *(list state)*: _____
before the children can travel to that state for visits.

20 **Do Not Move With Children Without Permission**

Person in **2** must not move with the children outside: This county California The United States

Other *(list)*: _____
without written permission from the person in **1** or a court order.

21 **Post a Bond**

Person in **2** must post a bond for \$ _____

22 **Notify Foreign Embassy or Consulate of Passport Restrictions**

Person in **2** must notify *(name of embassy or consulate)*: _____
of this order and provide the court with proof of the notice by *(date)*: _____

23 **Foreign Custody and Visitation Order**

Person in **2** must get a custody and visitation order equal to the most recent U.S. order before the child can travel to *(list country)*: _____ for visits.
The court recognizes that foreign orders may be changed or enforced depending on the laws of that country.

24 **Other Orders to Prevent Child Abduction**

Notice to Authorities in Other States and Countries

These orders are valid in other states and any country that has signed the Hague Convention on the Civil Aspects of Child Abduction. This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400) and the Hague Convention (42 U.S.C. section 11601 et seq.). If jurisdiction is based on other factors, they will be listed above in item **24**.

What is a “domestic violence restraining order”?

It is a court order that can help protect people who have been abused by someone they've had an intimate relationship with, are closely related to, or have lived with as more than just roommates.

How can the restraining order help me?

The court can order the restrained person to:

- Not contact or go near you, your children, other relatives, or others who live with you;
- Not have any firearms (including "ghost guns"), firearm parts, or ammunition;
- Move out of your home;
- Obey child custody and visitation orders;
- Pay child support;
- Pay spousal support; and
- Obey orders about property.

Does this request cost money to file?

No, filing this request with the court is free.

How soon can I get the order?

The judge will decide within one business day whether to grant you a temporary restraining order. Sometimes the judge decides sooner.

How long can a restraining order last?

If the judge makes a temporary order, it will last until your hearing date (court date). At your hearing, the judge will decide whether to grant you a long-term restraining order that can last up to five years.

Do I have a court hearing (court date)?

Yes. You must attend court on the date the clerk gives you. If you do not, any order you have will end. If you want to attend remotely (by phone or videoconference), go to the court's website to find out how to attend remotely. To learn more about what to expect at your hearing, go to <https://selfhelp.courts.ca.gov/prepare-your-restraining-order-court-date> or read form DV-520-INFO, *Get Ready for Your Restraining Order Court Hearing*.

Am I eligible?

Not approved by Judicial Council

1 You are eligible if you want a restraining order against:

- Your spouse, ex-spouse, registered domestic partner, or ex-registered domestic partner;
 - Someone you have a child with;
 - Your parent, child, sibling, or grandparent (includes in-laws and step relationships);
 - Someone you live with or used to live with (more than just roommates);
- and

2 That person has been abusive.

Abuse can be spoken, written, or physical. It can be physical, sexual, or emotional. It includes threats to harm you or your family, stalking, harassment, destroying personal property, repeatedly contacting you, and disturbing your peace.

Disturbing your peace means destroy your mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.

Coercive control means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. It can also include reproductive coercion which means controlling someone's reproductive choices.

Examples of coercive control include:

- Isolating someone from their friends, relatives, or other support;
- Keeping them from food or basic needs;
- Controlling or keeping track of them, including their movements, contacts, actions, money, or access to services;
- Threats related to actual or suspected immigration status;
- Making them do something that they don't want to do by force, threat, or intimidation;
- Controlling or interfering with someone's contraception, including birth control and condoms; pregnancy or ability to become a parent; or access to related health information; and
- Using force, threat, or intimidation to pressure someone to be or not be pregnant.



What if I don't qualify for a domestic violence restraining order?

There are other kinds of restraining orders you can ask for. Here are some examples:

- **Civil harassment order** (can be used for neighbors, roommates, cousins, uncles, and aunts).
- **Dependent adult or elder abuse restraining order** (if you are at least 65 or a dependent adult).
- **Gun violence restraining order** (to prevent someone from hurting themselves or others with a firearm). Note that all restraining orders include a firearms and ammunition restriction. A gun violence restraining order gives limited protection because it only restrains the person from having firearms and ammunition.

To learn more about other kinds of restraining orders, go to

<https://www.courts.ca.gov/selfhelp-abuse.htm>.

Can I use the restraining order to get divorced or terminate a registered domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

Can the order stop the other parent from taking our children away?

If you get a temporary restraining order that includes an order for custody, the parent with custody may not remove the child from California without a court order or permission. If the judge granted child custody or other orders protecting your children, they would be listed on form DV-140, *Orders for Minor Children*.

What if I don't have a green card?

You can get a restraining order even if you are not a U.S. citizen. If you are worried about deportation, talk to an immigration lawyer.

How do I ask for a domestic violence restraining order?

See [form DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order?* The forms are available online at www.courts.ca.gov/forms. If you want a paper copy, go to any California courthouse. You can also check with your county's law library.

Do I need a lawyer to make this request?

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center. (See below.)

Where can I find a self-help center?

Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

Confidential Address Program

If you are a victim of domestic violence or live with a victim of domestic violence, there is a special program called Safe At Home that you can apply for. It is a free program that would help you keep your address private. To learn more about the program, go to: <https://www.sos.ca.gov/registries/safe-home/>. Note that it may take several weeks to be approved.



What if I need an interpreter?



If you decide to ask for a restraining order, you will need to talk to a judge. If you need an interpreter, use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one.

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

I have a disability. How can I get help?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code [section 54.8](#).)

For more information on other steps of the process

- [Form DV-505-INFO, How to Ask for a Domestic Violence Restraining Order?](#)
- [Form DV-200-INFO, What Is "Proof of Personal Service"?](#)
- [Form DV-520-INFO, Get Ready For Your Restraining Order Court Hearing](#)
- [Form DV-530-INFO, How to Enforce Your Restraining Order](#)



Part 1: Which forms do I complete?

You will need to complete at least three forms to ask for a domestic violence restraining order:

Required forms:

- Form DV-100
- Form DV-109
- Form DV-110

If you have a child or children with the other side, you can ask for additional protection, like child custody orders. To make these requests, you must complete two more forms:

- Form DV-105
- Form DV-140

If you want to ask for child support or spousal support, make the request on form DV-100 (see item ②④ or ②⑤) and complete one more form:

- Form FL-150

Part 2: Tips for completing form DV-100

Required relationship

At item ③, you must have one of the listed relationships between you and the person you want protection from. If none apply, you do not qualify for a domestic violence restraining order. You may be eligible for another type of restraining order. Go to <https://www.courts.ca.gov/selfhelp-abuse.htm> for information on other types of restraining orders.

Describe the abuse

At items ⑤–⑦, you must describe the abuse that happened. This part is important, because a judge will decide whether to give you a restraining order based on the information you give.

Form DV-100 is a public document. What does "public" mean?

When you file papers with the court, those papers become "public." This means that anyone may ask the court to see the information you put on your papers. Also, the person you are asking for protection from will see all the information on your court papers, because you will have to have these papers personally delivered to the them. This is called "personal service" and more information is available on form DV-200-INFO, *What Is "Proof of Personal Service"?*

I don't want people to see my address.

You may not want someone to be able to see certain information, like your address. You do not have to give the address to where you live on form DV-100, item ①. You can use a different address, like a friend's address or P.O. Box. Just be sure to get the person's permission to use their address first, because any papers the court or other side mails to you will go to the address you list in item ①. And make sure that person will tell you right away if you get mail from the court.

I don't want people to see information I provide about a child (minor).

You can ask the court to make some of the information you provide about a child private (confidential). If the court makes information about a child private, the public will not be able to see this information on your court papers. See form DV-160-INFO for help with asking the court to make a child's information private.

How old must I be to ask for my own Restraining Order against someone?

To ask for a restraining order, you must be 12 years old or older. In some cases, the judge may ask that an adult (someone 18 years old or older), like your parent, help you in your case.



What if the other side has a gun or firearm?

In item 9 list information you have about any firearms that the other side might own or have access to. This information is important to the judge. The judge can notify law enforcement about any firearms, including illegal or untraceable firearms, called "ghost guns." Once notified, law enforcement must do what they can to get the firearms if there is a restraining order in place.

What does "Other orders" (item 1) mean?

This section allows you to make any special requests that you need to prevent more abuse by the other side.

What is the difference between "Pay Debts Owed for Property (item 2) and "Pay Expenses Caused by the Abuse (item 23)

If you want the other side to pay a debt owed for property, like a car or mortgage, you can make this request at item 22. If you want the other person to pay you back for damage that happened because of their abuse, like breaking your cellphone or for medical bills, you can make this request at item 23.

What is "Spousal Support" (item 25)

If you are married to the person you want protection from or in a registered domestic partnership, you can ask a judge to order them to pay you spousal support. The amount of spousal support depends on different factors, including how much you make versus how much the other side makes. It is important to know that in California, you cannot get spousal support for "common law" marriages, where parties have lived like a married couple but never legally married. California does not recognize "common law" marriage.

What is a "Batterer Intervention Program" (item 27)?

In most cases, it is a year-long program that helps a person recognize abusive behavior so that they will stop the abuse. If ordered to complete the program by a judge, the restrained person will have to pay program fees. The program will keep track of progress and attendance.

Part 3: File your court papers

Filing is when you turn in your completed court papers to the court. To file your court papers, you can call the court clerk to see find out which courthouse to go to. If you want to file online (e-file), check your local court's website for more information. To find your local court or their website, go to:

www.courts.ca.gov/find-my-court.htm.

Part 4: Get your papers from court

After you turn in your court papers, you will need to get them back from the court. Your papers will be ready the same day or the next business day. Look at your papers to see if the judge granted you a temporary restraining order, on form DV-110.

- If the judge **granted** you temporary protection and you want it to last longer, make sure you attend your court date (listed on form DV-109).
- If the judge **did not** grant you a temporary restraining order, the judge can grant you a restraining order at your court date (listed on form DV-109).

What is my next step?

You must have an adult personally give a copy of all your court papers to the person you want a restraining order against. It cannot be you or anyone listed on the restraining order. Serving papers can be a dangerous situation. If you want the sheriff to serve your papers, they will do so for free. For more information on service read, DV-200-INFO, *What Is "Proof of Personal Service"?*



What if I am worried about my safety?

If you are worried about your safety, especially if the judge did not grant you a temporary restraining order, the National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

For more information on other steps in the process

- Form DV-200-INFO, *What Is "Proof of Personal Service"?*
- Form DV-520-INFO, *Get Ready For Your Restraining Order Court Hearing*
- Form DV-530-INFO, *How to Enforce Your Restraining Order*

Information about the process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Bring evidence or witnesses you have to your court hearing

Evidence: For any written evidence you have, you will need to make it available to the judge and other side. Evidence can include pictures, emails, medical records showing injuries, police reports, etc. Sometimes the judge cannot look at or consider certain documents. The judge will decide which documents can be included in your case. If you are attending court in person, bring three copies of your written evidence, if you have not already filed and served it on the other side. If you have evidence and want to attend your court date by phone or videoconference, contact your local self-help center for information on how to share your evidence with the judge and other side.

Witnesses: If you have witnesses, you can ask the judge to allow them to speak at your court hearing. If you have a lot of witnesses, you may need to complete paperwork before your court hearing. Ask your local self-help center for more information.

Plan what you want to say to the judge

It can help to plan out and make notes about what you want to say to the judge. You can read from your notes for your court hearing, if you need to. Read over the court papers in your case and write out anything else you want the judge to know. Focus on the facts and details that support your side of the story.

Go over any documents you got from the other side. If the other side served you with papers, make sure you go over the papers and understand what they are asking for and arguing in the case (their allegations). The judge will give you an opportunity to weigh in on the other side's arguments. Think about and write down how you want to defend against their arguments.

What if I have a child with the other side?

If you ask for child custody or visitation (parenting time) orders, the judge may have you meet with a court professional to see if you and the other parent can agree on parenting time. This process is called "mediation." You can ask to meet separately and not with the other side in your case. Ask the court staff how you can make this request. For more information on mediation, go to: www.selfhelp.courts.ca.gov/child-custody/what-to-expect-mediation.

Make arrangements before your court hearing

- Court interpreter**
If you need an interpreter, use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one. You can also use this form to ask for an interpreter for a witness.
- Childcare:** Find childcare because court may take all morning or afternoon, even all day. Some courts have a Children's Waiting Room, a safe place for children to wait while parents are in court. You can check with your court in advance to see if this is available.
- Support person:** You can have someone attend court with you. The person you bring cannot speak for you but can sit next to you when your case is called (if you attend in person). If you attend by videoconference, your support person can also attend with you.
- Disability accommodation:** You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Decide whether you want to attend your court hearing in person or remotely (by phone or videoconference)

To find out the options available in your local court, go to your local court's website. You can use www.courts.ca.gov/find-my-court.htm to find your court's website.



What to expect at your court hearing

Show up to the hearing early. If you are late, you may miss your case being called. If you may be late, try to call the court right away to let courtroom staff know that you will be late.

- If you attend in person, do not sit near or talk to the other person. If you are afraid of the other person, tell the officer.
- If you attend by videoconference, and you don't want the other side to see where you are or your phone number (if you call in), talk with an advocate about how to safely attend using videoconference. This may include using a virtual background or using another phone number to call in. You can contact the National Domestic Violence Hotline for free help. See page 3 for information.

Follow courtroom rules

Here are some common rules:

- Put your cellphone on silent mode.
- Do not eat or drink during your hearing, except for water.
- Do not wear a hat or sunglasses on your head.
- When speaking to the judge, call the judge "Your honor" or "judge."
- Don't interrupt anyone who is speaking.
- Wait until it's your turn to speak and let the judge know you want a chance to speak.

What if the judge rescheduled (continued) my court date?

There are many reasons why the judge may have rescheduled your court date. This is called a continuance. A common reason is that you did not serve the other side in time (by the deadline), which means you have to serve them before the new court date (usually at least five days before your new court date). Sometimes the judge needs to give you another court date because they need to set aside more time to hear your case. And, if the restrained person asks for more time to prepare for the case, the judge must grant their request if they ask for one at your first court date. If the judge does give you another court date, the judge will usually extend your temporary restraining order, if you were granted one. If the judge reschedules your court date, make sure you get a new order (form [DV-116](#)).

Present your case

The judge will give both sides time to speak

Usually, the judge asks the person who wants the restraining order to talk first. No matter who talks first, you will both get a chance to speak. Attending court can be difficult and stressful but it is important not to talk over anyone. If you have something to say and it is not your turn, let the person finish talking and then ask the judge for permission to speak.

The judge will make a decision

Once all evidence has been presented, the judge will decide whether to grant a long-term restraining order. A long-term restraining order can last up to five years and vary in length depending on the facts of each case.

- If the restraining order is **denied**, the restraining order case is finished. Any temporary restraining order that was granted should automatically expire right after your court date.
- If the restraining order is granted, you should go over the restraining order to make sure you understand all the orders.

What do I do after a restraining order is granted?

For the restrained person:

- You must obey orders the judge makes. The orders will be on form [DV-130](#). If you do not obey them, you could be arrested, or convicted of a crime.
- If you have any prohibited items (firearms, firearm parts, ammunition), you must bring all items to a licensed gun dealer or police. For more information, read [form DV-800-INFO/JV-270-INFO](#), *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition*. The information is also available online at: www.selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders. Free help is also available at your local self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp.



For the protected person:

If you've had your day in court and the judge granted you a long-term restraining order, you may have a couple more steps to take. Make sure all steps are completed as soon as possible. If you do not, the police may not be able to enforce your restraining order.

- ① Your restraining order will be on form DV-130. If you don't have a form DV-130 that is signed by the judge, you will need to fill out:
 - [Form DV-130](#) (required).
 - [Form DV-140](#) (required if court made orders for your children).
 - Form [FL-342](#), *Child Support Information and Order Attachment*, or form [FL-343](#), *Spousal, Domestic Partner, or Family Support Order Attachment*, if the judge orders child support and/or spousal support.
- ② Turn in your completed form or forms to the court. The clerk will then give it to the judge to review and sign. You will need to pick it up once it is signed. Ask the court clerk when your forms will be ready. There is no fee for turning in this form.
- ③ Look at form DV-130, *Restraining Order After Hearing*, to see if the judge ordered you to serve the form by mail or in person. If you are ordered to serve the form by mail, this means your server only has to mail a copy of the restraining order. But, serving someone in person is always best. When you mail court papers, it may be hard to prove that the person actually received a copy especially if the person moves a lot. Learn more about service at: <https://selfhelp.courts.ca.gov/DV-restraining-order/serve-longterm-order>.

What happens if I don't attend the court hearing?

- If you asked for the restraining order and you do not attend the hearing, your temporary restraining order will end and there may not be a hearing. The court could make other orders if the other side asks, even if the restraining order is not granted. To get another restraining order, you must fill out and file a new set of forms.
- If someone asked for a restraining order against you, and you do not attend the hearing, a judge may grant a restraining order against you without hearing your side. The order can last for up to five years, and can include orders regarding children or property that you have with the person asking for protection.

Where can I find a self-help center?

Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Report a violation to the police

Now that you have a restraining order, you may need to enforce it if the restrained person violates the order. Enforce usually means to call the police to report a violation. To have the police enforce your order, call 911. If the restrained person has guns, firearms, “ghost guns” (a gun that they made), or other weapons, make sure to tell the police.

What can the police do?

The police can arrest the restrained person for violating the restraining order. Based on your report of the violation, the district attorney or prosecutor can charge the restrained person with a crime. If you have questions about a case or whether a criminal case was filed, you can call the District Attorney's Office in your county, or the county where the violation happened. The restrained person can go to jail or pay a fine if convicted of violating your restraining order.

What form is my restraining order on?

Here are some examples:

- DV-130
- DV-110
- DV-730
- DV-116
- CPO-160
- EPO-001

Keep a copy of your restraining order with you

You should have a copy of your restraining order at all times. Make sure it is the **most recent** restraining order and still in effect (not expired). If you have more than one, have a copy of each one. If you have a cellphone, use your cellphone to take a picture of all the pages so you always have proof of it. If the restrained person was not at the court hearing, make sure you have a copy of the proof of service form too. The proof of service proves that the restrained person knows about the restraining order and must follow the order.

Give copies of the order to other people who may need it

If you want other people to know about your restraining order and help you enforce it, give them a copy.

Here are some examples:

- Your child's school or childcare, if your restraining order protects your child.
- Other people protected by your restraining order, when appropriate.
- Your employer, if you are worried about being harassed or abused at work.
- Local police department: You can give a paper copy to your local police department. This is optional because all law enforcement agencies have access to restraining orders through a law enforcement database.

What if the judge granted orders to protect my children?

You can give a copy of the restraining order to any place that your child will be. If the restrained person is not allowed to have access to your child's medical records, school records, or other information, make sure to let your child's providers know right away. It may be a good idea to change your passwords to any shared online accounts, and update your contact information with those providers.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

Instructions

Who should complete this form?

- Restrained Person- pages 1 and 2
- Licensed Gun Dealer- page 3
- Law Enforcement-page 4

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the Judicial Council-
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Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**1 Protected Person**

Name: _____

2 Restrained Persona. **Your name:** _____b. **⚠ Address where you can receive court papers**

(This address could be used by the court and by the person in **1** to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

c. **⚠ Your contact information (optional)**

(The court could use this information to contact you. If you don't want the person in **1** to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Email Address: _____ Fax: _____

d. **Your lawyer's information (if you have one)**

Name: _____ State Bar No.: _____

Firm Name: _____

3 To the Respondent/Restrained Person

The court has ordered you to surrender all of your firearms, firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), and ammunition, by turning them in to law enforcement or by selling them to or storing them with a licensed gun dealer. You may use this form to prove to the court that you have obeyed its orders. Ask the licensed gun dealer to complete item **6** or the law enforcement officer to complete item **7**.

After the form is signed, make two copies. File the original with the court clerk. File a copy with the law enforcement agency that served you with the gun violence restraining order. Keep a copy for yourself. Failure to file a receipt with the court and with the law enforcement agency is a violation of the court's order. For help filling out this form, read *How Do I Turn In, Sell, or Store My Firearms?* (form DV-800-INFO/JV-720-INFO).



4 Do you have, own, possess, or control any other firearms, firearm parts, or ammunition besides the items listed in 6 or 7?

No

Yes (If yes, check one of the boxes below:)

a. I filed a *Proof of Surrender of Firearms and Firearm Parts, and Ammunition* (form DV-800) or other proof for those items with the court on (date): _____

b. I am filing the proof for those firearms, firearm parts, or ammunition along with this proof.

c. I have not yet filed the proof for the other firearms, firearm parts, or ammunition. (Explain why not):

Check here if there is not enough space below for your answer. Use form MC-025 and write "Attachment 4c" for a title.

5 Your signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▲ _____
Sign your name



Case Number: _____

6 Licensed Gun Dealer

a. Name of Licensed Gun Dealer: _____
b. License number: _____
c. Address: _____
d. Telephone number: _____ Email address: _____

e. Date of transfer of firearms/ammunition: _____ at: _____ a.m. p.m.

f. Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Sold	Stored
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

g. Ammunition

	Brand	Type	Amount	Sold	Stored
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Check this box if more space is needed or to use a separate document to list all firearms or ammunition. Write "DV-800/JV-270, item 6" at the top, and attach it to this form.

h. I declare under penalty of perjury under the laws of the State of California that the information listed in 6 is true and correct.

Date: _____

Type or print your name



Signature of licensed gun dealer



7 Law Enforcement

- a. Name of Law Enforcement Agency: _____
- b. Name of Law Enforcement Agent: _____
- c. Address: _____
- d. Telephone number: _____ Email address: _____
- e. Date of transfer of firearms/ammunition: _____ at: _____ a.m. p.m.

f. Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Stored	Seized
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

g. Ammunition

	<u>Brand</u>	<u>Type</u>	Amount	Stored	Seized
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Check this box if more space is needed or to use a separate document to list all firearms or ammunition. Write "DV-800/JV-270, item 7" at the top, and attach it to this form.

h. I declare under penalty of perjury under the laws of the State of California that the information listed in **7** is true and correct.

Date: _____

Type or print your name



Signature of law enforcement agent

What do I need to turn in?

You must turn in all **firearms, firearm parts, and ammunition** that you have or control.



Firearms include any:

- Handgun
- Rifle
- Shotgun
- Assault weapon

Firearm parts include:

- Receivers
- Frames
- Unfinished receivers and frames, also called “ghost guns”

How do I turn in my firearms, firearm parts, and ammunition?

You must turn them in to a licensed gun dealer, or law enforcement. You must do so within 24 hours of being served with the restraining order. If you were just in court and the judge granted a restraining order against you, follow the judge's orders right away. If you don't, the judge may be required to notify law enforcement or the local prosecutor of your violation.

How do I sell my firearm?

You can only sell or transfer your firearm to a licensed gun dealer.

How do I store my firearm?

License gun dealers and law enforcement agencies can store firearms but not all of them do. Contact them to find out if they will store your firearms and ask how much the fee is.

How do I take my firearm to law enforcement?

Call your local law enforcement agency to ask about their procedures. They will give you specific instructions, like making sure your firearms are unloaded. Take a copy of the restraining order with you. **Do not** bring your firearms to court.

If I turn in my firearm to law enforcement, how long will they keep it?

It depends. There are procedures for getting your firearm back after a restraining order expires. Ask the law enforcement agency.

After I give my firearm to law enforcement, can I change my mind?

Yes. You are allowed to make one sale through a licensed gun dealer. To do this, a licensed gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the firearm you are selling.

How do I prove to the judge that I have complied with the orders?

- ① Make sure you get a receipt from the licensed gun dealer or law enforcement for everything you turned in or sold. Bring a copy of form DV-800/JV-270, *Proof of Surrender of Firearms, Firearm Parts, and Ammunition*, with you and ask the dealer or officer to complete and sign the form.
- ② File the receipt with the court. Make sure you get two copies. All receipts must be filed with the court within 48 hours from the time you were served with the restraining order, unless the judge gave you another deadline.
- ③ Give a copy of your receipts to the law enforcement agency that served you the restraining order. If you don't know who served you with the restraining order, ask the court clerk for a copy of the proof of service form for the restraining order. The law enforcement agency is listed on that form.

This form is attached to (check one): DV-110 DV-116 Other: _____

Draft- 3.22. 22 Not approved by Judicial Council

1 Restrained Person Has Prohibited Items

The court finds that you have firearms, firearm parts, or ammunition:

- Listed on form DV-110, Temporary Restraining Order
Listed below:

a. Firearms and/or firearm parts

Table with 4 columns: Description, Location, if known, Check here if proof of compliance was received. Rows 1-6.

b. Ammunition

Table with 4 columns: Description, Amount, if known, Location, if known, Check here if proof of compliance was received. Rows 1-6.

Check here to list additional items. List them on a separate piece of paper, write "DV-820, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

2 Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance

You must attend the court hearing listed below to prove that all prohibited items that you have or own were turned in, sold, or stored. If the judge listed any items in 1 of this order, this means that the judge has found that you have those items. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and will notify law enforcement and a prosecuting attorney of the violation.

Name and address of court, if different than court address listed on the front of this order



Date: _____ Dept.: _____
Time: _____ Room: _____

This is a Court Order.



3 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on *(date)*: _____
The court has not received a receipt or proof of compliance for all the items listed in **1**.

b. Notify Law Enforcement
The court will immediately notify the following law enforcement agency of this violation *(name of agency)*:

c. Notify Prosecutor
If you do not provide a receipt or proof of compliance within two days of today's hearing, by:
(date and time): _____, the court will notify the
(name of prosecuting agency): _____.

This is a Court Order.

Clerk stamps date here when form is filed.

Draft-3.17.22
Not approved by
Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

This notice is provided to the agency or agencies listed below, as required by the Family Code.

1 Protected Party

Name: _____

2 Restrained Party

Name: _____

3 [] Restrained Party Has Not Complied with Surrendering Firearms, Firearm Parts, and Ammunition

The court has found that the person listed in (2) has guns, firearms, firearm parts, or ammunition in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply.)

a. [] Notice to Law Enforcement Agency (name of agency or agencies):

(Notice is provided pursuant to Family Code section 6306(f). The agency must take all actions necessary to obtain firearms and ammunition.)

b. [] Notice to Prosecuting Agency (name of agency): _____

(Notice is provided pursuant to Family Code section 6389(c)(4).)

4 [] Outstanding Warrant(s)

The court has found that the person listed in (2) has one or more outstanding warrants. The restraining order granted by the court is attached to this form. Notice of the warrant is provided to the agency listed below, as required by Family Code section 6306(e). The agency must take all actions necessary to execute the warrant(s).

Notice to Law Enforcement Agency (name of agency): _____

5 [] Additional Information

The court has conducted a background search pursuant to Family Code section 6306. In addition to the information provided above, the court is attaching the following information found in the background search.

(briefly describe information): _____

6 Number of pages attached to this form, if any: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



—Clerk's Certificate—

[seal]

I certify that I am not a party to this case and that a true copy of the *Noncompliance with Firearms and Ammunition Order, or Warrant* (form DV-830), was sent to the agency or agencies listed on page 1:

a. **Law enforcement agency listed in 3a**

(1) by fax, email, or other electronic means by mail

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or mailing: _____

(4) Transmitted or mailed from the courthouse listed on page 1.

b. **Prosecuting agency listed in 3b**

(1) by fax, email, or other electronic means by mail

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or mailing: _____

(4) Transmitted or mailed from the courthouse listed on page 1.

c. **Law enforcement agency listed in 4, if different than 3a**

(1) by fax, email, or other electronic means by mail

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or mailing: _____

(4) Transmitted or mailed from the courthouse listed on page 1.

Date: _____ Clerk, by _____, Deputy

DV-840/FL-840 Notice of Compliance Hearing for Firearms and Ammunition

Clerk stamps date here when form is filed.
Draft- 3.22.22
Not approved by the
Judicial Council


1 Protected Person (name): _____

2 Restrained Person (name): _____

3 **Notice of Compliance Hearing**

To the person in 2: The court has issued a domestic violence restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms, firearm parts, or ammunition that you own or control, as required in the restraining order and listed below in 4.

Fill in court name and street address:
Superior Court of California, County of

 Date: _____
Dept.: _____
Room: _____
Time: _____
Name and address of court if different from above:

Court fills in case number when form is filed.
Case Number:

4 **No Guns, Other Firearms, Firearm Parts, or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
 - Firearms, including any handgun, rifle, shotgun, and assault weapon;
 - Firearm parts (receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531); and
 - Ammunition.
- c. Within 24 hours of receiving the domestic violence restraining order, you were required to sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you had in your immediate possession or control.
- d. Within 48 hours of receiving the domestic violence restraining order, you were required to file a receipt with the court to prove that all prohibited items were turned in, sold, or stored. (You may use [form DV-800/JV-270, Proof of Surrender of Firearms, Firearm Parts, and Ammunition](#), for the receipt.)
- e. If a law enforcement officer served you with the restraining order, you were required to immediately surrender any prohibited items that you had if you were asked by the officer to do so. Within 48 hours of being served, you were required to file a receipt with the law enforcement agency that proved that all prohibited items were turned in, sold, or stored.



5 **Restrained Person Has Prohibited Items**

The court has found that you have firearms, firearm parts, or ammunition as listed below:

Firearms and/or firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/>
(2) _____	_____	<input type="checkbox"/>
(3) _____	_____	<input type="checkbox"/>
(4) _____	_____	<input type="checkbox"/>

Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>

Check here to list additional items. List them on a separate piece of paper, write "DV-840/FL-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

6 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on *(date)*: _____
 The court has not received a receipt or proof of compliance for all the items listed in **5**.

b. **Notify Law Enforcement**

The court will immediately notify the following law enforcement agency of this violation *(name of agency)*:

c. **Notify Prosecutor**

If you do not provide a receipt or proof of compliance by the deadline listed below, the court will notify the prosecutor listed below that you have violated the restraining order.

(1) *Deadline*: _____ (Deadline must be within two days of court's determination that the restrained person has one or more prohibited items.)

(2) *(Name of prosecuting agency)*: _____

7 **Service**

The person in **2** does not have notice of these orders. The person in **1** must have the person in **2** served by:

a. Personal service by *(date)*: _____

b. Mail, at the person in **2**'s last known address by *(date)*: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)

1. PROTECTED PERSONS (insert names of all persons protected by this Order): _____ **Draft- 3.2.22**
Not approved by Judicial Council
2. RESTRAINED PERSON (name): _____ Gender: M F X
 Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____
3. TO THE RESTRAINED PERSON:
- a. YOU MUST NOT harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property of, keep under surveillance, impersonate, block movements of, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace of (including coercive control), any person named in item 1.
 - b. YOU MUST NOT contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, e-mail or other electronic means, any person named in item 1.
 - c. YOU MUST stay away at least: _____ yards from each person named in item 1.
 stay away at least: _____ yards from move out immediately from:
 (address): _____
 - d. YOU MUST NOT take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.
 - e. YOU MUST NOT own, possess, purchase, receive, or attempt to purchase or receive any firearm, firearm parts (receiver, frame, or unfinished receiver/frame (Penal Code section 16531)), or ammunition. You must immediately surrender these items if asked by law enforcement. If not asked by law enforcement to surrender immediately, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer within 24 hours of receiving this order.
4. (Name): _____ is given temporary care and control of the following minor children of the parties (names and ages): _____
5. Order Expires on (date): _____ at (time): _____ EXPIRES ON THE 5TH COURT DAY OR 7TH CALENDAR DAY, WHICHEVER IS EARLIER. DO NOT COUNT THE DAY THE ORDER IS GRANTED
6. TO PROTECTED PERSON: To ask for a longer restraining order, ask for help at your local court. If there is an open juvenile case, file in that case. (Name and address of court): _____
7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.
8. Judicial officer (name): _____ granted this Order on (date): _____ at (time): _____

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons):

10. Firearms or ammunition were (check all that apply): observed reported searched for seized
11. The persons in 1 and 2 live together. The person in 1 asks that the person in 2 immediately move out from the address in item 3c.
12. The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 9. A custody order does does not exist.

By: _____ (PRINT NAME OF LAW ENFORCEMENT OFFICER) _____ (SIGNATURE OF LAW ENFORCEMENT OFFICER)
 Agency: _____ Telephone No.: _____ Badge No.: _____

PROOF OF SERVICE

13. I personally delivered (served) copies of this Order to the person named in 2 on: (date): _____ at (time): _____
 Address where person in 2 was served: _____
14. At the time of service, I was at least 18 years of age and not a party to this cause. I am a California law enforcement officer.
15. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date: _____ (TYPE OR PRINT NAME OF SERVER) _____ (SIGNATURE OF SERVER)

EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-001

TO THE RESTRAINED PERSON: VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR IT MAY BE PUNISHABLE AS A FELONY. THIS PROTECTIVE ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. THE TERMS AND CONDITIONS OF THIS ORDER REMAIN ENFORCEABLE REGARDLESS OF THE ACTS OF THE PARTIES; IT MAY BE CHANGED ONLY BY ORDER OF THE COURT (PENAL CODE SECTION 13710(b)).

YOU ARE PROHIBITED FROM OWNING, POSSESSING, PURCHASING, RECEIVING, OR ATTEMPTING TO PURCHASE OR RECEIVE ANY ITEM LISTED IN 3d. (PENAL CODE SECTIONS 29825(a), 30305(a).) A VIOLATION IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. YOU MUST IMMEDIATELY SURRENDER THE ITEMS IN 3d IF ASKED BY LAW ENFORCEMENT. IF NOT ASKED BY LAW ENFORCEMENT TO IMMEDIATELY SURRENDER, YOU MUST TURN IN THE ITEMS IN 3d TO LAW ENFORCEMENT, OR SELL THEM TO, OR STORE THEM WITH, A LICENSED GUN DEALER WITHIN 24 HOURS OF RECEIVING THIS ORDER. PROOF OF SURRENDER, SALE, OR STORAGE MUST BE FILED WITH THE COURT WITHIN 48 HOURS OF RECEIPT OF THIS ORDER.

To the restrained person: This order will last until the date and time in item 5 on the reverse. The protected person may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney on any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

A la persona bajo restricción judicial: Esta orden durará hasta la fecha y hora indicada en el punto 5 al dorso. La persona protegida puede, sin embargo, obtener una orden de entredicho (restricción judicial) más permanente de la corte. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado inmediatamente para que él o ella le pueda ayudar a responder a la orden.

To the protected person: This order will last only until the date and time noted in item 5 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address in item 6. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address in item 6, or if there is a juvenile dependency action pending, you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody and Visitation Order* from the court. You may seek the advice of an attorney on any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

A la persona protegida: Esta orden durará sólo hasta la fecha y hora indicada en el punto 5 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada en el punto 6. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada en el punto 6, o si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés **Welfare and Institutions Code**. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*). Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado inmediatamente para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

To law enforcement: The emergency protective order shall be served upon the restrained person by the officer, if the restrained person can reasonably be located, and a copy shall be given to the protected person. A copy shall be filed with the court as soon as practicable after issuance. Also, the officer shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse. A law enforcement officer shall use every reasonable means to enforce an emergency protective order. A law enforcement officer who acts in good faith to enforce an emergency protective order shall not be held civilly or criminally liable.

If a child is in danger of being abducted: This order will last only until the date and time noted in item 5 on the reverse. You may apply for a child custody order from the court.

En el caso de peligro de secuestro de un niño o de una niña: Esta orden será válida sólo hasta la hora y fecha indicada en el punto 5 al dorso. Usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*).

This emergency protective order is effective when made. This order shall expire on the date and time specified in item 5 on the reverse. The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons to the extent the provisions of this order are more restrictive. In other words, the provisions in this emergency protective order take precedence over the provisions in any other protective order, including a criminal protective order, if (1) the person to be protected is already protected by the other protective order, (2) the person to be restrained is subject to that other order, and (3) the provisions in this emergency order are more restrictive than the provisions in that other order. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order.

Deferred

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Protective Orders: Updating Civil Protective Order Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Revise forms CH-100-INFO, CH-110, CH-120-INFO, CH-130, SV-100-INFO, SV-110, SV-120-INFO, SV-130, WV-100-INFO, WV-110, WV-120-INFO, and WV-130

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended November 16, 2021 and March 21, 2022

Project description from annual agenda: Revise forms as appropriate. The items regarding interpreters on the information sheets for the civil protective orders (forms CH-100 and EA-100) is no longer correct and should be revised to conform to Government Code section 68561. At the same time, the forms will be updated to replace the old names of cross-referenced forms with the current names

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

When preparing this proposal the committee discovered that the priority of enforcement information on civil harassment forms also needed to be updated and that other protective order forms had the same outdated information as on civil harassment forms.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-22

Title	Action Requested
Protective Orders: Updating Civil Protective Order Forms	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms CH-100-INFO, CH-110, CH-120-INFO, CH-130, SV-100-INFO, SV-110, SV-120-INFO, SV-130, WV-100-INFO, WV-110, WV-120-INFO, and WV-130	January 1, 2023
Proposed by	Contact
Civil and Small Claims Advisory Committee	James Barolo, 415-865-8928
Hon. Tamara Wood, Chair	james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends revising several Judicial Council civil protective order forms to update the information they contain relating to interpreters, disability accommodations, and priority of enforcement.

The Proposal

This proposal would revise information sheets related to restraining orders for civil harassment (CH), private postsecondary school violence (SV), and workplace violence (WV) to update information about interpreters and court accommodations for disabilities. This proposal would also revise CH, SV, and WV forms for temporary orders and orders after hearing to update information about the priority of enforcement among multiple restraining orders.¹

Civil Harassment Information Sheets

This proposal recommends revising six information sheets:

- *Can a Civil Harassment Restraining Order Help Me?* (form CH-100-INFO);

¹ Additionally, in accordance with Judicial Council policy to update gendered items in forms when they are revised, the new and revised forms in this proposal replace “sex” with “gender” and add a “nonbinary” option for gender selection, as applicable.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

- *How Can I Respond to a Request for Civil Harassment Restraining Orders?* (form CH-120-INFO);
- *How Do I Get an Order to Prohibit Private Postsecondary School Violence?* (form SV-100-INFO);
- *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?* (form SV-120-INFO)
- *How Do I Get an Order to Prohibit Workplace Violence?* (form WV-100-INFO); and
- *How Can I Respond to a Petition for Workplace Violence Restraining Orders?* (form WV-120-INFO).

Interpreters

The current language about interpreters on the above forms implies that anyone over age 18 and not involved in the case may serve as an interpreter. This is not correct. (Cal. Rules of Court, rule 2.893 (interpreters must be certified, registered, or provisionally qualified).). In addition, these forms state that parties may have to pay a fee for a court interpreter. This is also no longer correct. (Evid. Code § 756.)

The committee recommends that these forms contain the following information regarding interpreters after the first sentence directing filers to ask the clerk if an interpreter is available: “You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.” The website provided at the link is translated into several languages, which are accessible at the top of the page.

Disability

This proposal also recommends broadening the language about disability and updating the name of form MC-410 (now titled, “Disability Accommodation Request”) on the six information sheets. The committee proposes broadening the language on the above forms to include reference to “disabilities,” as opposed to just hearing disabilities and to also reference the information sheet about requesting court accommodations—*How to Request a Disability Accommodation for Court* (form MC-410-INFO).

Priority of enforcement on restraining orders

Additionally, this proposal recommends updating the description of priorities of enforcement to reflect current law on the following forms:

- *Temporary Restraining Order (Civil Harassment Prevention)* (form CH-110);
- *Civil Harassment Restraining Order After Hearing* (form CH-130);
- *Temporary Restraining Order (Private Postsecondary School Violence Prevention)* (form SV-110);
- *Private Postsecondary School Violence Restraining Order After Hearing* (SV-130);
- *Temporary Restraining Order (Workplace Violence Prevention)* (form WV-110); and

- *Workplace Violence Restraining Order After Hearing* (form WV-130).²

Specifically, the “Conflicting Orders—Priorities of Enforcement” item in the “Instructions for Law Enforcement” on the forms does not accurately reflect the current provisions of Penal Code section 136.2(e)(2). That section prioritizes enforcement of criminal protective orders in pending cases for domestic violence offenses, specified sex offenses, and offenses requiring sex offender registration over a civil protective order against the same defendant. Additionally, AB 1171 (Stats. 2021, ch. 626) repealed Penal Code section 262 on spousal rape and amended 136.2(e)(2) to include “former 262.” The committee recommends incorporating the statutory changes and some rewording for clarity and plain language. Identical language is also being proposed for forms CR-160, CR-161, EA-110, EA-130, and DV-130 in separate proposals being circulated for comment.

Alternatives Considered

The committee considered taking no action on these forms, but concluded that it would be inappropriate to not correct the inaccuracies regarding interpreters and priority of enforcement on the forms.

Fiscal and Operational Impacts

The committee anticipates that this proposal will result in some costs incurred by courts to incorporate new forms into their paper or electronic processes and to train court staff.

² This proposal also replaces two inadvertent references to “student” in item 4 of form WV-130 with “employee.”

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?

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 3 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

Forms CH-100-INFO, CH-110, CH-120-INFO, CH-130, SV-100-INFO, SV-110, SV-120-INFO, SV-130, WV-100-INFO, WV-110, WV-120-INFO, and WV-130, at pages 5–55

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a civil harassment restraining order?

It is a court order that helps protect people from harassment.

Can I get a civil harassment restraining order?

You can ask for one if you are worried about your safety because someone:

- Is harassing you
- Is stalking you
- Has committed acts of violence against you, or
- Has threatened you with violence

How will the order help me?

The court can order a person to:

- Not harass or threaten you
- Not contact or go near you, *and*
- Not have a gun

You can also ask for protection for people who live with you and family members.

In a civil harassment case, the court cannot:

- Order a person to move out of your residence
- Order a person to pay child support to you
- Make orders for custody and visitation

If you need these orders, you should proceed under the Domestic Violence Protection Act. File Form DV-100.

The court also cannot:

- Order a person to pay money that he or she owes you
- Order someone to move out of rental property that you own
- Order someone to stop creating a nuisance that doesn't involve harassment

If you need these remedies, you must file a civil action.

How much does it cost?

That depends on the type of harassment. If the restrained person has used or threatened to use violence against you or has stalked you, you do not have to pay a filing fee; otherwise, you must pay the fee.

If you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form FW-001 is available for this purpose.

If the order is based on prior acts of violence, a credible threat of violence, or stalking, you are entitled to free service of the order by a sheriff or marshal. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve the order for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve the order.

What forms do I need to get the order?

You must fill out all of Form CH-100, *Request for Civil Harassment Restraining Orders*, and Form CLETS-001, *Confidential CLETS Information*. If you need attachments, you may use Form MC-025. You must also fill out items 1 and 2 on Form CH-109, *Notice of Court Hearing*, and items 1, 2, and 3 on Form CH-110, *Temporary Restraining Order (CLETS)*.

Where can I get these forms?

You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

What do I need to do to get the order?

You must go to the superior court in the county where the harassment took place or the person to be restrained lives. At the court, ask where you should file your request for a civil harassment restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.)

At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form, and if your request for immediate orders is granted, a copy of the *Temporary Restraining Order* signed by a judicial officer.



How soon can I get the order?

If you ask for a temporary restraining order, the court will decide within 24 hours whether or not to make the order. Sometimes the court decides sooner. Ask whether you should wait or come back later to get the signed *Notice of Court Hearing* and *Temporary Restraining Order*.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. The order could last for up to five years.

How will the person to be restrained know about the order?

Someone age 18 or older—**not you** or anyone else to be protected by the order—must “serve” (give) the person to be restrained a copy of the order. The server must then fill out Form CH-200, *Proof of Personal Service*, and give it to you to file with the court. For help with service, ask the court clerk for Form CH-200-INFO, *What Is “Proof of Personal Service?”*.

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Do I have to go to court?

Yes. Go to court on the date the clerk gives you.

Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the harassment than just your word. You can bring:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, e-mails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030, *Declaration*, for this.)

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the restrained person at the court hearing?

If the person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer.

Can I bring someone with me to court?

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

CH-109 Notice of Court Hearing

1 **Person Seeking Protection**

a. Your Full Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

2 **Person From Whom Protection is Sought**

Full Name: _____

3 **Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the person in (2):

Hearing Date: _____ Date: _____ Time: _____

Dept.: _____ Room: _____

4 **Temporary Restraining Orders** (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

(1) All GRANTED until the court hearing.

(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Notice of Court Hearing (Civil Harassment Prevention)

CH-109, Page 1 of 3



What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

Can I agree with the restrained person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the restrained person would have to file a request with the court to cancel the order.

DRAFT

3/15/2022

**Not approved by
the Judicial Council**

Clerk stamps date here when form is filed.

Person in ① must complete items ①, ②, and ③ only.

DRAFT
3/15/2022
**Not approved by
the Judicial Council**

① Protected Person

a. Your Full Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Restrained Person

Full Name: _____

Description:

Gender:	<input type="checkbox"/> M	<input type="checkbox"/> F	<input type="checkbox"/> Nonbinary	Height:	_____	Weight:	_____	Date of Birth:	_____
Hair Color:	_____		Eye Color:	_____		Age:	_____	Race:	_____
Home Address (if known):	_____								
City:	_____			State:	_____	Zip:	_____		
Relationship to Protected Person:	_____								

③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the temporary orders indicated below:

<u>Full Name</u>	<u>Gender</u>	<u>Age</u>	<u>Household Member?</u>	<u>Relation to Protected Person</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

The court will complete the rest of this form.

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



To the Person in 2 :

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

5 Personal Conduct Orders

Not Requested Denied Until the Hearing Granted as Follows:

- a. You must **not** do the following things to the person named in ①
 - and to the other protected persons listed in ③:
 - (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person’s address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other (*specify*):
 - Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in ①.

6 Stay-Away Order

Not Requested Denied Until the Hearing Granted as Follows:

- a. You must stay at least _____ yards away from (*check all that apply*):
 - (1) The person in ①
 - (2) Each person in ③
 - (3) The home of the person in ①
 - (4) The job or workplace of the person in ①
 - (5) The school of the person in ①
 - (6) The school of the children of the person in ①
 - (7) The place of child care of the children of the person in ①
 - (8) The vehicle of the person in ①
 - (9) Other (*specify*):
 - _____
 - _____
 - _____

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

7 No Guns or Other Firearms and Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
 - (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.

This is a Court Order.



(2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. *(You may use form CH-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.)*

c. The court has received information that you own or possess a firearm.

8 Possession and Protection of Animals

Not Requested **Denied Until the Hearing** **Granted as Follows (specify):**

a. The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

b. The person in ② must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

9 Other Orders

Not Requested **Denied Until the Hearing** **Granted as Follows (specify):**

Additional orders are attached at the end of this Order on Attachment 9.

To the Person in ① :

10 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

This is a Court Order.



11 No Fee to Serve (Notify) Restrained Person **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

12 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in ②

You Cannot Have Guns or Firearms

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item ⑦ above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form CH-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in ①.
- You must have form CH-120 served by mail on the person in ① or that person’s attorney. You cannot do this yourself. The person who does the mailing should complete and sign form CH-250, *Proof of Service by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk’s office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.

This is a Court Order.



- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge’s signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities (see Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

What is a civil harassment restraining order?

It is a court order that prohibits you from doing certain things and going to certain places.

What does the order do?

The court can order you to:

- Not contact the person who asked for the order
- Stay away from that person and the person’s home and workplace
- Not have any guns as long as the order is in effect

Who can ask for a civil harassment restraining order?

A person who is worried about safety because he or she has been or is being:

- Stalked
- Harassed
- Assaulted, including sexually, or
- Threatened with violence

I've been served with a request for civil harassment restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders*, before your hearing date and file it with the court. If you need to include attachments, you can use form MC-025. You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form CH-120 to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out form CH-250, *Proof of Service by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on form CH-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

CH-109 Notice of Court Hearing

Clerk (stamped date here when form is filed)

1 Person Seeking Protection

a. Your Full Name: _____

Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____

Court file or case number when form is filed:
 Case Number: _____

2 Person From Whom Protection is Sought

Full Name: _____

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in (2): _____

Name and address of court if different from above: _____

Hearing Date: _____ Time: _____
 Dept.: _____ Room: _____

4 Temporary Restraining Orders (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

(1) All GRANTED until the court hearing.

(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Revised 01/2023 California Judicial Branch
 Revised Jan 1, 2023, Mandatory Form
 Revised Court Information § 11.9
 Supremacy 11.11.23

Notice of Court Hearing (Civil Harassment Prevention)

CH-109, Page 1 of 2



How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to five years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the person who asked for the order at the court hearing?

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form MC-030 for this.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a gun, other firearm, or ammunition while the order is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the protected person would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

DRAFT

3/15/2022

**Not approved by
the Judicial Council**

Clerk stamps date here when form is filed.

DRAFT

3/15/2022

**Not approved by
the Judicial Council**

Person in ① must complete items ①, ②, and ③ only.

① Protected Person

a. Your Full Name: _____

Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Restrained Person

Full Name: _____

Description:

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

Home Address (if known): _____

City: _____ State: _____ Zip: _____

Relationship to Protected Person: _____

③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Gender	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



5 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The person in ①. (3) The lawyer for the person in ① *(name)*: _____
 - (2) The person in ②. (4) The lawyer for the person in ② *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the person named in ①
 - and to the other protected persons listed in ③:
 - (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person’s address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other *(specify)*: _____
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

7 Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
 - (1) The person in ① .
 - (2) Each person in ③.
 - (3) The home of the person in ① .
 - (4) The job or workplace of the person in ①.
 - (5) The school of the person in ① .
 - (6) The school of the children of the person in ①.
 - (7) The place of child care of the children of the person in ① .
 - (8) The vehicle of the person in ①.
 - (9) Other *(specify)*: _____

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 No Guns or Other Firearms and Ammunition

- a. **You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.**
- b. If you have not already done so, you must:
 - Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control.
 - File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. *(You may use form CH-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.)*
- c. The court has received information that you own or possess a firearm.
- d. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in **(2)** is not required to relinquish this firearm *(specify make, model, and serial number of firearm(s))*: _____

The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the person in **(2)** may be subject to federal prosecution for possessing or controlling a firearm.

9 Lawyer's Fees and Costs

The person in ___ must pay to the person in ___ the following amounts for

- lawyer's fees
- costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional items and amounts are attached at the end of this Order on Attachment 9.

10 Possession and Protection of Animals

- a. The person in **(1)** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household. *(Identify animals by, e.g., type, breed, name, color, sex.)*

- b. The person in **(2)** must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

11 Other Orders (specify):

Additional orders are attached at the end of this Order on Attachment 11.

This is a Court Order.



To the Person in ①:

12 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

13 Service of Order on Restrained Person

- a. The person in ② personally attended the hearing. No other proof of service is needed.
- b. The person in ② did not attend the hearing.
 - (1) Proof of service of form CH-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form CH-110 except for the expiration date. The person in ② must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form CH-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

14 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warning and Notice to the Restrained Person in 2:**You Cannot Have Guns or Firearms**

Unless item 8d is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item 8 above. The court will require you to prove that you did so.

Instructions for Law Enforcement**Enforcing the Restraining Order**

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge’s signature on page 4 and *ends* on the expiration date in item 4 on page 1.

Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.

Conflicting Orders—Priorities of Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: *(See Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b).)*

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a private postsecondary school violence protection order?

Under California law (Code Civ.Proc., § 527.85), courts can make orders to protect a student from being subjected to credible threats of violence that could be carried out on the school campus or facility. The procedure is only available with regard to students at private postsecondary institutions.

The court can order a person not to:

- Harass or threaten the student;
- Contact or go near the student; and
- Have a gun.

These orders will be enforced by law enforcement agencies.

Who can get this school violence protection order?

The chief administrative officer of a private postsecondary educational institution, or an officer or employee designated by the chief administrative officer to maintain order on the school campus or facility, may request court orders prohibiting credible threats of violence against a student. These orders must be requested by an officer of the institution that the student attends or is applying to.

- A “chief administrative officer” is the principal, president, or highest-ranking official of the private postsecondary educational institution.
- A “postsecondary educational institution” is a private institution of vocational, professional, or postsecondary education.

The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. If anyone other than a school officer wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me* (Form CH-100-INFO)?.

Who can be protected under this law?

Under this statute, the school officer can obtain a court order on behalf of a student that lasts up to three years. The order can also protect family or household members of the student and other students at the campus or facility who are similarly situated.

- A “student” is an adult currently enrolled in or applying for admission to a private postsecondary educational institution.
- The “respondent” is the person against whom the school official is requesting the protective order.

A school official may seek protection under this law if:

1. The student has suffered a credible threat of violence from any individual;
2. The credible threat of violence, while made off of the campus or facility, can reasonably be construed to be carried out or have been carried out at the school campus or facility;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

What forms must be used to get the order?

The following forms are needed to start the process:

1. *Petition for Private Postsecondary School Violence Restraining Orders (Petition)* (Form SV-100). This form tells the judge the facts of the case and what orders the petitioner and student want the court to make.
2. *Confidential CLETS Information* (Form CLETS-001). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. *Notice of Court Hearing* (Form SV-109). This form tells the parties when the hearing on the petition will be held.
4. *Temporary Restraining Order (TRO)* (Form SV-110). A TRO can be issued to provide protection to the student until the hearing is held. It can be issued by the judge either with or without notice to the respondent.



5. *Private Postsecondary School Violence Restraining Order After Hearing (Order)* (Form SV-130). This form is signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the school violence prevention proceeding.

6. *Proof of Personal Service* (Form SV-200). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

Where can I get these forms?

You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

Do I need a lawyer?

The school official may be represented by a lawyer, but one is not required by law. Because the school official's lawyer will generally be representing the interests of the student, the student usually does not need his or her own lawyer. Whether or not the school official has a lawyer, the respondent may have one.

What steps are needed to get the court orders?

1. Fill in the **Petition** (Form SV-100) completely and fill in items 1–3 of the *Notice of Court Hearing* (Form SV-109). If you are seeking a **TRO**, also fill out Form SV-110.
2. If you are seeking orders based on information from your student and others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (Form SV-100). You may use Form MC-031, *Attached Declaration*.
3. Fill in *Confidential CLETS Information*, (Form CLETS-001), with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.

4. If you are applying for a **TRO**, fill out Form SV-110 completely. The Petition and declarations must give the details of the credible threats of violence and the problems they have caused your student.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and
 - b. You or your attorney certifies one of the following to the court under oath:
 - (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made;
 - (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them; or
 - (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.
5. Take your original completed forms and copies to the clerk's office at the court. You will need at least three copies: one for you, one for the student, and one to serve on the respondent. If there are other persons to be protected by the order, you will need additional copies of the **TRO**. A protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (Form SV-109).
 6. If you are seeking a **TRO** (Form SV-110), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a **TRO** is granted while you are still at the court, take the signed original back to the clerk to be filed.



7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.
- If the court issues a TRO, it will last until the hearing date.**
8. If the student does not speak English, when you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.
9. Have the respondent personally **served** with copies of the **Petition** (Form SV-100), the *Notice of Court Hearing* (Form SV-109), the **TRO** (Form SV-110) (if issued), a blank **Response** (Form SV-120), and a blank *Proof of Service of Response by Mail* (Form SV-250). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you, the student, or anyone to be protected by the order. For help with service, ask the court clerk for Form SV-200-INFO, *What Is "Proof of Personal Service"?*.
10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (Form SV-200). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

DRAFT

3/21/2022

NOT APPROVED BY THE
JUDICIAL COUNCIL

Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.



11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (Form SV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person’s word.

You can bring to the hearing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, e-mails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030, *Declaration*.)

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the student or to any other person seeking protection. If anyone is afraid, tell the court officer.

12. If the judge signs the **Order** (Form SV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

13. If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File Form SV-260, *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally served with a copy of the **Order**. File the completed *Proof of Personal Service* (Form SV-200) with the court. Give a file-stamped copy of the **Order** and proof of service to your student and to each other protected person. Keep at least one copy for yourself.

14. Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.

15. If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

DRAFT
3/15/2022
**Not approved by
the Judicial Council**

1 Petitioner (Educational Institution Officer or Employee)

a. Name: _____
Lawyer for Petitioner *(if any, for this case)*:
Name: _____ State Bar No.: _____
Firm Name: _____
b. Your Address *(If you have a lawyer, give your lawyer's information.)*:
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Student (Protected Person)

Full Name: _____

3 Respondent (Restrained Person)

Full Name: _____

Description:

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____
Hair Color: _____ Eye Color: _____ Age: _____ Race: _____
Home Address *(if known)*: _____
City: _____ State: _____ Zip: _____
Relationship to Student: _____

4 Additional Protected Persons

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

<u>Full Name</u>	Gender	<u>Age</u>	<u>Household Member?</u>	<u>Relation to Student</u>
_____		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____		_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



To the Person in ②:

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

⑥ Personal Conduct Orders

Not Requested Denied Until the Hearing Granted as Follows:

a. You are ordered **not** do the following things to the student

and to the other protected persons listed in ④:

- (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) Commit acts of violence or make threats of violence against the person.
- (3) Follow or stalk the person during school hours or to or from the school.
- (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by email, by fax, or by other electronic means.
- (5) Enter the person's school.
- (6) Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) Other (*specify*):
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(7).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the petitioner.

⑦ Stay-Away Order

Not Requested Denied Until the Hearing Granted as Follows:

a. You must stay at least _____ yards away from (*check all that apply*):

- (1) The student
- (2) Each other protected person listed in ④
- (3) The school
- (4) The student's home
- (5) The student's job or workplace
- (6) The student's children's school
- (7) The student's children's place of child care
- (8) The student's vehicle
- (9) Other (*specify*):

b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 No Guns or Other Firearms and Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
 - (1) Sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. *(You may use form SV-800, Proof of Firearms Turned In, Sold, or Stored for the receipt.)*
- c. The court has received information that you own or possess a firearm.

9 Other Orders

- Not Requested Denied Until the Hearing Granted as Follows *(specify):*

- Additional orders are attached at the end of this Order on Attachment 9.

To the Person in 1:

10 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address *(City, State, Zip)*

- Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

11 No Fee to Serve (Notify) Restrained Person Ordered Not Ordered

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on a credible threat of violence or stalking.
- b. The petitioner is entitled to a fee waiver.

This is a Court Order.



⑫ Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in ②

You Cannot Have Guns or Firearms

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item ⑧ above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form SV-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ③.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

After You Have Been Served With a Restraining Order

- Obey all the orders. Any intentional violation of this Order is a misdemeanor punishable by a fine or by imprisonment in a county jail, or by both fine and imprisonment. (Pen. Code, § 273.6.)
- Read form SV-120-INFO, *How Can I Respond to a Petition for Orders to Stop Private Postsecondary School Violence?*, to learn how to respond to this Order.
- If you want to respond, fill out form SV-120, *Response to Petition for Orders to Stop Private Postsecondary School Violence*, and file it with the court clerk. You do not have to pay any fee to file your response if the petition claims that you threatened violence against or stalked the student, or placed the student in reasonable fear of violence.
- You must have form SV-120 served on the petitioner or the petitioner's attorney by mail. You cannot do this yourself. The person who does the service should complete and sign form SV-250, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

This is a Court Order.



Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge’s signature on page 4. The order *ends* on the expiration date in item 5 on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: (See Pen. Code, § 136.2, Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(Clerk will fill out this part.)
—Clerk's Certificate—

Clerk’s Certificate
 [seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

What is a private postsecondary school violence restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

What does the order do?

The court can order you to:

- Not contact the student who is protected by the order
- Stay away from the student and the student’s home, school and other places
- Not have any guns as long as the order is in effect

Who can ask for a private postsecondary school violence restraining order?

A school official at a private postsecondary school can ask for an order on behalf of an adult student who is worried about his or her safety because he or she has suffered a credible threat of violence that could be carried out on the school campus or facility.

I've been served with a petition for private postsecondary school violence restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out Form SV-120, *Response to Petition for Private Postsecondary School Violence Restraining Orders*, before your hearing date and file it with the court. If you need to include attachments, you can use Form MC-025. You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—not you—mail a copy of completed Form SV-120 to the person named in item ① of the petition Form SV-110 (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail for you must fill out Form SV-250, *Proof of Service of Response by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on Form SV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.



How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to three years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the student at the court hearing?

Yes. Assume that the student will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use Form MC-030 for this.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a gun, other firearm, or ammunition while the order is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the school official would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

DRAFT

3/21/2022

**Not approved by
the Judicial Council**

Private Postsecondary School Violence Restraining Order After Hearing

Clerk stamps date here when form is filed.

DRAFT

3/15/2022

Not approved by the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Educational Institution Officer or Employee)

a. Name: Lawyer for Petitioner (if any, for this case) Name: State Bar No.: Firm Name:

b. Your Address (If you have a lawyer, give your lawyer's information.) Address: City: State: Zip: Telephone: Fax: Email Address:

2 Student (Protected Person)

Full Name:

3 Respondent (Restrained Person)

Full Name:

Description

Gender: M F Nonbinary Height: Weight: Date of Birth: Hair Color: Eye Color: Age: Race: Home Address (if known): City: State: Zip: Relationship to Protected Person:

4 Additional Protected Persons

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

Table with columns: Full Name, Gender, Age, Household Member?, Relation to student. Includes Yes/No checkboxes for household member status.

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Date: Time: a.m. p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The petitioner/school representative *(name)*: _____
 - (2) The lawyer for the petitioner/school *(name)*: _____
 - (3) The student (4) The lawyer for the student *(name)*: _____
 - (5) The respondent (6) The lawyer for the respondent *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 6b.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Respondent:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Personal Conduct Orders

- a. You are ordered **not** do the following things to the student
 - and to the other protected persons listed in **4**:
 - (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Commit acts of violence or make threats of violence against the person.
 - (3) Follow or stalk the person during school hours or to or from the school.
 - (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (5) Enter the person’s school.
 - (6) Take any action to obtain the person’s address or locations. If this item is not checked, the court has found good cause not to make this order.
 - (7) Other *(specify)*:
 Other personal conduct orders are attached at the end of this Order on Attachment 7a(7).

- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



8 Stay-Away Orders

a. You **must** stay at least _____ yards away from (*check all that apply*):

- (1) The student.
- (2) Each other protected person listed in **4**.
- (3) The school.
- (4) The student's home.
- (5) The student's job or workplace.
- (6) The student's children's school.
- (7) The student's children's place of child care.
- (8) The student's vehicle.
- (9) Other (*specify*): _____

b. This stay-away order does not prevent you from going to or from your home or place of employment.

9 No Guns or Other Firearms and Ammunition

a. You **cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.**

b. If you have not already done so, you must:

- (1) Sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.
- (2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns have been turned in, sold, or stored. (*You may use form SV-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.*)

c. The court has received information that you own or possess a firearm.

d. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the respondent is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the respondent may be subject to federal prosecution for possessing or controlling a firearm.

10 Costs

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 10.

This is a Court Order.



11 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment 11.

To the Person in 1:

12 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

13 **Service of Order on Respondent**

- a. The respondent personally attended the hearing. No other proof of service is needed.
- b. The respondent did not attend the hearing.
 - (1) Proof of service of form SV-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form SV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form SV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

14 **No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because the Order is based on a credible threat of violence or stalking.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer



Warning and Notice to the Respondent:

You Cannot Have Guns or Firearms

Unless item 9d is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item ⑨. The court will require you to prove that you did so.

Instructions for Law Enforcement

Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in item ⑤ on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: (See Pen. Code, § 136.2, Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

This is a Court Order.



Case Number:

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Private Postsecondary School Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a workplace violence protective order?

Under California law (Code Civ. Proc., § 527.8), courts can make orders to protect an employee from suffering unlawful violence or credible threats of violence at the workplace.

The court can order a person not to:

- Harass or threaten the employee;
- Contact or go near the employee; and
- Have a gun.

These orders will be enforced by law enforcement agencies.

Who can get a workplace violence protective order?

Employers can obtain court orders prohibiting unlawful violence or credible threats of violence against their employees. To get an order under this law, the petitioner **must** be an employer. An employer is defined as:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Lab. Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8 (b)(3).)

Before completing the forms needed to obtain court orders under this statute, make certain you meet the definition of “employer” as defined above.

The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. If anyone other than the employer wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me (Form CH-100-INFO)?*

Who can an employer protect under this law?

Under this statute, an employer can obtain a court order that lasts up to three years on behalf of an employee. The order can also protect certain family or household members of the employee and other employees at the employee’s workplace or at other workplaces of the employer.

California law defines “employees” as:

- Every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay; whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation; and whether the service is rendered on a commission, concessionaire, or other basis. (Lab. Code, § 350(b).)
- Members of boards of directors and public officers.
- Volunteers or independent contractors who perform services for the employer at the employer’s work site.

The “respondent” is the person against whom the employer is requesting the protective order.

An employer may seek protection under this law if:

1. An employee has suffered unlawful violence or a credible threat of violence from any individual;
2. The unlawful violence was carried out in the workplace, or the threat of violence can reasonably be construed to be carried out in the workplace;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

What forms must be used to get the order?

1. *Petition for Orders Workplace Violence Restraining Orders (Petition)* (Form WV-100). This form tells the judge the facts of the petitioner’s case and what orders the petitioner and employee want the court to make.
2. *Confidential CLETS Information* (Form CLETS-001). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. *Notice of Court Hearing* (Form WV-109). This form tells the parties when the hearing on the petition will be held.

4. *Temporary Restraining Order (TRO)* (Form WV-110). A TRO can be issued to provide protection to the employee until the hearing is held. It can be issued by the judge either with or without notice to the respondent.

5. *Workplace Violence Restraining Order After Hearing (Order)* (Form WV-130). This is the form signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the workplace violence prevention proceeding.

6. *Proof of Personal Service* (Form WV-200). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

Where can I get these forms?

You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

Do I need a lawyer?

The employer may be represented by a lawyer, but one is not required by law unless the employer is a corporation. Because the employer’s lawyer will generally be representing the interests of the employee, the employee usually does not need his or her own lawyer. Whether or not the employer has a lawyer, the respondent may have one.

What steps are needed to get the court orders?

1. Fill in the **Petition** (Form WV-100) completely and fill in items 1–3 of the *Notice of Court Hearing* (Form WV-109). If you are seeking a **TRO**, also fill out Form WV-110.
2. If you are seeking orders based on information from your employee and others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (Form WV-100). You may use Form MC-031, *Attached Declaration*.

3. Fill in *Confidential CLETS Information (Form CLETS-001)* with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.

4. If you are applying for a **TRO**, fill out Form WV-110 completely. The petition and the declarations must give the details of the recent acts of violence or credible threats of violence and the problems they have caused your employee.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and
- b. You or your attorney certifies one of the following to the court under oath:
 - (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent’s attorney when and where the request for a TRO would be made;
 - (2) That you in good faith attempted but were unable to inform the respondent and the respondent’s attorney, specifying the efforts made to contact them; or
 - (3) That for reasons specified, you should not be required to inform the respondent or the respondent’s attorney.

5. Take your original completed forms and copies to the clerk’s office at the court. You will need at least three copies: one for you, one for the employee, and one to serve on the respondent. If there are other persons to be protected by the order, you will need additional copies of the **TRO**. A protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies “file-stamped” to you. The clerk will write your hearing date on the *Notice of Court Hearing* (Form WV-109).



6. If you are seeking a **TRO** (Form WV-110), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a **TRO** is granted while you are still at the court, take the signed original back to the clerk to be filed.
7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.
10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (Form WV-200). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

If the court issues a TRO, it will last until the hearing date.

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3/21/2022

**Not approved by
the Judicial Council**

8. If the employee does not speak English, when you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.
9. Have the respondent personally **served** with copies of the **Petition** (Form WV-100), the *Notice of Court Hearing* (Form WV-109), the **TRO** (Form WV-110) (if issued), a blank **Response** (Form WV-120), and a blank *Proof of Service of Response by Mail* (Form WV-250). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you, the employee, or anyone to be protected by the order. For help with service, ask the court clerk for Form WV-200-INFO, *What Is "Proof of Personal Service"?*.

Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.



11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (Form WV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

You can bring to the hearing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, e-mails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030, *Declaration*.)

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the employee or to any other person seeking protection. If anyone is afraid, tell the court officer.

12. If the judge signs the **Order** (Form WV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

13. If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File Form WV-260, *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (Form WV-200) with the court. Give a file-stamped copy of the **Order** and proof of service to your employee and to each other protected person. Keep at least one copy for yourself.

14. Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.

15. If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

DRAFT

3/15/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Employer)

a. Name: _____
Lawyer for Petitioner (if any, for this case):
Name: _____ State Bar No.: _____
Firm Name: _____
b. Your Address (If you have a lawyer, give your lawyer's information.):
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

2 Employee (Protected Person)

Full Name: _____

3 Respondent (Restrained Person)

Full Name: _____
Description: _____

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____
Hair Color: _____ Eye Color: _____ Age: _____ Race: _____
Home Address (if known): _____
City: _____ State: _____ Zip: _____
Relationship to Employee: _____

4 Additional Protected Persons

In addition to the employee, the following family or household members or other employees are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Employee
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.

To the Respondent:

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

Not Requested Denied Until the Hearing Granted as Follows:

a. You are ordered **not** do the following things to the employee

and to the other protected persons listed in **4**:

- (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) Commit acts of violence or make threats of violence against the person.
- (3) Follow or stalk the person during work hours or to or from the place of work.
- (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by email, by fax, or by other electronic means.
- (5) Enter the workplace of the person.
- (6) Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) Other (*specify*):
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(7).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the petitioner.

7 Stay-Away Order

Not Requested Denied Until the Hearing Granted as Follows:

a. You **must** stay at least _____ yards away from (*check all that apply*):

- (1) The employee
- (2) Each other protected person listed in **4**
- (3) The employee's workplace
- (4) The employee's home
- (5) The employee's school
- (6) The employee's children's school
- (7) The employee's children's place of child care
- (8) The employee's vehicle
- (9) Other (*specify*):

b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 No Guns or Other Firearms and Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
 - (1) Sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. *(You may use form WV-800, Proof of Firearms Turned In, Sold, or Stored for the receipt.)*
- c. The court has received information that you own or possess a firearm.

9 Other Orders

- Not Requested** **Denied Until the Hearing** **Granted as Follows (specify):**

- Additional orders are attached at the end of this Order on Attachment 9.

To the Petitioner:

10 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the employer or the employer’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agencies listed below to enter into CARPOS:

<u>Name of Law Enforcement Agency</u>	<u>Address (City, State, Zip)</u>
_____	_____
_____	_____

- Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

11 No Fee to Serve (Notify) Restrained Person Ordered Not Ordered

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on a credible threat of violence or stalking.
- b. The petitioner is entitled to a fee waiver.

This is a Court Order.



⑫ Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in ②

You Cannot Have Guns or Firearms

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item ⑧ above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form WV-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ③.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

After You Have Been Served With a Restraining Order

- Obey all the orders. Any intentional violation of this Order is a misdemeanor punishable by a fine or by imprisonment in a county jail, or by both fine and imprisonment. (Pen. Code, § 273.6.)
- Read form WV-120-INFO, *How Can I Respond to a Petition for Orders to Stop Workplace Violence?*, to learn how to respond to this Order.
- If you want to respond, fill out form WV-120, *Response to Petition for Workplace Violence Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the petition claims that you threatened violence against or stalked the employee, or placed the employee in reasonable fear of violence.
- You must have form WV-120 served on the petitioner or the petitioner's attorney by mail. You cannot do this yourself. The person who does the service should complete and sign form WV-250, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

This is a Court Order.



Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item 5 on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: (See Pen. Code, § 136.2, Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

What is a workplace violence restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

What does the order do?

The court can order you to:

- Not contact the employee who is protected by the order
- Stay away from the employee and the employee's home, workplace and other places
- Not have any guns as long as the order is in effect

Who can ask for a workplace violence restraining order?

An employer can ask for an order on behalf of an employee who has suffered violence or a credible threat of violence at the workplace.

I've been served with a petition for private workplace violence restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out Form WV-120, *Response to Petition for Workplace Violence Restraining Orders*, before your hearing date and file it with the court. If you need to include attachments, you can use Form MC-025. You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed Form WV-120 to the person named in item ① of the petition Form WV-110 (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail for you must fill out Form WV-250, *Proof of Service of Response by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on Form WV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

WV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

① **Petitioner (Employer)**

a. Name: _____
 Lawyer for Petitioner (if any for this case):
 Name: _____ State/Bar No.: _____
 Firm Name: _____

b. Address (If you have a lawyer, give your lawyer's information.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____

Fill in case number:
 Case Number: _____

② **Employee in Need of Protection**
 Full Name: _____

③ **Respondent (Person From Whom Protection Is Sought)**
 Full Name: _____

The court will complete the rest of this form.

④ **Notice of Hearing**

A court hearing is scheduled on the request for restraining orders against the respondent:

Name and address of court if different from above:
 Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

⑤ **Temporary Restraining Orders** (Any orders granted are on Form WV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay away orders as requested in Form WV-100, Request for Workplace Violence Restraining Orders, are (check only one box below):

(1) All GRANTED until the court hearing.

(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courtsca.gov
 Revised January 1, 2012. Mandatory Form
 Code of Civil Procedure, § 527.8
 Approved by DCJ

Notice of Court Hearing
 (Workplace Violence Prevention)

WV-109, Page 1 of 3



How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to three years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the employee at the court hearing?

Yes. Assume that the employee will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use Form MC-030 for this.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a gun, other firearm, or ammunition while the order is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the employer would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

DRAFT

3/21/2022

**Not approved by
the Judicial Council**

Clerk stamps date here when form is filed.

DRAFT

3/15/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Employer)

a. Name: _____
 Lawyer for Petitioner *(if any, for this case)*
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information.)*
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

2 Employee (Protected Person)

Full Name: _____

3 Respondent (Restrained Person)

Full Name: _____

Description

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____
 Hair Color: _____ Eye Color: _____ Age: _____ Race: _____
 Home Address *(if known)*: _____
 City: _____ State: _____ Zip: _____
 Relationship to Employee: _____

4 Additional Protected Persons

In addition to the **employee**, the following family or household members or other **employees** are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to employee
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Date: _____ Time: _____ a.m. p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The petitioner/employer *(name)*: _____
 - (2) The lawyer for the petitioner/employer *(name)*: _____
 - (3) The employee (4) The lawyer for the employee *(name)*: _____
 - (5) The respondent (6) The lawyer for the respondent *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 6b.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Respondent:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Personal Conduct Orders

- a. You are ordered **not** do the following things to the employee
 - and to the other protected persons listed in **4**:
 - (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Commit acts of violence or make threats of violence against the person.
 - (3) Follow or stalk the person during work hours or to or from the place of work.
 - (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (5) Enter the person’s workplace.
 - (6) Take any action to obtain the person’s address or locations. If this item is not checked, the court has found good cause not to make this order.
 - (7) Other *(specify)*:
 Other personal conduct orders are attached at the end of this Order on Attachment 7a(7).

- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



8 Stay-Away Orders

a. You **must** stay at least _____ yards away from (*check all that apply*):

- (1) The employee.
- (2) Each other protected person listed in **4**.
- (3) The employee’s workplace.
- (4) The employee’s home.
- (5) The employee’s school.
- (6) The employee’s children’s school.
- (7) The employee’s children’s place of child care.
- (8) The employee’s vehicle.
- (9) Other (*specify*): _____

b. This stay-away order does not prevent you from going to or from your home or place of employment.

9 No Guns or Other Firearms and Ammunition

a. You **cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.**

b. If you have not already done so, you must:

- (1) Sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.
- (2) File a receipt with the court within 48 hours of receiving this Order that proves that your guns have been turned in, sold, or stored. (*You may use form WV-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.*)

c. The court has received information that you own or possess a firearm.

d. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the respondent is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the respondent may be subject to federal prosecution for possessing or controlling a firearm.

10 Costs

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 10.

This is a Court Order.



11 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment 11.

To the Person in 1:

12 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

13 **Service of Order on Respondent**

- a. The respondent personally attended the hearing. No other proof of service is needed.
- b. The respondent did not attend the hearing.
 - (1) Proof of service of form WV-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form WV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form WV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

14 **No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because the Order is based on a credible threat of violence or stalking.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warning and Notice to the Respondent:

You Cannot Have Guns or Firearms

Unless item 9d is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item ⑨. The court will require you to prove that you did so.

Instructions for Law Enforcement

Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in item ⑤ on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: (See Pen. Code, § 136.2, Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes an EPO or a no-contact order, a criminal protective order (CPO) issued in a criminal case involving domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil restraining order that conflicts with the CPO. All orders in the civil restraining order that do not conflict with the CPO must be enforced.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

This is a Court Order.



Case Number:

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Workplace Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 30, 2022

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Protective Orders: Gun Violence Forms Implementing Assembly Bill 1057 and Senate Bill 538

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Revise forms EPO-002, GV-009, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-116, GV-120, GV-120-INFO, GV-125, GV-130, GV-710, GV-730, GV-800, and GV-800-INFO

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended November 16 2021 and March 21, 2022

Project description from annual agenda: : Develop form recommendations as appropriate. SB 538 permits parties and witnesses to appear remotely at hearings on petitions for gun violence restraining orders. AB 1057 redefines "firearms" to include certain firearm parts for the purposes of gun violence restraining orders. The current gun violence restraining order forms must be revised to conform to the new laws.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR22-23

Title

Protective Orders: Gun Violence Forms
Implementing Assembly Bill 1057 and
Senate Bill 538

Proposed Rules, Forms, Standards, or Statutes
Revise forms EPO-002, GV-009, GV-020,
GV-020-INFO, GV-030, GV-100,
GV-100-INFO, GV-109, GV-110, GV-116,
GV-120, GV-120-INFO, GV-125, GV-130,
GV-710, GV-730, GV-800, and
GV-800-INFO

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara Wood, Chair

Action Requested

Review and submit comments by May 13,
2022

Proposed Effective Date

January 1, 2023

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends the revision of 18 of the council's Gun Violence forms to implement statutory changes in Assembly Bill 1057 (Stats. 2021, ch. 682) and Senate Bill 538 (Stats. 2021, ch. 686) and to make other necessary changes to accurately reflect current law. Assembly Bill 1057 amends the definition of "firearms" for the purpose of gun violence restraining orders to include certain firearm parts. Senate Bill 538 permits parties and witnesses to attend hearings on gun violence restraining orders remotely. The proposal incorporates these new provisions into the council's forms and makes other minor changes to gun violence protective order forms.

Background

In October 2021 the Legislature enacted two bills that significantly amended the statutory provisions governing gun violence restraining orders.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

First, Assembly Bill 1057 (Stats. 2021, ch. 682)¹ expanded the definition of “firearms” to include “a firearm precursor part,” as defined in Penal Code section 16531,² for the purposes of gun violence restraining orders. (§ 16520(h), effective July 1, 2022.)³ According to legislative analysis, the bill aims to include so-called ghost guns, or unserialized and untraceable firearms that can be bought online and assembled at home, with existing firearms and ammunition that can be seized and prohibited through a gun violence restraining order.

Second, Senate Bill 538 (Stats. 2021, ch. 686)⁴ expands the provisions concerning gun violence restraining orders regarding electronic filing and remote appearances. Specifically, SB 538 provides that by July 1, 2023, courts that receive gun violence restraining order petitions “shall permit those petitions to be submitted electronically” and “shall develop local rules and instructions for electronic filing.” (§ 18122.) Additionally, effective January 1, 2022, any “party or witness may appear remotely at the hearing on a petition for a gun violence restraining order” and courts must similarly develop local rules and instructions about doing so. (§ 18123.) Each superior court is required to post the requisite local rules and instructions to their website and also provide a staffed telephone number for the public to call for information.

The Proposal

This proposal recommends the revision of gun violence restraining order forms. The changes are needed for the forms to conform to the provisions of AB 1057 and SB 538 and to update information on the forms regarding gender, disability, and those who may serve as interpreters. The proposed revised forms include the following:

- *Gun Violence Emergency Protective Order* (form EPO-002);
- *Notice of Court Hearing* (form GV-009);
- *Response to Gun Violence Emergency Protective Order* (form GV-020);
- *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO);
- *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030);
- *Petition for Gun Violence Restraining Order* (form GV-100);
- *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO);
- *Notice of Court Hearing* (form GV-109);
- *Temporary Gun Violence Restraining Order* (form GV-110);
- *Order on Request to Continue Hearing* (form GV-116);

¹ AB 1057 available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1057.

² All further statutory citations are to the Penal Code unless otherwise stated.

³ While Penal Code section 16531 defines “firearm precursor part” as “a component of a firearm that is necessary to build or assemble a firearm” and is either “an unfinished receiver” or “an unfinished handgun frame,” section 16520(b)(7) defines “firearm” to “include[] the frame or receiver of the weapon” for the purposes of gun violence restraining orders. Accordingly, once AB 1057 is effective the definition of firearms for gun violence restraining orders will include both finished and unfinished firearm frames and receivers.

⁴ SB 538 available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB538.

- *Response to Petition for Gun Violence Restraining Order* (form GV-120);
- *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO);
- *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125);
- *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (GV-130);
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710);
- *Order on Request to Renew Gun Violence Restraining Order* (form GV-730);
- *Proof of Firearms, Ammunition, and Magazines Turned In, Sold, or Stored* (GV-800), retitled *Proof of Surrender of Firearms and Firearm-Related Items*; and
- *How Do I Turn In, Sell, or Store My Firearms, Ammunition, or Magazines?* (form GV-800-INFO), retitled *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, Ammunition, and Magazines?*

Revisions relating to the definition of “firearms”

Explaining “firearm parts”

Given the expanded definition of “firearms” under AB 1057, the committee recommends adding the term “firearm parts” and an explanation of that term to each form in this proposal where the prohibited items are listed. For example, the second paragraph of item 2 on proposed revised form EPO-002 includes the following language: “firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531.”⁵ The notices to the restrained person on page 2 of form EPO-002 contain similar language. Because finished receivers and frames are technically defined as “firearms” under section 16520(b)(7) and unfinished receivers and frames are technically defined as “firearm precursor parts” under section 16520(h), all unfinished and finished receivers and frames are prohibited items for restrained parties under a gun violence restraining order. Including receivers and frames, whether finished or unfinished, as “firearm parts” on the form is clearer and more intuitive than trying to explain what a “precursor part” is and that a finished frame is technically not a firearm part, but a firearm itself.

Although almost all the forms in the proposal include the additional language in item 2 of EPO-002, there are a couple variations of the language. First, the information sheets in the proposal (forms GV-020-INFO, GV-100-INFO, GV-120-INFO, and GV-800-INFO) also use the nomenclature “ghost guns” in the explanation of “firearm parts.” Additionally, three of the court order forms in the proposal (forms GV-030, GV-110, and GV-130) and three information sheets (forms GV-020-INFO, GV-100-INFO, and GV-800-INFO) provide the above explanation of “firearm parts” in a new subitem listing all “prohibited items” (firearms, firearm parts,

⁵ Note that the first paragraph of item 2 does not contain similar added language because the text of the first paragraph is provided by section 18135, which was not amended by or in light of AB 1057. This is also true of the first paragraph in “Warning and Notices to the Restrained Party” on form GV-030 (§ 18180), the first paragraph in “Warning and Notices to the Respondent” on form GV-110 (§ 18160), the first paragraph in “Warning and Notices to the Respondent” on form GV-130 (§ 18180), and item 4c on form GV-730 (§ 18180). Minor modifications were made to such text on forms GV-030, GV-130, and GV-730 to better track the statutory language.

ammunition, and magazines). Subsequent mentions of the prohibited items in the forms refer to “the prohibited items” or “the prohibited items listed in item 6b [or 7b]” rather than listing firearms, firearm parts, ammunition, and magazines.

Form GV-800

The revisions to form GV-800, which for spacing reasons the committee is recommending be retitled *Proof of Surrender of Firearms and Firearm-Related Items*, contain revisions in addition to the ones described above regarding the inclusion of “firearm parts.” The committee recommends reformatting the form so that all items that need to be completed by each user are listed together. That is to say, all the items that the restrained person completes are listed on pages 1 and 2, the item for a licensed gun dealer to complete is on page 3, and the item for law enforcement to complete is on page 4. The committee asks for comments on whether this reorganization is helpful for the various users, or whether having separate parallel items form gun dealers and law enforcement makes the form, now longer, more difficult to use.

The form otherwise retains all the notices and required information on the current form GV-800.⁶ The committee also included check boxes on the form describing the status of each surrendered item—whether it is sold or stored, in the item for gun dealers; or whether stored or seized (i.e., not to be returned) in the item for law enforcement agencies.⁷ The committee recommends minor revisions for clarity to item 4 on the proposed form, adding “or other proof” in item 4a, as restrained persons may file documents other than form GV-800 to prove they have obeyed the court’s order. The committee also recommends eliminating the second question posed in item 8 on current form GV-800 as it is duplicative of the other requests for information. For ease of use, columns have been added to the corresponding information sheet, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, Ammunition, and Magazines?* (form GV-800-INFO).

Revisions relating to remote appearances

In addition to revisions to include “firearm parts” and an explanation of that term, revisions to gun violence restraining order forms are also needed to implement SB 538, which allows parties and witnesses to appear at hearings on gun violence restraining orders remotely. Accordingly, the committee recommends including additional information about remote appearances on the following forms: form EPO-002, the notice of hearing forms (GV-009 and GV-109), three information sheets (forms GV-020-INFO, GV-100-INFO, and GV-120-INFO), and the order on request to continue the hearing (form GV-116). All of those proposed revised forms explain that the parties may attend the hearing remotely and advise the parties to check the court’s website for more information. Where space permits, those forms provide “phone and videoconference”

⁶ Note that the Serial Number column heading in items 6f and 7f on form GV-800 now includes “if there is one” because firearm parts may not have serial numbers. Also note that items 6g and 7g include both “ammunition” and “magazines” because section 18100(b) includes a “magazine” in the definition of “ammunition”; combining these terms ensures that items 6 and 7 do not take up more than a single individual page, respectively.

⁷ The committee asks for comments on whether these terms are useful, appropriate, and can be completed at the time the receipt is prepared.

as examples of remote attendance and also provide a link to the Find Your Court webpage on the California Courts website.⁸ Conforming changes, such as using “attend” in lieu of “go to” the hearing and referencing the ability to file papers electronically were also made to the applicable information sheets.⁹

Other revisions

Gender

The forms in the proposal that collect identifying information about the restrained party also contain minor revisions relating to gender. Specifically, item 1 on form EPO-002 and item 2 on forms GV-030, GV-110, and GV-130 all refer to “gender” as opposed to “sex” and provide a “nonbinary” option and check box. Such revisions are consistent with the Department of Justice procedures to register a protective order into the law enforcement database known as CLETS (California Law Enforcement Telecommunications System).

Interpreters

The current language about interpreters on forms GV-020-INFO, GV-100-INFO, and GV-120-INFO is outdated, stating that somebody over age 18 and not involved in the case may serve as an interpreter. However, interpreters must be certified or registered. (Gov. Code, § 68561.) The committee thus recommends that those forms contain the following information regarding interpreters after a sentence directing filers to ask the clerk if an interpreter is available: “You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, see www.courts.ca.gov/selfhelp-interpreter.htm.” The URL provided in the proposed text links to the “Court Interpreters” webpage on the California Courts website, which is translated into several languages that are accessible via links at the top of the webpage.

Disability

Several forms within this proposal also contain an outdated item with regard to requests for accommodations. Form MC-410, *Request for Accommodations by Persons with Disabilities and Response*, is now titled *Disability Accommodation Request*. The name of the form has been updated on forms GV-109 and GV-116. Additionally, the committee proposes broadening the language on the applicable information sheets in the proposal (GV-020-INFO, GV-100-INFO, and GV-120-INFO) to include reference to “disabilities” as opposed to just hearing disabilities,

⁸ Note that while the relevant information about attending hearings remotely is on the first page of forms GV-009 and GV-109, the committee recommends including such information on page 3 of form GV-116. The committee found it important to retain the existing information about temporary restraining orders on the first page of form GV-116 and accordingly there was insufficient space to also include information about attending hearings remotely.

⁹ The committee worked with the Family and Juvenile Law Advisory Committee in implementing the new statutory provisions, together developing the text to describe precursor parts, the proof of surrender forms, and the new instructions relating to remote appearances, in order to ensure that the text regarding these points on DV forms (relating to restraining orders to stop domestic violence) parallels the text on the GV forms. That advisory committee proposal with these and other revisions to various DV forms is circulating for comment at the same time as this one.

and to also reference the information sheet about requesting court accommodations, *How to Request a Disability Accommodation for Court* (form MC-410-INFO).

Alternatives Considered

Because AB 1057 and SB 538 made significant and substantial changes to the procedures and definitions concerning gun violence restraining orders, the committee determined it must act and that taking no action would be inappropriate. The committee also determined it would be inappropriate to not take action to update the information regarding interpreters on the forms.

In addition to this proposal, the committee considered only minor revisions to form GV-800 to add “firearm parts” and the explanation of the term without reformatting it. However, the committee concluded that the reformatted form would be easier to understand by the various users of the form.

In proposing revisions relating to remote appearances, the committee also considered including space for the clerk to fill in information for the local court website and phone number with information about remote attendance on forms GV-009 and GV-109. The committee determined, however, that doing so would add significant additional burdens to the clerk’s office and offer little additional value as compared to instructing litigants to go to the court’s website via the statewide webpage.

Fiscal and Operational Impacts

Most of the impacts arising from these new laws—including education of judicial officers, staff, and justice partners as to the new provisions—are a result of the statutes, not the forms proposal. The committee anticipates that this proposal will result in some costs incurred by courts to incorporate new forms into their paper or electronic processes and to train court staff. However, all the revised forms are intended to assist courts in dealing with the impact of the legislation by explaining the meaning of “firearm parts” on the forms and directing litigants to check the court’s website for more information about remote appearances.

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?
- Are the check boxes in items 6 and 7 of form GV-800 for the status of each surrendered item (sold, stored, or seized) helpful? Are “sold,” “stored,” and “seized” the correct statuses or are there other, preferable terms?
- Is the reorganization of form GV-800, so that there are now separate items to be completed by gun dealers (item 6) and law enforcement agencies (Item 7), rather than one item that could be completed by either, helpful? Or is a shorter form preferable?

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 3 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. Forms EPO-002, GV-009, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-116, GV-120, GV-120-INFO, GV-125, GV-130, GV-710, GV-730, GV-800, and GV-800-INFO, at pages 8–58
2. Link A: Assembly Bill 1057,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1057
3. Link B: Senate Bill 538,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB538

EPO-002
GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name): _____
Address: _____

Gender: M F Nonbinary Ht.: _____ Wt.: _____ Hair color: _____

Eye color: _____ Race: _____ Age: _____ Date of birth: _____

2. TO THE RESTRAINED PERSON
(Also see important Warnings and Information on page 2):

You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

If you have any firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines you MUST IMMEDIATELY SURRENDER THEM if asked by a police officer. If a police officer does not ask you to surrender the items, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. If you do not file a receipt within 48 hours you have violated this order and can go to jail.

3. This order will last until: _____ Time _____
INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. Court Hearing A court hearing will be set within 21 days.
 A court hearing will take place at the court above on: Date: _____ Time/Dept: _____

You must attend the court hearing if you do not want this restraining order against you. You may attend the hearing remotely (check your court's website for instructions). At the hearing, the judge can make this order last for up to five years.

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to himself or herself or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, firearm parts, ammunition, or magazines; and (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): _____ granted this order on (date): _____ at (time): _____

APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

8. Firearms (including parts) were observed reported searched for seized.
 Ammunition (including magazines) was observed reported searched for seized.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By: _____ (PRINT NAME OF LAW ENFORCEMENT OFFICER)  _____ (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____ Telephone No: _____ Badge No: _____
Address: _____

PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person name in item 1.
Date of service: _____ Time of service: _____ Address: _____

10. At the time of service, I was at least 18 years of age.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____  _____
(TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER) (SIGNATURE OF SERVER)

Clerk stamps date here when form is filed.
DRAFT
3/10/2022
Not approved by the Judicial Council

Fill in court name and street address:
Superior Court of California, County of

Court fills in case number when form is filed.
Case Number: _____

GUN VIOLENCE EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-002

TO THE RESTRAINED PERSON: You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm, a firearm part (any receiver, frame, or unfinished receiver/frame), ammunition, or a magazine. (Pen. Code, §§ 16531 & 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.)

Within 24 hours of receipt of this order, you must turn in all items listed above to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use Form GV-800, *Proof of Surrender of Firearms and Firearm-Related Items*.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use Form GV-020, *Response to Gun Violence Emergency Protective Order*. A family member, employer, coworker, teacher, or school administrator may also seek a more permanent restraining order from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm, firearm part (any receiver, frame, or unfinished receiver/frame), ammunition, or magazine for an additional five-year period, to begin on the expiration of the more permanent gun violence restraining order. (Pen. Code, §§ 16531 & 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

A LA PERSONA RESTRINGIDA: Tiene prohibido ser dueño de, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, componentes de armas de fuego (todo recibidor, armazón, o recibidor/armazón inacabado), municiones o cargadores. (Código Penal, §§ 16531 & 18125, y siguientes). Una violación de esta orden es un delito menor que está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Código Penal, §§ 19 y 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar todos los artículos indicados arriba a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Código Penal, §§ 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden, o el próximo día hábil, si el periodo de 48 horas termina un día en que está cerrada la corte. También tiene que presentar el recibo a la agencia del orden público que le hizo la entrega legal de esta Orden. Se puede usar el formulario GV-800, *Prueba de entrega de armas de fuego y artículos relacionados*, por este propósito. Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Un miembro de su familia, su empleador, un colega del trabajo, un maestro o profesor, o administrador educativo también puede solicitar al tribunal una orden de restricción más permanente.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, componentes de armas de fuego (todo recibidor, armazón, o recibidor/armazón inacabado), municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego más permanente. (Código Penal, §§ 16531 & 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma deberá hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

To law enforcement: The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, firearm parts, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable, but not later than three court days, after issuance, so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

Clerk stamps date here when form is filed.

DRAFT

3/10/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number.

Case Number:

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed)

Law enforcement agency or officer who applied for the *Gun Violence Emergency Protective Order*: _____

2 Restrained Person

Full Name: _____

Address: _____

3 Hearing

A *Gun Violence Emergency Protective Order* (form EPO-002) having been served on the Restrained Person, the court will hold a hearing at the time and place below to determine if a longer-term gun violence restraining order should be issued.

Name and address of court if different from above:

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____

You may attend your hearing remotely, such as by phone or videoconference. For more information go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause, and that a true copy of the *Notice of Court Hearing (Gun Violence Prevention)* (form GV-009) was mailed first class, postage fully prepaid, in a sealed envelope, addressed as shown below, and that the notice was mailed at (place): _____, California, on (date): _____

Date: _____ Clerk, by _____, Deputy

Name and address of law enforcement officer and agency

Name and address of Restrained Person

Clerk stamps date here when form is filed.

DRAFT

2/9/2022

**Not approved by
the Judicial Council**

Use this form if you do not want the court to extend the *Gun Violence Emergency Protective Order* for a period of time between 1 - 5 years.

1. Read *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO) to protect your rights.
2. Fill out this form and take it to the filing window at the court.
3. Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the law enforcement agency that applied for the *Gun Violence Emergency Protective Order* (form EPO-002). (Use, Proof of Service by Mail form GV-025).

Fill in court name and street address:

Superior Court of California, County of

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

See Notice of Hearing for case number and fill in:

Case Number:

2 Restrained Person

- a. Your Name: _____
 Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

- b. Your Address (If you have a lawyer, give your lawyer's information. You do not have to give telephone, fax, or email address.)

Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from the Notice of Hearing or *Gun Violence Emergency Protective Order* (form EPO-002) here:

Hearing Date

→ Date: _____ Time: _____
 Dept.: _____ Room: _____

You must obey the *Gun Violence Emergency Protective Order* until the expiration date. At the hearing, the court may make an order against you for a period of time between 1–5 years.

3 Gun Violence Restraining Order

I do not agree that a gun violence restraining order should be extended for 1–5 years (explain):

Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use form MC-025, Attachment.



4 Denial, Justification, or Excuse

- I did not do anything described in item 7 of form EPO-002.
- If I did some of the things stated in the Gun Violence Emergency Protective Order, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 4—Denial, Justification, or Excuse" as a title. Use form MC-025, Attachment.

5 Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

A Gun Violence Emergency Protective Order (form EPO-002) was issued against you. You cannot own or possess any guns, other firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines. You must surrender any of these items in your possession to law enforcement when they ask you to do so. If not asked, you must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any of the above listed items in your immediate possession or control within 24 hours of being served with form EPO-002. You must file a receipt with the court and the law enforcement agency. You may use Proof of Surrender of Firearms and Firearm-Related Items (form GV-800) for the receipt.

- a. I do not own or control any guns, other firearms, firearm parts, ammunition, or magazines.
- b. I have turned in my guns, other firearms, firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt is attached has already been filed with the court and the law enforcement agency.

6 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

Sign your name

What is a *Gun Violence Emergency Protective Order* (form EPO-002)?

It is a court order requested by law enforcement that prohibits someone from having any of the following prohibited items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, including any receiver, frame, or unfinished receiver/frame as defined in Penal Code Section 16531, also called “ghost guns”;
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must surrender all prohibited items listed above that they currently own.

Who can ask for a gun violence emergency protective order?

The gun violence emergency protective order must have been requested by a law enforcement officer and was issued by a judicial officer based on the statements made under penalty of perjury in the protective order.

I've been served with a *Gun Violence Emergency Protective Order* (form EPO-002) and a *Notice of Court Hearing*. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* or form EPO-002 tells you when to appear for court and where the court is located. If you want to attend the hearing remotely, such as by phone or videoconference, check your local court's website for instructions and availability. Follow the *Gun Violence Emergency Protective Order* (form EPO-002) prohibiting you from having any prohibited items listed above and requiring you to surrender, sell, or store any prohibited items that you currently own or possess. You must obey the order until the expiration date on the form.



DRAFT

3/10/2022

Not approved by
the Judicial
Council

What if I don't obey the emergency protective order?

The police can arrest you. You can go to jail and pay a fine. You may also be prohibited for a longer period of time from having access to firearms, ammunition, and other items.

What if I don't want the order to be extended?

If you disagree with the order that has been issued and do not want the court to extend it for a longer time, fill out *Response to Gun Violence Emergency Protective Order* (form GV-020), before your hearing date. File the form with the court and serve it on the requesting law enforcement agency. You can get the form from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find it at your local courthouse or county law library.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of the completed *Response to Gun Violence Emergency Protective Order* (form GV-020) to the law enforcement agency that issued the *Gun Violence Emergency Protective Order* (form EPO-002). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-025). Have the person who did the mailing sign the original form GV-025. Take the completed form back to the court clerk or bring it with you to the hearing.



Should I attend the court hearing?

Yes. You should attend the hearing listed on the *Notice of Court Hearing* or the *Gun Violence Emergency Protective Order* (form EPO-002). You can do so remotely, such as by telephone or videoconference, or go to court in person. If you do not attend the hearing, the judge can extend the order against you for a period of time between 1-5 years without hearing from you.

**Will I see the person who asked for the court order at the court hearing?**

It's possible the law enforcement officer may appear at the court hearing.

Can I attend the court hearing remotely, such as by telephone or videoconference?

Yes. Remote appearances are permitted for parties and witnesses. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find at www.courts.ca.gov/find-my-court.htm.

**What if I need help to understand English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form MC-030) for this purpose.)

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

For help in your area, contact:

[Local information may be inserted.]

How long does the order last?

The *Gun Violence Emergency Protective Order* (form EPO-002) will last until the expiration date listed on the front of the form in item 3. The court will decide at the hearing whether to issue a gun violence restraining order that can last for a period of time between 1-5 years.

Clerk stamps date here when form is filed.

DRAFT**3/10/2022****Not approved by
the Judicial Council***The court will complete this form.***1 Requesting Agency or Officer***(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)*

Law enforcement agency or officer that applied for the Gun Violence Emergency Protective Order: _____

2 Restrained Person

Full Name: _____

Lawyer *(if there is one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

Description of Restrained PersonGender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

Home Address: _____

City: _____ State: _____ Zip: _____

3 Expiration Date*This order expires at:**(Time):* _____ a.m. p.m. midnight on *(date):* _____

If no expiration date is written here, this order expires one year from the date of issuance.

4 Hearinga. There was a hearing on *(date):* _____ at *(time):* _____ in Dept.: _____ Room: _____.*(Name of judicial officer):* _____ made the orders at the hearing.

b. These people attended the hearing:

(1) The officer or representative of the Requesting Agency _____(2) The Restrained Person Lawyer for the Restrained Person *(name):* _____**This is a Court Order.**

5 Findings

a. The court finds by clear and convincing evidence that the following are true:

- (1) The Restrained Person poses a significant danger of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines.
- (2) A gun violence restraining order is necessary to prevent personal injury to the Restrained Person or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- (3) The court has received credible information that the Restrained Person owns or possesses one or more firearms, firearm parts, ammunition, or one or more magazines.
- (4) The facts as stated in the *Gun Violence Emergency Protective Order* (form EPO-002) and supporting documents submitted at the time of the hearing, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this Order.

See the attached *Attachment* (form MC-025)

b. A gun violence restraining order is not being issued for the reasons below:

This is a Court Order.



6 Order Prohibiting All Firearms, Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. Prohibited items are:
- (1) Firearms, including any handgun, rifle, shotgun, and assault weapon;
 - (2) Firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender all prohibited items in your custody or control or that you possess or own. If a law enforcement officer orders you to surrender all prohibited items to the officer, you must do so immediately. If no order to surrender is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these prohibited items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item 4 is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use Proof of Surrender of Firearms and Firearm-Related Items (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**
- e. **Order dissolving (terminating) Gun Violence Emergency Protective Order.**
 The court dissolves (terminates) the *Gun Violence Emergency Protective Order* (form EPO-002) originally issued on (date): _____ as of (date of hearing): _____.

7 Service of Order on the Restrained Person

- a. The Restrained Person attended the hearing. No other proof of service is needed. The clerk has provided the Restrained Person with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.
- b. The Restrained Person did not attend the hearing. The Restrained Person must be personally served with a court file-stamped copy of this order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.

8 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Party

To the restrained person: This order will last until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

This is a Court Order.



Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, **any prohibited items listed in item 6b**, above, for a period of up to five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of **the prohibited items listed in item 6b**, above, or has custody or control of any of those items that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all **prohibited items**.
- Issue a receipt to the Restrained Person for all **prohibited items** that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use Form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

The law enforcement agency that has received the surrendered **prohibited items** listed in item 6b, above, must do the following:

- Retain the **prohibited items** until the expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the **prohibited items** to the Restrained Person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Restrained Person claims title to any of the **prohibited items** surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Restrained Person had notice of the order. Consider the Restrained Person "served" (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file;
- The Restrained Person was informed of the order by an officer; or
- Item 7a is checked, the Restrained Person attended the hearing.

This is a Court Order.



Instructions for Law Enforcement

(continued)

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it *(see above: Duties of Officer Serving This Order)*.

The provisions in this *Gun Violence Restraining Order After Hearing on EPO-002* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV)* (form GV-030) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

**Petition for Gun Violence
Restraining Order**

Read *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO) before completing this form.

Clerk stamps date here when form is filed.

DRAFT**3/10/2022****Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**1 Petitioner**

a. Your Full Name or Name of Law Enforcement Agency:

I am:

- A family member of the Respondent.
- An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed. If you wrote your full name above, write the name of the law enforcement agency that employs you*):
- An employer of the Respondent (*your position and name of company*):
- A coworker of the Respondent. I have had substantial and regular interactions with the Respondent for at least one year and I have obtained the approval of my employer to file this petition (*name of company*):
- An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months. I have obtained the approval of a school administrator to file this petition (*name of the school*):

b. Your Lawyer (*if you have one for this case*): Name: _____
Firm Name: _____ State Bar No.: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Respondent

Full Name: _____ Age: _____

Address (*if known*): _____

City: _____ State: _____ Zip: _____

This is not a Court Order.

3 Venue

Why are you filing in this county? (Check all that apply):

- a. The Respondent lives in this county.
- b. Other (specify): _____

4 Other Court Cases

a. Are you aware of any other court cases, civil or criminal, involving the Respondent?

- Yes No *If yes, check each kind of case and give as much information as you know as to where and when each was filed:*

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(2)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(3)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(8)	<input type="checkbox"/> Criminal	_____	_____	_____
(9)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to Respondent?

- Yes No I don't know *If yes, attach a copy if you have one.*

5 Description of Respondent's Firearms, Firearm Parts, Ammunition, or Magazines

If you have reason to believe that the respondent is in possession of firearms, firearm parts, ammunition, or magazines, answer (a) or check (b), below.

a. I am informed, and on that basis believe, that Respondent currently possesses or controls the following firearms, firearm parts, ammunition, or magazines (describe the number, types, and locations of any of those items that you believe that the Respondent currently possesses or controls):

b. I am informed, and on that basis believe, that Respondent currently possesses or controls firearms, firearm parts, ammunition, or magazines, but I have no further specific information as to the number, types, and locations of those items.

This is not a Court Order.



6 Grounds for Issuance of a Gun Violence Restraining Order

I have reasonable cause to believe both of the following are true:

- a. The Respondent poses a significant danger in the near future of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving a firearm, a firearm part (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or a magazine.
- b. A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- c. The facts supporting the above statements are set forth:
 - Below
 - On *Attached Declaration* (form MC-031).

7 Request for Gun Violence Restraining Order

I request that the court issue an order prohibiting Respondent from having in their custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines. I further request that Respondent be ordered to immediately surrender all firearms, firearm parts, ammunition, and magazines currently in their possession to a law enforcement officer or to sell those items to or store them with a licensed gun dealer.

- a. I request the order above for _____ years. *(Please include a number of years between one and five years.)*
- b. I am asking for this amount of time because:

This is not a Court Order.



8 No Fee to Serve (Notify) Restrained Person

If you want the sheriff or marshal to serve (notify) the restrained person about the orders, they will do it for free.

9 Request for Hearing

I request that the court set a hearing in this matter for the purpose of issuing a gun violence restraining order that will last between one and five years.

10 Temporary Gun Violence Restraining Order

I request that a Temporary Gun Violence Restraining Order (TGV) be issued against the Respondent to last until the hearing. I am presenting *Temporary Restraining Order* (form GV-110) for the court's signature together with this Petition.

Has the Respondent been told that you were going to court to seek a TGV?

Yes No *(If you answered no, explain why below):*

Reasons stated in Attachment 10.

11 Request to Give Less Than Five Days' Notice of Hearing

You must have your papers personally served on Respondent at least five calendar days before the hearing, unless the court orders a shorter time for service. (See What Is "Proof of Personal Service"? (form GV-200-INFO). Proof of Personal Service (form GV-200) may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Reasons stated in Attachment 11.

12 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

Sign your name

This is not a Court Order.

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer or a self-help center.

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any of the following items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, including finished or unfinished receivers and frames, also called “ghost guns”;
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must surrender any prohibited items listed above that that person currently owns. The police will come and remove the items or the person can store them with a licensed gun dealer while the restraining order is in effect. The restrained person also cannot buy any of the prohibited items during this time.

Can I get a gun violence restraining order against someone?

You can ask for one if you are connected to the person you think is dangerous as:

- An immediate family member;
- An employer;
- A coworker who has substantial and regular interactions with the person and has worked with them for at least a year. You must have permission from your employer to ask for the restraining order;
- An employee or teacher at a school that the person has attended in the last six months, where you have permission from a school administrator or staff member who has a supervisory role; and/or
- A law enforcement officer or law enforcement agency.

Immediate family members include:

- Your spouse or domestic partner;
- Your parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent;
- Your spouse’s parents, children (your stepchildren), siblings, grandparents, and grandchildren; and
- Any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

If you do not have the necessary relationship, advise a law enforcement officer of the situation. The officer may investigate and file the petition if grounds exist.

Will I have to pay a filing fee to request the order?

No.

Will the order protect me in other ways, such as keeping the person from coming near me?

No, the only order the court can make is to force the person to not have the prohibited items listed above. If you need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act. See *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO) for information on how to proceed. For information on other civil restraining orders, please see www.courts.ca.gov/selfhelp-abuse.htm.

What forms do I need to get the order?

You must fill out the following forms:

- *Petition for Gun Violence Restraining Order* (form GV-100);
- *Confidential CLETS Information* (form CLETS-001);
- *Notice of Court Hearing* (form GV-109), items 1 and 2 only; and
- *Temporary Gun Violence Restraining Order* (form GV-110), items 1 and 2 only.

You may need other local forms. Ask your self-help center or visit your court's website.

Where can I get these forms?

You can get the forms from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find them at your local courthouse or county law library.

What do I need to do to get the order?

You must file your papers with the superior court in the county where the person to be restrained lives. Check online or ask the court how to file your request for a gun violence restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) File your forms electronically or give your forms to the clerk of the court. The court will give you a hearing date on the *Notice of Court Hearing* form.



How soon can I get the order?

You can ask for a *Temporary Gun Violence Restraining Order*, which will be effective right away if granted. The court may decide whether or not to grant the temporary order based only on the facts that you have stated in your petition. If so, the court will decide within 24 hours whether or not to make the temporary order. Sometimes the court will want to examine you personally under oath. **If you file in person**, the clerk will tell you whether you should wait to talk to the judge or come back later to find out if the court has signed a temporary order.

If you don't ask for a temporary restraining order, you will have to wait until the hearing, at which the court will decide whether to make an order that will last for a period of time between 1–5 years.

How will the person to be restrained know about the order?



If the court issues a temporary restraining order, someone age 18 or older—**not you**—must personally “serve” (give) the person to be restrained a copy of the order. The server must then fill out *Proof of Personal Service* (form GV-200) and give it to you to file with the court. If the person to be restrained attends the hearing, no further proof of service is required. But if they do not attend the hearing, then any order issued at the hearing must also be personally served. For help with service, ask the court clerk for *What Is “Proof of Personal Service”?* (form GV-200-INFO). Note: A sheriff or marshal can serve the order for free.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

What do I have to prove to get the order?

You will have to convince the judge that the person to be restrained poses a significant danger in the near future of causing personal injury to himself, herself, or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving **any of the prohibited items listed on page 1**.

You will also have to convince the judge that a gun violence restraining order is needed to prevent personal injury to the person to be restrained or to another person because less restrictive alternatives either have been tried and haven't worked, or are inadequate or inappropriate for the current circumstances.



How can I convince the judge?

You will need to give the judge specific information. You should tell the judge everything that you know about the firearms, **firearm parts**, ammunition, or magazines that the person to be restrained currently owns, including how many the person owns, the types, and where they are kept.

Then you will need to present facts to show that the person to be restrained is dangerous. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person has committed. It could also be evidence that the person to be restrained has violated a protective order or abuses controlled substances or alcohol. It could also be evidence of the unlawful and reckless use, display, or brandishing of a firearm or the recent acquisition of a firearm. Or it could be evidence that the person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms.

You should include all of this information in your Petition and also be prepared to present it to the judge at the hearing.



Do I have to attend a court hearing?

Yes. Attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109).

GV-109 Notice of Court Hearing

1. **Petitioner**

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by (name of law enforcement agency): _____

b. Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

c. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax or e-mail. Law enforcement officer, give agency information.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

2. **Respondent**
 Full Name: _____

3. **Hearing**
 The court will complete the rest of this form.
 Name and address of court if different from above: _____

Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

4. **Temporary Gun Violence Restraining Order** (Any order granted is on Form GV-110, served with this notice.)
 a. A Temporary Gun Violence Restraining Order is requested in Form GV-100, *Petition for Gun Violence Restraining Order*. It (check only one box below):
 GRANTED until the court hearing.
 DENIED until the court hearing. (Specify reasons for denial in b. below.)

Additional Court of California, www.courts.ca.gov
 Public Access 24/7
 Notice of Court Hearing (Gun Violence Prevention) GV-109, Page 1 of 2

Will I see the restrained person at the court hearing?

If the person attends the hearing, yes. If you are afraid, tell the court.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date, which must be within 21 days of the date of the temporary order. If at the hearing the court issues a more permanent order, it will last for one to five years. It may be renewed for an additional one to five years.

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Can I agree with the restrained person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. The restrained person would have to file a request with the court to terminate the order.

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Can someone attend the hearing with me?

Yes. Someone can sit with you during the hearing, but that person cannot speak for you to the court. Only you or your lawyer (if you have one) can speak for you.

Do I need to bring a witness to the hearing?

Witnesses are not required, but it helps to have more proof than just your word. For example, consider bringing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use *Declaration* (form MC-030) for this purpose.)

Aa 我 What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see MC-410-INFO, *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

Petitioner must complete items ① and ② only.

Clerk stamps date here when form is filed.

DRAFT

3/10/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency.
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.

b. Your Lawyer *(if you have one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

② Respondent

Full Name: _____

The court will complete the rest of this form.

③ Hearing

**Hearing
Date** →

Date: _____ Time: _____ Name and address of court if different from above:
 Dept.: _____ Room: _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

④ Temporary Gun Violence Restraining Order *(Any order granted is on form GV-110, served with this notice.)*

a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is *(check only one box below)*:

(1) **GRANTED** until the court hearing.

(2) **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*



4 b. Reasons for denial of a Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) are:

(1) The facts as stated in form GV-100 do not show that there is a substantial likelihood that both of the following are true:

Respondent poses a significant danger of causing personal injury to themselves or another person by having custody or control of, owning, purchasing, possessing, or receiving firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines.

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

(2) Other (as stated): Below On Attachment 4b(2)

5 Service of Documents on Respondent

At least five _____ calendar days before the hearing, a law enforcement officer or someone age 18 or older—and not a party to the action—must personally give (serve) a court file-stamped copy of this Form GV-109 to the Respondent, along with a copy of all the forms indicated below:

- a. GV-100, *Petition for Gun Violence Restraining Order* (file-stamped)
- b. GV-110, *Temporary Gun Violence Restraining Order* (file-stamped) **IF GRANTED**
- c. GV-120, *Response to Petition for Gun Violence Restraining Order* (blank form)
- d. GV-120-INFO, *How Can I Respond to a Petition for a Gun Violence Restraining Order?*
- e. GV-250, *Proof of Service by Mail* (blank form)
- f. GV-125, *Consent to Gun Violence Restraining Order and Surrender of Firearms* (blank form)
- g. Other (specify): _____

Date: _____

Judicial Officer



To the Petitioner in 1:

- The court cannot make an order at the court hearing unless the Respondent has been personally given (served) a copy of the Petition and a temporary order if issued. To show that the Respondent has been served, the person who served the forms must fill out a proof of service form. *Proof of Personal Service* (form GV-200) may be used.
- For information about service, read *What Is "Proof of Personal Service"?* (form GV-200-INFO).
- If you are unable to serve the Respondent in time, you may ask for a later hearing date, which will give you more time to serve the documents. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form GV-115).

To the Respondent:

- If you want to oppose the *Petition for Gun Violence Restraining Order* (form GV-100) in writing, file *Response to Petition for Gun Violence Restraining Order* (form GV-120) and have someone age 18 or older—**not you**—mail it to the Petitioner.
- The person who mailed the form must fill out a proof of service form. *Proof of Service by Mail* (form GV-250), may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may order you to turn in to law enforcement, or sell to or store with, a licensed gun dealer, any firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines that you own or possess. If issued, the order will last for one year.
- If you do not oppose the petition and are willing to give up your firearm rights, complete and file a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms for **Disability Accommodation Request** (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* (form GV-109) is a true and correct copy of the original on file in the court.

Clerk's Certificate

[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

3/10/2022

Not approved by the Judicial Council

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency: _____

- I am: A family member of the Respondent
 An officer of a law enforcement agency
 An employer of the Respondent
 A coworker of the Respondent
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months

b. Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____
Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)

Address: _____
City: _____ State: ____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Respondent

Full Name: _____
Description: _____

Gender: M F Nonbinary **Height:** _____ **Weight:** _____ **Date of Birth:** _____
Hair Color: _____ **Eye Color:** _____ **Age:** _____ **Race:** _____
Home Address (if known): _____
City: _____ **State:** _____ **Zip:** _____
Relationship to Petitioner: _____

The court will complete the rest of this form.

③ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ **Time:** _____ a.m. p.m.

This is a Court Order.



6 Order Prohibiting All Firearms, Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. Prohibited items are:
 - (1) Firearms, including any handgun, rifle, shotgun, and assault weapon;
 - (2) Firearm parts, including any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531;
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. The court has received credible information that you own or possess one or more prohibited items that have not been surrendered or sold. You must surrender all prohibited items in your custody or control or that you possess or own. If a law enforcement officer orders you to surrender all prohibited items to the officer, you must do so immediately. If no order to surrender is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these prohibited items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item 3 is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use Proof of Surrender of Firearms and Firearm-Related Items (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

7 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this order is in effect. A hearing will be held on the date and at the time noted on Page 1 to determine if a more permanent gun violence restraining order should be issued. Failure to appear at the hearing may result in a court making an order against you that is valid for a period between one and five years. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Violation of this Order is a misdemeanor. If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be changed only by an order of the court.

This is a Court Order.



After You Have Been Served With a Temporary Order

- Obey the order by turning in all firearms, **firearm parts**, ammunition, and magazines to a law enforcement agency or selling them to or storing them with a licensed gun dealer.
- Read *How Can I Respond to a Petition for Gun Violence Restraining Order?* (form GV-120-INFO) to learn how to respond to this Order.
- If you do not oppose the petition, fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) and file it with the court clerk.
- If you disagree with the petition, fill out *Response to Petition for Gun Violence Restraining Order* (form GV-120) and file it with the court clerk.
- You must have form GV-120 served by mail on the Petitioner or the Petitioner's attorney. You cannot do this yourself. The person who does the mailing should complete and sign *Proof of Service of Response by Mail* (form GV-250). File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use *Declaration* (form MC-030) for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also attend the hearing. You and your witnesses may attend the hearing remotely (check with your court for instructions).
- At the hearing, the judge can make a gun violence restraining order against you that lasts between one to five years. Tell the judge why you disagree with the order requested.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the **prohibited items listed in item 6b**, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all **prohibited items**.
- Issue a receipt to the Restrained Person for all **prohibited items** that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, **Firearm Parts**, Ammunition, or Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the **prohibited items** until the termination or expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this Order or of any later gun violence restraining order issued by the court, return the **prohibited items** to the respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 **provides for the sale or destruction of any unclaimed items**.

This is a Court Order.



Instructions for Law Enforcement*(continued)*

- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The Respondent was informed of the order by an officer; or
- The officer sees a filed copy of form GV-125.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the Respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Temporary Gun Violence Restraining Order* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other another existing protective order remain in effect.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Gun Violence Restraining Order (CLETS-TGV)* (form GV-110) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/10/2022

**Not approved by
the Judicial Council**

Complete items ① and ② only.

① **Petitioner:** _____

② **Respondent:** _____

The court will complete the rest of this form

③ **Next Court Date**

a. The request to reschedule the court date is **denied**.

Your court date is: _____

(1) Any *Temporary Gun Violence Restraining Order* ([form GV-110](#)) or *Gun Violence Emergency Protective Order* ([form EPO-002](#)) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

b. The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ④–⑧ for more information.

Name and address of court, if different from above:

New Court Date	→ Date: _____ Time: _____
	Dept.: _____ Room: _____

④ **Temporary Gun Violence Restraining Order or Gun Violence Emergency Protective Order**

a. **There is no *Temporary Gun Violence Restraining Order* (TRO) in this case** because:

(1) A TRO was not previously granted by the court.

(2) The court terminates (cancels) the previously granted TRO because: _____

b. **A *Temporary Gun Violence Restraining Order* ([form GV-110](#)) is still in full force and effect** because:

(1) The court extends the order previously granted on (date): _____
It now expires on (date): _____
(If no date is listed, the TRO expires at the end of the court date listed in 3b.)

c. **A *Gun Violence Emergency Protective Order* ([form EPO-002](#)) is still in full force and effect.**

(1) The court extends the order previously granted on (date): _____
It now expires on (date): _____
(If no date is listed, the TRO expires at the end of the court date listed in 3b.)

d. **Other (specify):** _____

Warning and Notice to the Restrained Party:
If ④ b or c is checked, a gun violence restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.



5 Reason Court Date Is Rescheduled

a. There is good cause to reschedule the court date (*check one*):

(1) The protected party has not served the restrained party.

(2) Other: _____

b. The court reschedules the court date on its own motion.

6 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner/Requesting Agency** b. **Respondent/Restrained party** c. **Court**

(1) You do not have to serve the respondent/restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) You must have the restrained party personally served with a copy of this order and a copy of all documents listed on form [GV-109](#), item **5**, by
(date): _____

(3) You must serve the respondent/restrained party with a copy of this order. This can be done by mail. You must serve by
(date): _____

(4) Other: _____

(1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) You must have the petitioner personally served with a copy of this order by
(date): _____

(3) You must serve the petitioner with a copy of this order. This can be done by mail. You must serve by
(date): _____

(4) Other: _____

(1) Further notice is not required.

(2) The court will mail a copy of this order to all parties by
(date): _____

(3) Other: _____

This is a Court Order.



7 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

8 Remote Appearances

You may attend your hearing listed in item **3** remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

9 Other Orders

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civ. Code, § 54.8.)

Instructions to Clerk

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk's Certificate [seal] I certify that this *Order on Request to Continue Hearing (EPO-002 or Temporary Restraining Order) (CLETS-EGV or CLETS-TGV)* (form GV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

2/9/2022

Not approved by the Judicial Council

Use this form to respond to the Petition (form GV-100)

- Read *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO) to protect your rights.
- If you agree to the Petition for a gun violence restraining order filed against you, use *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) to agree to a voluntary gun violence restraining order.
- If you do not agree to the gun violence restraining order filed against you, fill out this form and take it to the filing window at the court.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (*Use Proof of Service by Mail (form GV-250).*)

Fill in court name and street address:
Superior Court of California, County of

1 **Petitioner**
Name of person or law enforcement agency seeking order (*see form GV-100, item 1*):

See Petition for case number and fill in:
Case Number:

2 **Respondent**
a. Your Name: _____
Your Lawyer (*if you have one for this case*):
Name: _____ State Bar No.: _____
Firm Name: _____

b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.*)
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from form GV-109 item 3 here:
Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____
If a Temporary Gun Violence Restraining Order was issued, you must obey it until the hearing. At the hearing, the court may make an order against you for one to five years.

3 **Gun Violence Restraining Order**
 I do not agree to the order requested in the Petition because:

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use Attachment (form MC-025).

4 Denial

I did not do anything described in item 6 of form GV-100.

5 Justification or Excuse

If I did some or all of the things that the Petitioner has accused me of, my actions were justified or excused for the following reasons (explain):

Multiple horizontal lines for writing justification or excuse.

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5-Justification or Excuse" as a title. You may use Attachment (form MC-025).

6 Surrender of Firearms, Firearms Parts, Ammunition, and Magazines

If a Temporary Gun Violence Restraining Order (form GV-110) was issued, you cannot own or possess any guns, other firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines. (See item 6 of form GV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency or officer, any of those items in your immediate possession or control within 24 hours of being served with form GV-110. You must file a receipt with the court. You may use Proof of Surrender of Firearms and Firearm-Related Items (form GV-800) for the receipt.

- a. I do not own or control any guns, other firearms, firearm parts, ammunition, or magazines.
b. I have turned in my guns, other firearms, firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt
 is attached. has already been filed with the court.

7 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

Sign your name

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any guns, firearm parts, including finished or unfinished receivers and frames, also called “ghost guns,” ammunition, or magazines (any ammunition feeding device). The person must surrender all such items that the person currently owns.

I've been served with a *Petition for Gun Violence Restraining Order*. What do I do now?



Read the papers served on you very carefully. The *Notice of Court Hearing* (form GV-109) tells you when to appear in court. There may also be a *Temporary Gun Violence Restraining Order* (form GV-110) prohibiting you from having any guns, firearm parts, ammunition, or magazines and requiring you to surrender, sell, or store any such items that you currently own or possess. You must obey the order until the hearing.

Who can ask for a gun violence restraining order?

The petition must have been filed by a:

- Law enforcement officer or law enforcement agency,
- An employer,
- A coworker who has had “regular interactions” with you for at least a year,
- A teacher or employee of a school that you have attended in the last 6 months, or
- An immediate family member of yours.

Immediate family member is defined by this law to include people who are not blood relatives. The definition includes (1) your spouse or domestic partner; (2) your parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent; (3) your spouses parents, children (your stepchildren), siblings, grandparents, and grandchildren; and (4) any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

What if I don't obey the temporary order?

The police can arrest you. You can go to jail and pay a fine. You could lose access to firearms and other items for a longer period of time.

What if I don't agree with what the order says?



If you disagree with the order that the Petitioner is asking for, fill out *Response to Petition for Gun Violence Restraining Order* (form GV-120) before your hearing date and file it with the court. You can get the form from legal publishers or on the Internet at www.courts.ca.gov. You also may be able to find it at your local courthouse or county law library.

What if I don't oppose the Petition?

If you agree to give up your access to firearms and your rights to own, possess, and buy guns, firearm parts, ammunition, and magazines for the time period requested in the petition, which is between one and five years, then you can fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) and check the box for item 4a. Make sure you take it to the court clerk and file it, and then mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date, and the court will mail you a copy of the order. Make sure you check with the court to see if you have to show up for your court date.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed *Response to Petition for Gun Violence Restraining Order* (form GV-120) to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-250). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.



Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Should I attend the court hearing?



Yes. You should attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109). If you do not attend the hearing, the judge can extend the order against you for a period between one and five years without hearing from you.

GV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

1 Petitioner

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by (name of law enforcement agency): _____

b. Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____
 Court files in case number when form is filed.
 Case Number: _____

2 Respondent
 Full Name: _____

3 Hearing
The court will complete the rest of this form.
 Name and address of court if different from above: _____

Hearing Date * Date: _____ Time: _____
 Dept.: _____ Room: _____

4 Temporary Gun Violence Restraining Order (Any order granted is on Form GV-110, served with this notice.)
 a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):
 (1) GRANTED until the court hearing.
 (2) DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courts.ca.gov
 Rev. January 1, 2018. Mandatory Form
 Penal Code, § 18100 et seq.
 Approved by DOJ

Notice of Court Hearing (Gun Violence Prevention) GV-109, Page 1 of 3

You can attend the hearing by remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide whether to issue a gun violence restraining order that can last for one to five years.

Will I see the person who asked for the order at the court hearing?

Assume that the person who is asking for the order will attend the hearing. It is probably best not to talk to them unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form MC-030) for this purpose.)

Can I agree with the protected person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. You would have to file a request with the court to terminate the order.



What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

Use this form if you have been served with a Petition for Gun Violence Restraining Order (form GV-100) and you want to agree to voluntarily give up your firearm rights without a court hearing.

- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use Proof of Service by Mail (form GV-250).)
- If you do not agree to a gun violence restraining order, use *Response to Petition for Gun Violence Restraining Order* (form GV-120) to tell the court you oppose a gun violence restraining order.

DRAFT
3/10/2022
**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:**1 Petitioner**

Name of person or law enforcement agency seeking order (see form GV-100, item ①):

2 Respondent

- a. Your Name: _____
Your Lawyer (if you have one for this case):
Name: _____ State Bar No.: _____
Firm Name: _____
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

3 Gun Violence Restraining Order

- By checking this box and signing this form, I agree to give up my right to own, possess, or purchase firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), magazines, and ammunition for the time requested in the petition (between one to five years) or, if no time is specified, then for one year.
- I am not contesting the petition.
 - I understand that the petitioner can request to renew this order for one to five years.
 - I understand that I can only request to terminate this order once per year while it is in effect.



4 Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

- After you file this form, the court will issue a *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-130) and send it to you and the petitioner in the mail.
- This form will be listed in the statewide California Restraining and Protective Order System, where it will be accessible to all law enforcement.
- You cannot own or possess any guns, other firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, those items in your immediate possession or control within 48 hours of filing this form. You must file a receipt with the court. You may use *Proof of Surrender of Firearms and Firearm-Related Items* (form GV-800) for the receipt.

- a. I do not own or control any guns, other firearms, firearm parts, ammunition, or magazines.
- b. I have turned in my guns, other firearms, firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt is attached. has already been filed with the court.

Instructions to Clerk

- On the filing of *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125), submit the proposed order, *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-130) to the judicial officer, because the court must issue the order at least five court days before the scheduled hearing, or if this form is filed within five court days before the scheduled hearing, the court must issue, without any hearing, the gun violence restraining order, as soon as possible.
- Within one business day of issuance of the order, submit this form directly into the California Restraining and Protective Order System (CARPOS) or to law enforcement to enter into CARPOS within one business day of receipt from the court.

Date: _____

Lawyer's name (if any)

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

Sign your name

Clerk stamps date here when form is filed.

DRAFT

3/10/2022

**Not approved by
the Judicial Council**

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- _____
- I am: A family member of the Respondent.
 An officer of a law enforcement agency *(A petition may be filed in the name of the law enforcement agency in which the officer is employed).*
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

b. Your Lawyer *(if you have one for this case):*

Name: _____ State Bar No.: _____
Firm Name: _____

c. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____
City: _____ State: _____ Zip: _____ Telephone: _____
Email Address: _____ Fax: _____

② Respondent

Full Name: _____
Description: _____

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____
 Hair Color: _____ Eye Color: _____ Age: _____ Race: _____
 Home Address *(if known)*: _____
 City: _____ State: _____ Zip: _____
 Relationship to Petitioner: _____

③ Expiration Date

The court will complete the rest of this form.

This Order expires at:

(Time): _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires one year from the date of issuance.

This is a Court Order.



4 Hearing

- a. There was a hearing (*date*): _____ at (*time*): _____ in Dept.: _____ Room: _____.
(*Name of judicial officer*): _____ made the orders at the hearing.
- b. These people attended the hearing.
 - (1) The Petitioner (3) The lawyer for the Petitioner (*name*): _____
 - (2) The Respondent (4) The lawyer for the Respondent (*name*): _____
- c. There was not a hearing because Respondent filed a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

5 Findings

- a. The court finds by clear and convincing evidence that the following are true:
 - (1) Respondent poses a significant danger of causing personal injury to themselves, or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines.
 - (2) A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b. The court has received credible information that the Respondent owns or possesses one or more firearms, firearm parts, ammunition, or one or more magazines.
- c. The facts as stated in the Petition and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order. And/or for the reasons stated below.

- See the attached *Attachment* (form MC-025).
- d. The Respondent filed *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court finds that Respondent agreed not to have in Respondent's custody or control, own, purchase, possess, or receive a firearm, firearm part, ammunition, or magazine or attempt to purchase or receive those items until: (*expiration date*) _____.

This is a Court Order.



6 No Fee to Serve

If the sheriff or marshal serves this order, service will be free.

7 Order Prohibiting All Firearms, Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. Prohibited items are:
 - (1) Firearms, including any handgun, rifle, shotgun, and assault weapon;
 - (2) Firearm parts, including any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531;
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender all prohibited items in your custody or control or that you possess or own. If a law enforcement officer orders you to surrender all prohibited items to the officer, you must do so immediately. If no order to surrender is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these prohibited items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use Proof of Surrender of Firearms and Firearm-Related Items (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

8 Service of Order on Respondent

- a. The Respondent attended the hearing. No other proof of service is needed. The clerk has provided the Respondent with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600).
- b. The Respondent did not attend the hearing. The Respondent must be personally served with a court file-stamped copy of this Order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600) by a law enforcement officer or someone age 18 or older, **and not a party to the action.**
- c. This is an order based on the Respondent's filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court will provide notice to all parties.

9 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 7b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 7b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. The officer may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition and Magazines

The law enforcement agency that has received surrendered prohibited items listed in item 7b, above, must do the following:

- Retain the prohibited items until the expiration of this order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining Order issued by the court, return the prohibited items to the Respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

This is a Court Order.

**Gun Violence Restraining Order After Hearing or Consent to
Gun Violence Restraining Order
(CLETS-OGV) (Gun Violence Prevention)**



Instructions for Law Enforcement*(continued)***Enforcing This Order**

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The respondent was informed of the Order by an officer.
- Item 8a or 8c is checked.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other existing protective order(s) remain in effect.

Instructions to Clerk

This order must be served on all parties by the court, if it is made following the filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

*(Clerk will fill out this part.)***—Clerk's Certificate—**

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order (CLETS-OGV)* (form GV-130) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

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3/10/2022

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the Judicial Council**

Respondent completes items ① and ②. Court completes items ③ and ④.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency *(a petition may be filed in the name of the law enforcement agency in which the officer is employed)*.
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.

Your Lawyer *(if you have one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____

City: _____ State: _____ Zip: _____ Fax: _____

Telephone: _____ Email: _____

② Respondent

Full Name: _____

Address *(if known)*: _____

City: _____ State: _____ Zip: _____

③ Court Hearing

The judge has set a court hearing date. *Court will fill in box below.*

The current restraining order stays in effect.



Date: _____ Time: _____ Name and address of court if different from above: _____

Dept.: _____ Room: _____ _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

This is a Court Order.



To the Petitioner:**4 Service on Respondent**

Someone age 18 or older—**not you**—must serve a copy of the following forms on the Respondent

- *Request to Renew Gun Violence Restraining Order* (form GV-700);
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) (this form);
- *Response to Request to Renew Gun Violence Restraining Order* (form GV-720) (blank copy);

- a. The forms must be personally served on the Respondent _____ days before the hearing.
- b. The forms may be served by mail on the Respondent or the Respondent's lawyer _____ days before the hearing.

Date: _____

*Judicial Officer***To the Respondent:**

At the hearing, the judge can renew the current restraining order for between one and five years. You *must* continue to obey the current restraining order. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* continue to obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out *Response to Request to Renew Gun Violence Restraining Order* (form GV-720). File the original with the court before the hearing and have someone age 18 or older—**not you**—mail a copy of it to the Petitioner at the address in ① at least _____ days before the hearing. Also file *Proof of Service by Mail* (form GV-250) with the court before the hearing or bring it with you to the hearing.

Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)***—Clerk's Certificate—**

Clerk's Certificate
[seal]

I certify that this *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) is a true and correct copy of the original on file in the court.

Date: _____

Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

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the Judicial Council**

Prevailing party completes items ① and ②. If the Order is granted, the Petitioner is the prevailing party. If the Order is denied, the Respondent is the prevailing party.

① Petitioner

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by
 (name of law enforcement agency): _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**② Respondent**

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

③ HearingThere was a hearing on (date): _____ at time: _____ a.m. p.m. Dept.: _____ Room: _____

(Name of judicial officer): _____ made the orders at the hearing.

These people **attended** the hearing:a. The Petitionerb. The Respondentc. The lawyer for the Petitioner (name): _____d. The lawyer for the Respondent (name): _____**This is a Court Order.**

4 Order on Request for Renewal

The request to renew the attached *Gun Violence Restraining Order After Hearing* (form GV-130), originally issued on (date): _____, is:

- DENIED.** The attached order expires as stated in item ③ of the order.
- GRANTED.** The attached order is renewed for one year and will now expire:

on (date): _____ at (time): _____ a.m. p.m. or midnight

If no expiration date is written here, the order expires one year from the date of the hearing in item ③.

- a. The court finds by clear and convincing evidence that both of the following are true:
 - (1) Respondent continues to pose a significant danger of causing personal injury to himself, herself, or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts (any receiver, frame, or unfinished receiver/frame as defined in Penal Code section 16531), ammunition, or magazines.
 - (2) A gun violence restraining order remains necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b. The facts as stated in the *Request to Renew Gun Violence Restraining Order* (form GV-700) and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order.
and/or for the reasons set forth below.

See the attached Form MC-025, *Attachment*

- c. **To the restrained person:** If this order is renewed, it will last until the date and time noted above. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this order is in effect. Pursuant to section 18185, you have the right to request one hearing on an annual basis to terminate this Order at any time during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

This is a Court Order.



To the Prevailing Party:

5 Service of Order

Someone age 18 or older—**not you**—must serve a copy of this order on the other party.

- Order Granted**—The Respondent attended the hearing. **No further service is required.**
- Order Granted**—The Respondent did not attend the hearing. **Personal service is required.** The Respondent must be personally served with this Order. *(After the Respondent has been served, file form GV-200, Proof of Personal Service with the court clerk. For help with service, read form GV-200-INFO, What is “Proof of Personal Service”?)*
- Order Denied—Service by Mail**—If the Petitioner did not attend the hearing, the Petitioner may be served with this Order by mail. *(After the Petitioner has been served, the person doing the mailing should fill out form POS-030, Proof of Service by First-Class Mail—Civil. File the form with the court clerk. For help with service by mail, read the Information Sheet on page 2 of form POS-030.)*

Date: _____

Judicial Officer

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Order on Request to Renew Gun Violence Restraining Order* is a true and correct copy of the original on file in the court.

This is a Court Order.

This form may be used to prove that the restrained party has surrendered all firearm and firearm-related items to a licensed gun dealer or law enforcement. The form should be completed as follows:

- The restrained person fills out pages 1 and 2.
- If any firearms or related items were surrendered to a licensed gun dealer, the dealer should fill out page 3.
- If any firearms or related items were surrendered to law enforcement, the law enforcement agency should fill out page 4.

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--

Fill in court name and street address:

Superior Court of California, County of

--

Court fills in case number when form is filed.

Case Number:

--

1 Petitioner/Requesting Agency

Name: _____

2 Respondent/Restrained Party

a. Your Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

3 To the Respondent/Restrained Person

The court has ordered you to surrender all of your firearms, firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), and ammunition, by turning them in to law enforcement or by selling them to or storing them with a licensed gun dealer. You may use this form to prove to the court that you have obeyed its orders. Ask the law enforcement officer to complete item ⑥ or the licensed gun dealer to complete item ⑦.

After the form is signed, make two copies. File the original with the court clerk. File a copy with the law enforcement agency that served you with the gun violence restraining order. Keep a copy for yourself. Failure to file a receipt with the court and with the law enforcement agency is a violation of the court's order.

For help filling out this form, read *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, Ammunition, and Magazines?* (form DV-800-INFO).



Case Number: _____

4 Do you have, own, possess, or control any other firearms, firearm parts, ammunition, or magazines besides the items listed in 6 or 7? Yes No

If yes, check one of the boxes below:

a. I filed a Proof of Surrender of Firearms and Firearm-Related Items (form GV-800) or other proof for those items with the court on (date): _____

b. I am filing the proof for those firearms, firearm parts, ammunition, or magazines along with this proof.

c. I have not yet filed the proof for the other firearms, firearm parts, ammunition, or magazines. (Explain why not):

Check here if there is not enough space below for your answer. Use form MC-025 and write "Attachment 4c" for a title.

5 Your signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▲ _____
Sign your name

Case Number: _____

6 For Licensed Gun Dealer

- a. Name of Licensed Gun Dealer: _____
- b. License number: _____
- c. Address: _____
- d. Telephone number: _____ Email address: _____
- e. Date of transfer: _____ at: _____ a.m. p.m.

f. Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Sold	Stored
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

g. Ammunition and magazines

	Brand	Type	Amount	Sold	Stored
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Check this box if you need more space or to use a separate document to list firearms, firearm parts, ammunition, or magazines. Write "GV-800, item 6" at the top, and attach it to this form.

h. I declare under penalty of perjury under the laws of the State of California that the information listed in 6 is true and correct.

Date: _____

Type or print your name



Signature of licensed gun dealer

7 For Law Enforcement

- a. Name of Law Enforcement Agency: _____
- b. Name of Law Enforcement Agent: _____
- c. Address: _____
- d. Telephone number: _____ Email address: _____
- e. Date of transfer: _____ at: _____ a.m. p.m.

f. Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Stored	Seized
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

g. Ammunition and magazines

	Brand	Type	Amount	Stored	Seized
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(7)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(8)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Check this box if you need more space or to use a separate document to list firearms, firearm parts, ammunition, or magazines. Write "GV-800, item 7" at the top, and attach it to this form.

h. I declare under penalty of perjury under the laws of the State of California that the information listed in 7 is true and correct.

Date: _____

Type or print your name

▲

Signature of law enforcement agent

What items do I need to turn in?

You must surrender all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, including any receiver, frame or unfinished receiver or frame (also called “ghost guns”);
- Ammunition, also called ammo, including bullets, shells, cartridges, and clips; and
- Magazines (any ammunition feeding device, whether fixed or removable).

When must I turn in the prohibited items?

Immediately if law enforcement asks you for the items.

Otherwise, within 24 hours you must do one of the following:

- Turn in the items listed above to your local law enforcement agency;
- Sell the items to a licensed firearms dealer; or
- Store the items with a licensed firearms dealer.

How do I sell the prohibited items?

Find a licensed firearms dealer in your area or use the internet to find “Firearms Dealers” in your area. Make sure the dealer is licensed.

How do I surrender the above items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.

Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

As long as any gun violence restraining order against you remains in effect.



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After I give the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell them to a licensed gun dealer. To do this, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the firearms that you are selling.

Do I have to pay the law enforcement agency to keep the prohibited items?

You may have to pay the agency for keeping the items. Contact your local law enforcement agency and ask if a fee is charged. The agency will tell you how much you need to pay.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court and the law enforcement agency showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use *Proof of Surrender of Firearms and Firearm-Related Items* (form GV-800), for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff for their procedures.

For help in your area, contact:

[Local information may be inserted.]

Deferred

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules: Remove Reporting Requirement for Courts With Mandatory Electronic Filing

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 2.253

Committee or other entity submitting the proposal:
Information Technology Advisory Committee

Staff contact (name, phone and e-mail): Andrea L. Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): N/A Approved by Technology Committee
12/13/21

Project description from annual agenda: Amend rule 2.253(b)(7) of the California Rules of Court to remove the requirement that courts with mandatory electronic filing make semi-annual reports to the Judicial Council.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-25

Title	Action Requested
Rules: Remove Reporting Requirement for Courts With Mandatory Electronic Filing	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 2.253	January 1, 2023
Proposed by	Contact
Information Technology Advisory Committee	Andrea L. Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov
Hon. Sheila F. Hanson, Chair	

Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) proposes the Judicial Council amend rule 2.253 of the California Rules of Court to remove a requirement that a trial court with mandatory electronic filing by local rule submit reports about its electronic filing program to the Judicial Council. ITAC proposes removing the requirement because the reports are no longer needed.

Background

The Judicial Council adopted rule 2.253 of the California Rules of Court¹ effective July 1, 2013. Rule 2.253 authorizes trial courts to require parties, by local rule, to file electronically in civil cases subject to conditions enumerated in the rule. One condition is that courts “report semiannually to the Judicial Council on the operation and effectiveness of the court’s [mandatory electronic filing] program.”² The purpose of requiring courts to submit reports to the Judicial Council was to “provide a basis for evaluating different practices and procedures and for making future recommendations, including recommendations about what should be the effective time of electronic filing.”³ When the Judicial Council adopted the rule, it also adopted guidelines for

¹ All further references to rules are to the California Rules of Court.

² Rule 2.253(b)(7).

³ Judicial Council of Cal., Advisory Com. Rep., *Electronic Filing and Service: Rules Allowing the Superior Courts to Mandate Electronic Filing and Service in Civil Cases* (June 21, 2013), p. 7, <https://www.courts.ca.gov/documents/jc-20130628-itemC.pdf>.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

submitting the reports.⁴ Under the guidelines, courts were to submit reports to the Judicial Council Technology Committee at a specified email address.⁵

The Proposal

The proposal would eliminate the requirement that a trial court with mandatory electronic filing by local rule submit reports about its electronic filing program to the Judicial Council. ITAC determined the reports are no longer needed.

When the Judicial Council adopted the reporting requirement, the purpose was to “provide a basis for evaluating different practices and procedures and for making future recommendations, including recommendations about what should be the effective time of electronic filing.”⁶ The issue of “what should be the effective time of electronic filing” is now resolved. In 2017, the Judicial Council sponsored Assembly Bill 976, which, among other things, established that a document filed between 12:00 a.m. and 11:59:59 p.m. on a court day is deemed to have been filed that court day.⁷ The bill passed, and the updated effective time of electronic filing has been law since January 1, 2018.

In 2017, the Legislature passed an additional bill, Assembly Bill 103, to amend Code of Civil Procedure section 1010.6 to require the Judicial Council to submit four reports to the Legislature containing specific information about electronic filing and electronic service in the trial courts.⁸ Unlike rule 2.253, Code of Civil Procedures section 1010.6’s reporting requirement encompasses all electronic filing, not just mandatory electronic filing, as well as electronic service.⁹ To gather information beyond what is statutorily required, the Judicial Council can collect data as needed without semiannual reports from the courts about mandatory electronic filing. For example, ITAC can survey the courts to collect data to evaluate practices and procedures and make recommendations.

Alternatives Considered

The alternative to removing the reporting requirement would be to take no action. However, ITAC did not consider this a preferable alternative as the reporting requirement would necessitate courts to take on unnecessary workload.

⁴ *Id.* at p. 56.

⁵ *Ibid.*

⁶ *Id.* at p. 7.

⁷ See Link A.

⁸ See Link B. Three reports were due in 2018, 2019, and 2021. The remaining report is due in 2023.

⁹ Code Civ. Proc., § 1010.6(h)(5).

Fiscal and Operational Impacts

The proposal is not expected to result in any costs. Removing the requirement would ensure courts do not expend their resources to create the reports identified in the rule.

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. Cal. Rules of Court, rule 2.253, at page 4
2. Link A: Assembly Bill 976 (Stats. 2017, ch. 319),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB976.
3. Link B: Assembly Bill 103 (Stats. 2017, ch. 17),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB103.
4. Link C: Code of Civil Procedure section 1010.6,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1010.6&lawCode=CCP

Rule 2.253 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 2.253. Permissive electronic filing, mandatory electronic filing, and electronic**
2 **filing by court order**

3
4 **(a) * * ***

5
6 **(b) Mandatory electronic filing by local rule**

7
8 A court may require parties by local rule to electronically file documents in civil
9 actions directly with the court, or directly with the court and through one or more
10 approved electronic filing service providers, or through more than one approved
11 electronic filing service provider, subject to the conditions in Code of Civil
12 Procedure section 1010.6, the rules in this chapter, and the following conditions:

13
14 ~~(1)–(6) * * *~~

15
16 ~~(7) — A court that adopts a mandatory electronic filing program under this~~
17 ~~subdivision must report semiannually to the Judicial Council on the operation~~
18 ~~and effectiveness of the court’s program.~~

19
20 **(c) * * ***

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Rules: Remote Access to Electronic Records by Appellate Appointed Counsel Administrators, Courts of Appeal, and the Habeas Corpus Resource Center

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rules 2.515, 2.521, 2.523, and 2.540

Committee or other entity submitting the proposal:
Information Technology Advisory Committee

Staff contact (name, phone and e-mail): Andrea L. Jaramillo, 916-263-0991, andrea.jaramillo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): N/A Approved by Technology Committee 12/13/22 (minor revision to add Habeas Corpus Resource Center approved 02/14/22)
Project description from annual agenda: Consider amending the California Rules of Court on remote access to electronic records to authorize remote access by appellate courts, and appellate projects contracted to run appointed appellate counsel programs, and the Habeas Corpus Resource Center.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)
This proposal:
 - includes forms that have been translated.
 - includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
 - includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

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INVITATION TO COMMENT

SPR22-26

Title	Action Requested
Rules: Remote Access to Electronic Records by Appellate Appointed Counsel Administrators, Courts of Appeal, and the Habeas Corpus Resource Center	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes Amend Cal. Rules of Court, rules 2.515, 2.521, 2.523, and 2.540	Proposed Effective Date January 1, 2023
Proposed by Information Technology Advisory Committee Hon. Sheila F. Hanson, Chair	Contact Andrea L. Jaramillo, 916-263-0991, andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) proposes the Judicial Council amend rules 2.515, 2.521, 2.523, and 2.540 of the California Rules of Court¹ to authorize trial courts to provide remote access to electronic records by administrators contracted to run appellate appointed counsel programs, the Courts of Appeal, and the Habeas Corpus Resource Center. The proposal originated with a recommendation from Sixth District Appellate Program staff.

The Proposal

The proposal would amend rules 2.515, 2.521, and 2.523 to authorize remote access for administrators operating programs for appellate appointed counsel. The proposal would also amend rule 2.540 to authorize remote access by the Courts of Appeal and the Habeas Corpus Resource Center. The proposal is intended to remedy a problem causing significant inconvenience for appellate appointed counsel administrators, specifically difficulties obtaining records in person. The proposal is expected to alleviate the need for in-person requests for records at the courthouse; timely obtaining the records has been a challenge during the COVID-19 pandemic.

¹ All further references to rules are to the California Rules of Court unless otherwise noted.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

The proposal originated with a recommendation from Sixth District Appellate Program (SDAP) staff. As SDAP staff explained to ITAC, the pandemic and staff shortages in trial courts have significantly impacted obtaining timely access to court records in the Sixth Appellate District. Before the pandemic, SDAP would have staff make a weekly trip to the court to retrieve any needed court records. However, with the pandemic, some trial courts are now so backlogged that retrieving the court records can take months. This has a significant impact on programs like SDAP and clients being served through them because it hinders the programs' ability to act on behalf of their clients and delays the movement of cases through the appellate courts.

Remote access by appellate appointed counsel administrators

Appellate appointed counsel administrators operate in all six appellate districts

Under rule 8.300, the Courts of Appeal are required to “adopt procedures for appointing appellate counsel for indigents not represented by the State Public Defender in all cases in which indigents are entitled to appointed counsel.”² Courts of Appeal are also required to evaluate the qualifications of appointed counsel, match appointed counsel with cases, and evaluate the performance of appointed counsel.³

Rather than administering appointed counsel programs themselves, the Courts of Appeal are authorized to “contract with an administrator having substantial experience in handling appellate court appointments to perform any of the duties prescribed.”⁴ Such appellate appointed counsel administrators are used in all six appellate districts.⁵ According to SDAP staff, criminal matters constitute the bulk of the work for appellate appointed counsel though they also handle juvenile justice, child welfare, and civil commitment cases.⁶

In addition to the appellate appointed counsel administrators that contract with the District Courts of Appeal, the California Appellate Project—San Francisco (CAP-SF) provides similar services for indigent defendants sentenced to death. CAP-SF is funded primarily through a contract with the Judicial Council and “assists in capital postconviction proceedings, supporting appointed counsel in challenging their clients’ convictions and sentences on direct appeal and

² Rule 8.300(a)(1).

³ Rule 8.300(b), (c), & (d).

⁴ Rule 8.300(e)(1).

⁵ A list of administrators, also known as appellate projects, is available at <https://www.courts.ca.gov/13714.htm> (as of March 21, 2022).

⁶ *In re J.W.* (2002) 29 Cal.4th 200, 213 (indigent parents entitled to appointed counsel); *In re Kevin S.* (2003) 113 Cal.App.4th 97, 119 (indigent minors entitled to appointed counsel); *Conservatorship of Ben C.* (2007) 40 Cal.4th 529, 542 (conservatee entitled to appointed counsel).

through habeas corpus proceedings.”⁷ Under the California Rules of Court, CAP-SF is qualified to serve as appointed counsel in death penalty appeals.⁸

Current rules are not adequate to address remote access by appellate appointed counsel administrators

Under the current remote access rules, courts are authorized to provide counsel on appeal with remote access to electronic court records under rule 2.519. Subdivision (c) of rule 2.519 was designed to address access by counsel who are not counsel of record in the trial court. With their client’s permission, counsel who are not counsel of record may access electronic court records remotely.

However, rule 2.519 is not sufficient to address access by appellate appointed counsel administrators, whose staff may need access to court records before counsel is appointed or when appointed counsel becomes unavailable. For example:

- A potential client may contact an appellate appointed counsel administrator for help and the administrator would need access to records to determine if the client is entitled to appointed counsel.
- If a criminal defendant files an appeal following a guilty plea, which usually requires a certificate of probable cause,⁹ but no certificate has been obtained, the administrator may need to work with the defendant and view the defendant’s court records to resolve the certificate of probable cause issue before counsel can be appointed. According to SDAP staff, this happens often.
- Administrators need to view court records as part of their evaluation of the performance of appellate appointed counsel, which they are obligated to do.¹⁰
- Finally, appointed counsel may become unavailable during the appeal and, if that occurs, the administrator may need to access court records to act on behalf of the client before new counsel can be appointed or facilitate transferring information to new counsel.

⁷ California Appellate Project—San Francisco, “About CAP-SF,” <https://www.capsf.org/public/about.aspx> (as of March 21, 2022).

⁸ Rule 8.605(g).

⁹ Pen. Code, § 1237.5.

¹⁰ See rule 8.300(d) (obligation to “review and evaluate the performance of each appointed counsel to determine whether counsel’s name should remain on the list at the same level, be placed on a different level, or be deleted from the list”).

Proposed amendments to authorize remote access by appellate appointed counsel administrators

The proposal would amend rules 2.515, 2.521, and 2.523 to authorize remote access for appellate appointed counsel administrators.

Rule 2.515 provides an overview of which users may access electronic records under article 3 of chapter 2 of title 2 of the California Rules of Court, which governs remote access by specified users. The proposed amendment adds appellate appointed counsel administrators to the list of specified users.

Rule 2.523 requires verification of persons authorized to access electronic records remotely under rules 2.515 through 2.521. Subdivision (d) of rule 2.523 describes the responsibilities of certain organizations to verify the identity of users from the organizations. The proposed amendment adds appellate appointed counsel administrators to the organizations included in subdivision (d).

Rule 2.521 authorizes remote access by court-appointed persons. The proposed amendments add appellate appointed counsel administrators as a category of user that may be granted remote access under this rule. The proposed amendments split subdivision (a) into two paragraphs. Paragraph (1) and its subparagraphs contain existing language about remote access by court-appointed persons. Paragraph (2) and its subparagraphs address remote access by a person working for an appellate appointed counsel administrator. Subparagraph (B) lists the six appellate appointed counsel administrators by name. A new advisory committee comment related to subparagraph (B) is also included to note that about a list of the appellate appointed counsel administrators, including physical and web addresses and contact information, is available on the California Courts website.

The proposed amendments add appellate appointed counsel administrators to subdivisions (c) and (d) of rule 2.521 but make no other substantive changes to those subdivisions. Under the amendments, persons working for appellate appointed counsel administrators may remotely access any electronic records they would have been entitled to view at the courthouse. They are authorized to remotely access records only for purposes of fulfilling the administrator's responsibilities, are prohibited from selling electronic records, and must comply with any of the court's terms for remote access.

Remote access by Courts of Appeal

Rule 2.540 addresses remote access by government entities. Under that rule, a court may authorize remote access for persons working for specified government entities to electronic records relevant to business the government entities regularly have before the courts.¹¹ For example, a court could allow a person working for a district attorney's office to access "criminal

¹¹ Rule 2.540(b) & (c).

electronic records and juvenile justice electronic records” remotely.¹² Remote users are limited to accessing electronic records that they would have been authorized to view had they visited the courthouse.¹³ For government entities not specifically listed in rule 2.540, a court may still provide remote access if there is good cause for the court to do so.¹⁴ Adding a government entity to the list of government entities in the rule eliminates need for good cause.

The Courts of Appeal are responsible for operating programs for appellate appointed counsel under rule 8.300. However, as noted previously, that rule authorizes them to contract out the work to administrators, which all the Courts of Appeal have done. A Court of Appeal that uses a contract administrator is responsible for providing “the administrator with the information needed to fulfill the administrator’s duties.”¹⁵ Extending remote access to the Courts of Appeal under rule 2.540 should help facilitate information sharing to administrators if the administrators lack needed information. For example, if a trial court’s system was not yet capable of providing remote access to an administrator, but was capable of doing so for the Court of Appeal, the Court of Appeal then may be able to provide the information to the administrator. In addition, should a Court of Appeal choose to operate its own appointed counsel program rather than contracting with an administrator, the rule would facilitate the Court of Appeal’s meeting its rule 8.300 obligations. The proposal includes remote access to electronic records pertinent in case types in which a party is entitled to appointed counsel on appeal. The proposal is limited in the scope of case types because it is focused on appointed counsel programs. However, ITAC requests specific comments on whether additional case types should be included.

Remote access by the Habeas Corpus Resource Center

Like the California Appellate Project—San Francisco, the Habeas Corpus Resource Center (HCRC) only represents indigent defendants sentenced to death. In addition, it “recruits and trains attorneys to expand the pool of private counsel qualified to accept appointments in death penalty habeas corpus proceedings and serves as a resource to appointed counsel.”¹⁶ Unlike the appellate appointed counsel administrators described in the amendments to rule 2.521, the HCRC is a government entity. Accordingly, the proposed amendments bring the HCRC within the scope of rule 2.540, which addresses remote access by government entities. HCRC staff explained to ITAC that trial courts differ on how they categorize records in habeas corpus matters, with some using a distinct case type for habeas corpus and some including habeas corpus with the criminal case type. HCRC explained that remote access to “criminal electronic records” and “habeas corpus electronic records” would help it fulfill its obligations. Accordingly, the proposed amendments authorize courts to provide the HCRC with remote access to those case types.

¹² Rule 2.540(b)(1)(C).

¹³ Rule 2.540(b)(2).

¹⁴ Rule 2.540(b)(1)(Q). In addition, for good cause, a court may provide remote access to electronic records in case types beyond those specified.

¹⁵ Rule 8.300(e)(2).

¹⁶ Habeas Corpus Resource Center, <https://www.hcrc.ca.gov/> (as of March 21, 2022).

Alternatives Considered

Rather than adding appellate appointed counsel administrators to rule 2.521, ITAC considered drafting a separate, standalone rule for appellate appointed counsel administrators as was done in rules 2.517 through 2.522, which address remote access by specified users. Rules 2.523 through 2.528 address requirements related to remote access systems, such as security and conditions of access. ITAC considered proposing a new rule 2.523 for appellate appointed counsel administrators and renumbering existing rules 2.523 through 2.528. However, ITAC decided it would be preferable and less confusing to amend an existing rule rather than add a new rule and renumber several other rules. ITAC determined that rule 2.521, which relates to remote access by court-appointed persons, is topically similar to the proposed amendments for appellate appointed counsel administrators and proposes amending rule 2.521 to bring appellate appointed counsel administrators within its scope

ITAC had considered providing a more general definition of “appellate appointed counsel administrator” rather than listing each administrator by name, but determined that specifying the administrators by name made the rule clearer.

ITAC did not consider the alternative of the status quo to be preferable given the challenges in accessing needed records that SDAP described.

Fiscal and Operational Impacts

Courts may need to make system updates or execute new agreements to allow remote access by the new users described in the proposed amendments. Courts may need to train staff regarding which electronic records the new users described in the proposed amendments may remotely access. Under rule 2.516, courts are required to authorize remote access by specified users only to the extent it is feasible to do so. Financial and technological limitations may affect the feasibility of providing remote access. Costs and specific implementation requirements would vary across the courts depending on each court’s current capabilities and approach to providing services.

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 rule 2.521(a)(2)(B) include both the general definition of “appellate appointed counsel administrators” as “organizations contracted with the Courts of Appeal or Judicial Council to administer programs for appointed counsel on appeal” *and* the list of current administrators by name? If not, which should be retained or omitted?
- Are there additional case types to which the Courts of Appeal and the Habeas Corpus Resource Center should have access and that should be included with the proposed amendments to rule 2.540?

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 on providing remote access (please identify position and expected hours of training), revising processes and procedures (please describe), modifying case management systems, modifying other systems, or implementing new systems?
- Is implementation feasible at present or in the near future? If not, what are the barriers to implementation?

Attachments and Links

1. Cal. Rules of Court, rules 2.515, 2.521, 2.523, and 2.540, at pages 8–12
2. Link A: California Rules of Court, Title 2,
<https://www.courts.ca.gov/cms/rules/index.cfm?title=two>

1 have if ~~he or she~~the person were to seek to inspect the records in person at the courthouse. Thus,
2 if ~~he or she~~the person is legally entitled to inspect certain records at the courthouse, that person
3 could view the same records remotely; on the other hand, if ~~he or she~~the person is restricted from
4 inspecting certain court records at the courthouse (e.g., because the records are confidential or
5 sealed), that person would not be permitted to view the records remotely. In some types of cases,
6 such as unlimited civil cases, the access available to parties and their attorneys is generally
7 similar to the public's but in other types of cases, such as juvenile cases, it is much more
8 extensive (see Cal. Rules of Court, rule 5.552).

9
10 For authorized persons working in a qualified legal services program, the rule contemplates
11 services offered in high-volume environments on an ad hoc basis. There are some limitations on
12 access under the rule for qualified legal services projects. When an attorney at a qualified legal
13 services project becomes a party's attorney and offers services beyond the scope contemplated
14 under this rule, the access rules for a party's attorney would apply.

15
16 **Rule 2.521. Remote access by a court-appointed person or person working for an**
17 **appellate appointed counsel administrator**

18
19 **(a) Remote access generally permitted**

20
21 (1) Remote access by a court-appointed person

22
23 (A) A court may grant a court-appointed person remote access to electronic
24 records in any action or proceeding in which the person has been
25 appointed by the court.

26
27 ~~(2)~~(B) Court-appointed persons include an attorney appointed to
28 represent a minor child under Family Code section 3150; a Court
29 Appointed Special Advocate volunteer in a juvenile proceeding; an
30 attorney appointed under Probate Code section 1470, 1471, or 1474; an
31 investigator appointed under Probate Code section 1454; a probate
32 referee designated under Probate Code section 8920; a fiduciary, as
33 defined in Probate Code section 39; an attorney appointed under
34 Welfare and Institutions Code section 5365; ~~or~~and a guardian ad litem
35 appointed under Code of Civil Procedure section 372 or Probate Code
36 section 1003.

37
38 (2) Remote access by a person working for an appellate appointed counsel
39 administrator

40
41 (A) A court may grant a person working for an appellate appointed counsel
42 administrator remote access to electronic records.

1 (B) Appellate appointed counsel administrators are organizations
2 contracted with the Courts of Appeal or Judicial Council to administer
3 programs for appointed counsel on appeal. The appellate appointed
4 counsel administrators are:

5
6 (i) Appellate Defenders, Inc.;

7
8 (ii) California Appellate Project—Los Angeles;

9
10 (iii) California Appellate Project—San Francisco;

11
12 (iv) Central California Appellate Program;

13
14 (v) First District Appellate Project; and

15
16 (vi) Sixth District Appellate Program.

17
18 (C) Persons “working for an appellate appointed counsel administrator”
19 under this rule include attorneys, employees, contractors, and
20 volunteers.

21
22 (D) An appellate appointed counsel administrator must designate which
23 persons it authorizes to have remote access, and must certify that the
24 authorized persons work for the appellate project.

25
26 **(b) Level of remote access**

27
28 A court-appointed person or person working for an appellate appointed counsel
29 administrator may be provided with the same level of remote access to electronic
30 records as the ~~court-appointed~~ person would be legally entitled to if ~~he or she~~ the
31 person were to appear at the courthouse to inspect the court records.

32
33 **(c) Terms of remote access**

34
35 (1) Remote access only for purpose of fulfilling responsibilities

36
37 (A) A court-appointed person may remotely access electronic records only
38 for purposes of fulfilling the responsibilities for which ~~he or she~~ the
39 person was appointed.

40
41 (B) A person working for an appellate appointed counsel administrator may
42 remotely access electronic records only for purposes of fulfilling the
43 administrator’s responsibilities.

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- (2) Any distribution for sale of electronic records obtained remotely under the rules in this article is strictly prohibited.
- (3) All laws governing confidentiality and disclosure of court records apply to the records obtained under this article.
- (4) A court-appointed person or person working for an appellate appointed counsel administrator must comply with any other terms of remote access required by the court.
- (5) Failure to comply with these rules may result in the imposition of sanctions, including termination of access.

Advisory Committee Comment

Subdivision (a)(2)(B). A list of appellate appointed counsel administrators, including physical and web addresses and contact information, is available on the California Courts website at <https://www.courts.ca.gov/13714.htm>.

Rule 2.523. Identity verification, identity management, and user access

(a)–(c) * * *

(d) Responsibilities of the legal organizations, ~~or~~ qualified legal services projects, and appellate appointed counsel administrators

- (1) If a person is accessing electronic records on behalf of a legal organization, ~~or~~ qualified legal services project, or appellate appointed counsel administrator, the organization or project must approve granting access to that person, verify the person’s identity, and provide the court with all the information it directs in order to authorize that person to have access to electronic records.
- (2) If a person accessing electronic records on behalf of a legal organization, ~~or~~ qualified legal services project, or appellate appointed counsel administrator leaves ~~his or her~~ the position or for any other reason is no longer entitled to access, the organization or project must immediately notify the court so that it can terminate the person’s access.

(e) * * *

1 **Rule 2.540. Application and scope**

2
3 **(a) * * ***

4
5 **(b) Level of remote access**

6
7 (1) A court may provide authorized persons from government entities with
8 remote access to electronic records as follows:

9
10 (A)–(P) * * *

11
12 (Q) California Courts of Appeal: child welfare electronic records, criminal
13 electronic records, juvenile justice electronic records, and mental health
14 electronic records.

15
16 (R) Habeas Corpus Resource Center: criminal electronic records and
17 habeas corpus electronic records.

18
19 ~~(Q)~~(S) For good cause, a court may grant remote access to electronic
20 records in particular case types to government entities beyond those
21 listed in (b)(1)(A)–(R). For purposes of this rule, “good cause” means
22 that the government entity requires access to the electronic records in
23 order to adequately perform its legal duties or fulfill its responsibilities
24 in litigation.

25
26 ~~(R)~~(T) All other remote access for government entities is governed by
27 articles 2 and 3.

28
29 (2) Subject to (b)(1), the court may provide a government entity with the same
30 level of remote access to electronic records as the government entity would
31 be legally entitled to if a person working for the government entity were to
32 appear at the courthouse to inspect court records in that case type. If a court
33 record is confidential by law or sealed by court order and a person working
34 for the government entity would not be legally entitled to inspect the court
35 record at the courthouse, the court may not provide the government entity
36 with remote access to the confidential or sealed electronic record.

37
38 (3) This rule applies only to electronic records. A government entity is not
39 entitled under these rules to remote access to any documents, information,
40 data, or other types of materials created or maintained by the courts that are
41 not electronic records.

42
43 **(c) * * ***

Deferred

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Traffic: Confidentiality of Financial Information Submitted Electronically as Part of an Ability-to-Pay Determination

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 4.336

Committee or other entity submitting the proposal:
Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, jamie.schechter@jud.ca.gov, 415-865-5327

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (*date*): November 2, 2021
Project description from annual agenda: Review Pending and Enacted Legislation: Propose rules and forms necessary to comply with legislation or other directives.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

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INVITATION TO COMMENT SPR22-28

Title	Action Requested
Traffic: Confidentiality of Financial Information Submitted Electronically as Part of an Ability-to-Pay Determination	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes Amend Cal. Rules of Court, rule 4.336	Proposed Effective Date January 1, 2023
Proposed by Traffic Advisory Committee Hon. Gail Dekreon, Chair	Contact Jamie Schechter, 415-865-5327 Jamie.Schechter@jud.ca.gov

Executive Summary and Origin

The Traffic Advisory Committee recommends amendments to California Rules of Court, rule 4.336, to keep confidential financial information submitted electronically for ability-to-pay determinations through online options, including the Judicial Council’s online tool for requesting a fine reduction called MyCitations.

Background

Courts currently can use forms to allow a litigant to request an ability-to-pay determination (the plain language form *Can’t Afford to Pay Fine: Traffic and Other Infractions* (form TR-320/CR-320)). The act of appearing in court or traveling to court poses a barrier to many: it can require taking time off work, securing childcare, and/or finding transportation. Furthermore, form TR-320/CR-320 can only be used for cases that are adjudicated. To address these issues, online options have begun to be developed.

The 2018 State Budget included a pilot program to increase public access to the courts by authorizing the online adjudication of infraction violations including online ability-to-pay determinations. The Judicial Council began studying options to minimize the impact of high fines and fees on low-income court users in 2016 with a successful grant proposal to the U.S. Department of Justice under the Price of Justice Initiative. With seed funding from the grant, the Judicial Council and partner pilot courts (first in San Francisco, Santa Clara, Shasta, Tulare, and Ventura Counties) designed a process to conduct ability-to-pay determinations online. That effort included identifying online workflows, selecting a software vendor to develop a

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

prototype, and testing interfaces with partner court case management systems. The resulting prototype, named MyCitations, allows users to make online requests for reductions in traffic fines and fees based on an individual's ability to pay. MyCitations also takes pleas, allowing defendants to request an ability-to-pay determination for unadjudicated cases.

Assembly Bill 143 (Stats. 2021, ch. 79) authorized statewide expansion of online ability-to-pay determinations. Currently, eight courts have adopted MyCitations including the Superior Courts of Fresno, Monterey, San Francisco, Santa Clara, Shasta, Tulare, Ventura, and Santa Cruz Counties. Several additional courts are in the planning and implementation stage but have not yet gone live with online tools.

The Proposal

Current rule 4.336 provides that optional form TR-320/CR-320, the information it contains, and any supporting documentation (1) are confidential, (2) may only be accessed by the parties and the court, and (3) must be maintained by the clerk's office in a manner that protects and preserves their confidentiality. However, current rule 4.336 does not address the confidentiality of information submitted via online options for ability-to-pay determinations. To address the new and emerging online tools used by courts for ability-to-pay determinations, the committee recommends that any financial summaries and underlying supporting documentation and information be kept confidential due to the personal nature of the financial information.

When a litigant makes an ability-to-pay request through MyCitations (or similar online tool), the litigant answers a series of questions and may provide documentation in support of the request. MyCitations creates an electronic request summary of the financial information submitted. The court retains the request summary as a record. As MyCitations expands statewide, it is recommended that the confidentiality of financial information be expanded to include electronic request summaries created via online options, consistent with existing rule 4.336. Additionally, because MyCitations is a Judicial Council program and the Judicial Council has reporting requirements, the rule allows the Judicial Council to access the financial information.

Finally, when reviewing current rule 4.336, the committee identified unnecessary language describing form TR-320/CR-320 as optional. Form TR-320/CR-320 remains an optional form, but this detail is not necessary to the rule. The committee, therefore, recommends deleting this provision.

Alternatives Considered

The committee considered not taking any action but determined it would be inconsistent to have confidentiality for the form TR-320/CR 320 without likewise having confidentiality for the same information submitted through MyCitations or other online tools.

Fiscal and Operational Impacts

Expected costs are limited to training and possible case management system updates. No other implementation requirements or operational impacts are expected.

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?

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 2 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. Cal. Rules of Court, rule 4.336, at page 4
2. Link A: *Can't Afford to Pay Fine: Traffic and Other Infractions* (form TR-320/CR-320), <https://www.courts.ca.gov/documents/tr320.pdf>
3. Link B: Judicial Council of Cal., *Online Traffic Adjudication and Ability-to-Pay: Annual Report* (Jan. 2021) <https://www.courts.ca.gov/documents/lr-2020-online-traffic-adjudication-ability-to-pay-ba2018.pdf>
4. Link C: Assembly Bill No. 143 (Stats. 2021, ch. 79), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB143

Rule 4.336 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 4.336. Confidential Can't Afford to Pay Fine-Forms and Online Request**
2 **Summaries**

3
4 **(a) ~~Use of request and order forms~~ Request for a determination**

5
6 An infraction defendant may, but is not required, to use the following to ask the
7 court to determine defendant's ability to pay under rule 4.335:

8
9 (1) ~~A court uses the information on~~ *Can't Afford to Pay Fine: Traffic and Other*
10 *Infractions* (form TR-320/CR-320) ~~to determine an infraction defendant's~~
11 ~~ability to pay under rule 4.335.; or~~

12
13 (2) MyCitations online program or other online tool.

14
15 **(b) Court Order**

16
17 ~~A court~~ Courts may use *Can't Afford to Pay Fine: Traffic and Other Infractions*
18 *(Court Order)* (form TR-321/CR-321) to ~~issue an order in response to an infraction~~
19 ~~defendant's~~ respond to a request for an ability-to-pay determination under rule
20 4.335.

21
22 **~~(b)(c)~~ Confidentiality request form**

23
24 The clerk's office must maintain the following items in a manner that will protect
25 and preserve their confidentiality:

26 A filed *Can't Afford to Pay Fine: Traffic and Other Infractions* (form TR-320/CR
27 320), the information it contains, any electronic request summary of financial
28 information submitted by an infraction defendant through the MyCitations online
29 program or any other online tool, and any supporting documentation provided with
30 the form or through MyCitations or any other online tool are confidential. ~~The~~
31 ~~clerk's office must maintain the form and supporting documentation in a manner~~
32 ~~that will protect and preserve their confidentiality. Only the parties, and the court,~~
33 and the Judicial Council may access ~~the form and Supporting documentation~~ these
34 items.

35
36
37 **~~(c)~~ Optional request and order forms**

38
39 ~~*Can't Afford to Pay Fine: Traffic and Other Infractions* (form TR 320/CR~~
40 ~~*320)* and *Can't Afford to Pay Fine: Traffic and Other Infractions (Court*~~
41 ~~*Order)* (form TR 321/CR 321) are optional forms under rule 1.35.~~

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/30/22

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (out of cycle)

Title of proposal: Traffic: Remote Video Proceedings and Related Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Repeal Cal. Rules of Court, rule 4.220; revoke forms TR-500, TR-505, and TR-510

Committee or other entity submitting the proposal:
 Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, jamie.schechter@jud.ca.gov, 415-865-5327

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (*date*): November 2, 2021

Project description from annual agenda: Due to the COVID-19 pandemic, several courts are utilizing or exploring the option of utilizing remote video proceedings for traffic cases. New Penal Code section 1428.5 and new Government Code section 68645.4 authorize remote proceedings for infractions and authorize the council to adopt rules relating to such proceedings. Current California Rule of Court 4.220, and forms implementing that rule, address remote video proceedings in traffic infraction cases, but require all appearances to be from courtrooms. Courts have expressed concerns that Rule 4.220, and the corresponding forms, are incompatible with remote proceedings when a defendant or other party is not in a courtroom. The committee will consider revoking rule 4.220 and related forms and whether to recommend new or revised rules and forms, in light of the new statutory authorizations.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Several courts have raised concerns that existing rule California Rules of Court, rule 4.220 is inconsistent with how courts conduct remote proceedings. The emergency rules currently take precedence over rule 4.220. However, on March 11, 2022, the Judicial Council amended emergency rules 3, 5, 6, 7, 8, 9, 10, and 13 to sunset on June 30, 2022. If rule 4.220 is not repealed by June 30, 2022, courts will be required to conduct remote proceedings only when witnesses testify at a designated public location.

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.

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INVITATION TO COMMENT SP22-29

Title	Action Requested
Traffic: Repeal Outdated Rule on Remote Video Proceedings and Related Forms	Review and submit comments by April 10, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Repeal Cal. Rules of Court, rule 4.220; revoke forms TR-500-INFO, TR-505, and TR-510	Effective May 13, 2022
Proposed by	Contact
Traffic Advisory Committee	Jamie Schechter, 415-865-5327
Hon. Gail Dekreon, Chair	Jamie.Schechter@jud.ca.gov

Executive Summary and Origin

The Traffic Advisory Committee proposes repealing California Rules of Court, rule 4.220 (Remote video proceedings in traffic infractions), and revoking the forms based on that rule, effective May 13, 2022. Penal Code section 1428.5, which became effective on January 1, 2022, authorizes remote proceedings for all infraction cases, and authorizes the council to adopt rules regarding such proceedings. Rule 4.220, adopted *before* the new Penal Code section, is more restrictive than permitted under the new statute and is inconsistent with how courts have conducted remote proceedings for infractions under emergency rules 3 and 5. Because those rules will sunset on June 20, 2022, if current rule 4.220 is not repealed before that date, it may restrict remote proceedings of infractions by requiring witnesses to testify at a designated public location only, and access to justice will be severely limited. As Judicial Council forms TR-500-INFO, TR-505, and TR-510 are based on rule 4.220, the committee recommends revoking them as well.

Background

On April 6, 2020, the Judicial Council adopted emergency rules 3 and 5 of the California Rules of Court¹ in response to the COVID-19 pandemic. Together, emergency rules 3 and 5 effectively authorize courts to conduct any criminal proceeding remotely, with the consent of the defendant. Courts across California began holding remote infraction proceedings pursuant to the emergency

¹ All further references to rules are to the California Rules of Court.

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rules. In July 2021, Assembly Bill 143 (Stats. 2021, ch. 79) was enacted, which, among other things, added Penal Code section 1428.5, allowing courts, with the defendant's consent, to conduct all infraction proceedings, including arraignments and trials, remotely.

Several courts have raised concerns that existing rule 4.220, which was adopted in 2013, is more restrictive than required by the new statute and inconsistent with how courts have been successfully conducting remote proceedings under emergency rules 3 and 5. The emergency rules currently take precedence over rule 4.220. However, on March 11, 2022, the Judicial Council amended emergency rules 3 and 5 along with several others to sunset on June 30, 2022. If rule 4.220 is not repealed, courts will be required to conduct remote proceedings only when witnesses testify at a designated public location. Because newly enacted Penal Code section 1428.5 broadly authorizes remote proceedings for infractions, rule 4.220 is now overly restrictive and obsolete.

The Proposal

The Traffic Advisory Committee recommends circulating a repeal of rule 4.220 and related forms TR-500-INFO, TR-505, and TR-510 for public comment on an expedited schedule, so the actions can take effect before the sunset of the emergency rules.

Rule 4.220 was initially adopted effective February 1, 2013.² The report to the Judicial Council explained the rationale for the adoption of the rule, which at that point was for a pilot program developed to address an issue specific to the Superior Court of Fresno County.³ The entire rule was designed with the idea that remote video streaming would take place from a public place to a courtroom, and with both locations having court clerks present. The Judicial Council amended rule 4.220 in 2015 by converting the rule into a standing rule applicable to all California courts and adding a cross-reference to rule 4.105 (Appearance without deposit of bail in infraction cases).⁴

Broadly, rule 4.220 provides the following:

- A trial court can, by local rule, and upon a defendant's request, permit arraignments, trials, and related proceedings for most traffic infractions to be conducted by two-way remote video. (Rule 4.220(a) & (e).) (The new statute only requires consent, not a formal request by the party.)

² See Judicial Council of Cal., Advisory Com. Rep., *Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases* (Dec. 13, 2012), <https://www.courts.ca.gov/documents/jc-20130117-itemG.pdf>.

³ That court is no longer conducting remote appearances under this rule.

⁴ See Judicial Council of Cal., Advisory Com. Rep., *Trial Courts: Permanent Authorization for Remote Video Proceedings and Implementation of Rule 4.105 in Traffic Infraction Cases* (Aug. 11, 2015), <https://www.courts.ca.gov/documents/jc-20150821-itemA2.pdf>.

- To request a remote video proceeding under the rule, a defendant must view the instructions on form TR-500-INFO, submit either form TR-505, *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial*, or form TR-510, *Notice and Waiver of Rights and Request for Remote Video Proceeding*. The waivers contain detailed waivers not required under the new statute, which only requires that the court obtain consent from the defendant prior to conducting the proceeding remotely. (Rule 4.220(e).) (As noted above, the new rule requires only a simple consent.)
- The court must designate a public place where the defendant may appear with any witnesses, the proceedings must be viewable by the public at both the remote location and the courthouse, and a court clerk must be present at the remote location. (Rule 4.220(d).) On receipt of the defendant’s waiver of rights, the court may permit law enforcement officers and other witnesses to testify at the remote location or in the courtroom. (Rule 4.220(g).)

The “public place” requirement is the most onerous aspect of rule 4.220, insofar as it precludes both defendants and other witnesses from attending a traffic infraction hearing from their own home or other private location, and requires that they appear at the same remote location, a “public place” designated by the court. In addition, subdivision (d)(3) provides that a court clerk must be present at the *remote* location. Neither the public place restriction nor the other provisions in the rule are required by the new remote appearance statute. Nor are they consistent with how courts have been conducting remote proceedings for infractions in recent years. If rule 4.220 is not repealed, access to justice will be severely limited.

Forms TR-500-INFO, TR-505, and TR-510 are mandatory forms based on the specific procedure of rule 4.220 and are not helpful for courts conducting remote proceedings under the new statute.

Alternatives Considered

The committee considered recommending updating the provisions in rule 4.220. However, because the rule addresses an outdated process (courts having video proceedings streaming from a designated public place to another courtroom), most of the existing rule does not appear applicable or relevant to remote proceedings permitted by the new statute for infractions (where a defendant or other witness may testify from a private location without a clerk present). The committee also considered proposing a new rule for remote proceedings along with the repeal. The committee has begun developing recommendations and is working with stakeholders to determine if a new rule is needed to standardize procedures for remote proceedings for infractions but does not believe a rule is necessary for the new statute to be implemented. In addition, the committee does not want to try to rush the development of such a rule to the extent it is appropriate.

Fiscal and Operational Impacts

The committee does not expect any significant implementation requirements or operational impacts because courts are not currently operating under rule 4.220.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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 one month 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. Cal. Rules of Court, rule 4.220, at pages 5–9
2. Forms TR-500-INFO, TR-505, and TR-510, at pages 10–12
3. Link A: Assembly Bill 143 (Stats. 2021, ch. 79),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB143
4. Link B: Pen. Code, § 1428.5,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=1428.5

Rule 4.220 of the California Rules of Court would be repealed, effective May 13, 2022, to read:

1 **Rule 4.220. Remote video proceedings in traffic infraction cases [Repealed]**

2
3 ~~(a) Authorization for remote video proceedings~~

4
5 ~~A superior court may by local rule permit arraignments, trials, and related~~
6 ~~proceedings concerning the traffic infractions specified in (b) to be conducted by~~
7 ~~two-way remote video communication methods under the conditions stated below.~~

8
9 ~~(b) Definitions~~

10
11 For the purposes of this rule:

12
13 ~~(1) "Infraction" means any alleged infraction involving a violation of the Vehicle~~
14 ~~Code or any local ordinance adopted under the Vehicle Code, other than an~~
15 ~~infraction cited under article 2 (commencing with section 23152) of chapter 12~~
16 ~~of division 11 of the Vehicle Code, except that the procedures for remote video~~
17 ~~trials authorized by this rule do not apply to any case in which an informal~~
18 ~~juvenile and traffic court exercises jurisdiction over a violation under sections~~
19 ~~255 and 256 of the Welfare and Institutions Code.~~

20
21 ~~(2) "Remote video proceeding" means an arraignment, trial, or related proceeding~~
22 ~~conducted by two-way electronic audiovisual communication between the~~
23 ~~defendant, any witnesses, and the court in lieu of the physical presence of both~~
24 ~~the defendant and any witnesses in the courtroom.~~

25
26 ~~(3) "Due date" means the last date on which the defendant's appearance is timely~~
27 ~~under this rule.~~

28
29 ~~(c) Application~~

30
31 ~~This rule establishes the minimum procedural requirements and options for courts~~
32 ~~that conduct remote video proceedings for cases in which a defendant is charged with~~
33 ~~an infraction as defined in (b) and the defendant requests to proceed according to this~~
34 ~~rule.~~

35
36 ~~(d) Designation of locations and presence of court clerk~~

37
38 ~~(1) The court must designate the location or locations at which defendants may~~
39 ~~appear with any witnesses for a remote video proceeding in traffic infraction cases.~~

40
41 ~~(2) The locations must be in a public place, and the remote video proceedings must~~
42 ~~be viewable by the public at the remote location as well as at the courthouse.~~

1
2 ~~(3) A court clerk must be present at the remote location for all remote video~~
3 ~~proceedings.~~

4
5 **~~(c) Required procedures and forms and request by defendant~~**

6
7 ~~A court that conducts remote video proceedings under this rule must comply with the~~
8 ~~following procedures and use the required forms in this section. In addition to~~
9 ~~following the standard provisions for processing traffic infraction cases, the defendant~~
10 ~~may request to proceed by remote video proceeding as provided below.~~

11
12 ~~(1) Arraignment and trial on the same date~~

13
14 ~~The following procedures apply to a remote video proceeding when the court~~
15 ~~grants a defendant's request to have an arraignment and trial on the same date:~~

16
17 ~~(A) The defendant must review a copy of the Instructions to Defendant for~~
18 ~~Remote Video Proceeding (form TR-500-INFO).~~

19
20 ~~(B) To proceed by remote video arraignment and trial, the defendant must~~
21 ~~sign and file a Notice and Waiver of Rights and Request for Remote~~
22 ~~Video Arraignment and Trial (form TR-505) with the clerk by the~~
23 ~~appearance date indicated on the Notice to Appear or a continuation of~~
24 ~~that date granted by the court and must deposit bail when filing the form.~~

25
26 ~~(C) A defendant who is dissatisfied with the judgment in a remote video trial~~
27 ~~may appeal the judgment under rules 8.901-8.902.~~

28
29 ~~(2) Arraignment on a date that is separate from a trial date~~

30
31 ~~The following procedures apply to a remote video proceeding when the court~~
32 ~~grants a defendant's request to have an arraignment that is set for a date that is~~
33 ~~separate from the trial date:~~

34
35 ~~(A) The defendant must review a copy of the Instructions to Defendant for~~
36 ~~Remote Video Proceeding (form TR-500-INFO).~~

37
38 ~~(B) To proceed by remote video arraignment on a date that is separate from a~~
39 ~~trial date, the defendant must sign and file a Notice and Waiver of~~
40 ~~Rights and Request for Remote Video Proceeding (form TR-510) with~~
41 ~~the clerk by the appearance date indicated on the Notice to Appear or a~~
42 ~~continuation of that date granted by the court.~~

1 ~~(3) Trial on a date that is separate from the date of arraignment~~

2
3 ~~The following procedures apply to a remote video proceeding when the court~~
4 ~~grants a defendant's request at arraignment to have a trial set for a date that is~~
5 ~~separate from the date of the arraignment:~~

6
7 ~~(A) The defendant must review a copy of the Instructions to Defendant for~~
8 ~~Remote Video Proceeding (form TR-500-INFO).~~

9
10 ~~(B) To proceed by remote video trial, the defendant must sign and file a~~
11 ~~Notice and Waiver of Rights and Request for Remote Video Proceeding~~
12 ~~(form TR-510) with the clerk by the appearance date indicated on the~~
13 ~~Notice to Appear or a continuation of that date granted by the court and~~
14 ~~must deposit bail with the form as required by the court under section (f).~~

15
16 ~~(C) A defendant who is dissatisfied with the judgment in a remote video trial~~
17 ~~may appeal the judgment under rules 8.901-8.902.~~

18
19 ~~(4) Judicial Council forms for remote video proceedings~~

20
21 ~~The following forms must be made available by the court and used by the~~
22 ~~defendant to implement the procedures that are required under this rule:~~

23
24 ~~(A) Instructions to Defendant for Remote Video Proceeding (form TR-500~~
25 ~~INFO);~~

26
27 ~~(B) Notice and Waiver of Rights and Request for Remote Video Arraignment~~
28 ~~and Trial (form TR-505); and~~

29
30 ~~(C) Notice and Waiver of Rights and Request for Remote Video Proceeding~~
31 ~~(form TR-510).~~

32
33 ~~(f) Deposit of bail~~

34
35 ~~Procedures for deposit of bail to process requests for remote video proceedings must~~
36 ~~follow rule 4.105.~~

37
38 ~~(g) Appearance of witnesses~~

39
40 ~~On receipt of the defendant's waiver of rights and request to appear for trial as~~
41 ~~specified in section (e)(1) or (e)(3), the court may permit law enforcement officers~~
42 ~~and other witnesses to testify at the remote location or in court and be cross-examined~~
43 ~~by the defendant from the remote location.~~

1
2 **~~(h) Authority of court to require physical presence of defendant and witnesses~~**
3

4 Nothing in this rule is intended to limit the authority of the court to issue an order
5 requiring the defendant or any witnesses to be physically present in the courtroom in
6 any proceeding or portion of a proceeding if the court finds that circumstances require
7 the physical presence of the defendant or witness in the courtroom.
8

9 **~~(i) Extending due date for remote video trial~~**
10

11 If the clerk receives the defendant's written request for a remote video arraignment and
12 trial on form TR 505 or remote video trial on form TR 510 by the appearance date
13 indicated on the Notice to Appear and the request is granted, the clerk must, within 10
14 court days after receiving the defendant's request, extend the appearance date by 25
15 calendar days and must provide notice to the defendant of the extended due date on the
16 Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial
17 (form TR 505) or Notice and Waiver of Rights and Request for Remote Video
18 Proceeding (form TR 510) with a copy of any required local forms.
19

20 **~~(j) Notice to arresting officer~~**
21

22 If a court grants the defendant's request for a remote video proceeding after receipt of
23 the defendant's Notice and Waiver of Rights and Request for Remote Video
24 Arraignment and Trial (form TR 505) or Notice and Waiver of Rights and Request for
25 Remote Video Proceeding (form TR 510) and bail deposit, if required, the clerk must
26 deliver, mail, or e-mail a notice of the remote video proceedings to the arresting or
27 citing law enforcement officer. The notice to the officer must specify the location and
28 date for the remote video proceeding and provide an option for the officer to request at
29 least five calendar days before the appearance date to appear in court instead of at the
30 remote location.
31

32 **~~(k) Due dates and time limits~~**
33

34 Due dates and time limits must be as stated in this rule, unless extended by the court.
35 The court may extend any date, and the court need not state the reasons for granting
36 or denying an extension on the record or in the minutes.
37

38 **~~(l) Ineligible defendants~~**
39

40 If the defendant requests a remote video proceeding and the court determines that the
41 defendant is ineligible, the clerk must extend the due date by 25 calendar days and
42 notify the defendant of the determination and the new due date.
43

1 **(m) Noncompliance**

2
3 If the defendant fails to comply with this rule (including depositing the bail amount
4 when required, signing and filing all required forms, and complying with all time
5 limits and due dates), the court may deny a request for a remote video proceeding and
6 may proceed as otherwise provided by statute.
7

8 **(n) Fines, assessments, or penalties**

9
10 This rule does not prevent or preclude the court from imposing on a defendant who is
11 found guilty any lawful fine, assessment, or other penalty, and the court is not limited
12 to imposing money penalties in the bail amount, unless the bail amount is the
13 maximum and the only lawful penalty.
14

15 **(o) Local rules and forms**

16
17 A court establishing remote video proceedings under this rule may adopt such local
18 rules and additional forms as may be necessary or appropriate to implement the rule
19 and the court's local procedures not inconsistent with this rule.
20

21 **(p) Notice and collection of information and reports on remote video proceedings**

22
23 Each court that establishes a local rule authorizing remote video proceedings under
24 this rule must notify the Judicial Council, institute procedures as required by the
25 council for collecting and evaluating information about that court's program, and
26 prepare semiannual reports to the council that include an assessment of the costs and
27 benefits of remote video proceedings at that court.
28

INSTRUCTIONS TO DEFENDANT FOR REMOTE VIDEO PROCEEDING

A court may by local rule permit remote video arraignments and trials for traffic infraction cases. (Cal. Rules of Court, rule 4.220.) If the court where your case is filed permits remote video proceedings (RVP), you may be able to appear by video as allowed by local rule at a remote location designated by the court without having to appear in person in court. RVP are available in cases involving Vehicle Code infractions or local ordinances adopted under the Vehicle Code. The procedure does not apply to traffic offenses that involve drugs or alcohol or are filed in Informal Juvenile and Traffic Court. The procedure provides a convenient process for resolving cases by consideration of disputed facts and evidence with the use of two-way audiovisual communication between the court and a local facility. Defendants who request to appear by RVP must waive (give up) certain rights that apply to trial of criminal offenses, including traffic infractions. The instructions below explain procedures for requesting RVP for traffic infraction cases:

1. To request arraignment and trial on the same day, you may file a *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505). To request RVP for arraignment or trial on separate days, you may file a *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510).
2. Return the completed and signed form to the clerk with payment of bail as ordered by the court. A completed form TR-505 or TR-510 with a deposit of the required bail payment must be received by the clerk by the appearance date on the Notice to Appear citation or continuation date granted by the court. If the form is received after the due date or without deposit of bail as required, the court may require a court appearance or bail deposit to schedule a trial. **Failure to file the form and deposit bail as required by the due date may subject you to other charges, penalties, assessments, and actions, including a civil assessment under Penal Code section 1214.1 of up to \$300 and a hold on your driver's license.**
3. When the clerk receives a timely request for RVP with payment of the bail as ordered by the court, the court will rule on the request and provide notice of the court's decision on eligibility for RVP. If the court denies the request, the court may order you to respond within 10 court days of the notice of the order to schedule an arraignment or trial or appear in court. If the court approves the request, the court will notify you and the officer of the extended date and location to appear. The court may grant a request by the officer who issued the ticket and any other witnesses to appear in court to testify and be cross-examined while you appear at the remote location.
4. After a remote video trial is completed, if you are dissatisfied with the court's judgment, you may file an appeal under California Rules of Court, rules 8.901–8.902 within 30 days of the judgment. A new trial (“trial de novo”) is not allowed. Always include your citation number in any correspondence with the court.
5. **IMPORTANT:** You have the right to appear in court for an in-person arraignment without deposit of bail and trial at the court. If you appear in court for your case, your rights include:
 - The right to be represented by an attorney employed by you;
 - The right to request court orders without cost to subpoena and compel the attendance of witnesses and the production of evidence on your behalf;
 - The right to appear in person in court before a judicial officer for an arraignment to be informed of the charges against you, to be advised of your rights, and to enter a plea without deposit of bail;
 - The right to request that a court trial be scheduled without bail for a date that is after your arraignment in court;
 - The right to have a speedy trial;
 - The right to be physically present in court at all stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law at trial and sentencing; and
 - The right to have the witnesses testify under oath in court and to confront and cross-examine witnesses in court.

By voluntarily requesting to appear for arraignment and/or trial by RVP, you will agree to waive (give up):

- Your right to appear in person in court before a judicial officer for arraignment and/or trial;
- Your right to a speedy trial within 45 days; and
- Your right to be physically present in court for trial and sentencing and all stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination in person of the officer who issued the ticket and other witnesses.

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT (Name):	
NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO ARRAIGNMENT AND TRIAL (Veh. Code, §§ 40901 and 40519(a))	CITATION NUMBER/CASE NUMBER: BAIL AMOUNT: DUE DATE (For Filing Form):

1. Notice to Defendant of Rights

- You have the right to appear in person in court before a judicial officer for arraignment, to be informed of the charges against you, to be advised of your rights, and to enter a plea without deposit of bail.
- You have the right to request at arraignment that a court trial be scheduled for a date after your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

2. Waiver of Rights and Request for Remote Video Arraignment and Trial with Deposit of Bail:

a. I, (print name): _____, am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP, I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in the courtroom and to appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights:

INITIALS

- My right to appear in person in court on separate days for arraignment without deposit of bail and for trial without deposit of bail unless ordered by the court;
- My right to a speedy trial within 45 days; and
- My right to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

I have read the *Instructions to Defendant for Remote Video Proceeding* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

- b. I enclose bail of \$ _____
- c. I need an interpreter: Yes No (language): _____
- d. I have an attorney to represent me: Yes No (name of attorney): _____
- e. I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised, the court may forfeit any bail that I posted; hold the trial in my absence; impose a civil assessment of up to \$300 under Penal Code 1214.1, or issue a warrant for my arrest; and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: _____ ▶ _____
DEFENDANT'S SIGNATURE

_____ _____ _____
(Defendant's Phone Number) (Defendant's Street Address/City/State/ZIP) (Defendant's E-mail Address)

Please return this form to the court clerk in person or mail to:

[Court location]

TO BE COMPLETED BY CLERK

Date: _____ Approved by: _____
DEPUTY CLERK

Hearing set for (type of hearing): _____ on (date): _____ at (time): _____

Location: [off-site location] [off-site location]

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY		
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT (Name):	CITATION NUMBER/CASE NUMBER:		
NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO PROCEEDING (Veh. Code, § 40901)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%; padding: 2px;"> Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No </td> <td style="width:40%; padding: 2px;"> DUE DATE (For Form): </td> </tr> </table>	Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	DUE DATE (For Form):
Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	DUE DATE (For Form):		

1. Notice to Defendant of Rights

- You have the right to appear in person in court before a judicial officer without deposit of bail for an arraignment to be informed of the charges against you, be advised of your rights, enter a plea, and request that a trial be scheduled without deposit of bail.
- You have the right to request with deposit of bail that a trial be scheduled for the same date as your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

2. Waiver of Rights and Request for Remote Video Arraignment or Trial Under Rule: _____

a. I, (print name): _____, am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in court and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights for (check one) arraignment trial:

- My right to appear for arraignment in person in court before a judicial officer and have a trial on the same day;
- My trial right to a speedy trial within 45 days; and
- My trial right after arraignment to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

INITIALS

I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer who issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

b. If bail is required for trial: \$ _____ is enclosed. Reason for bail: _____

c. I need an interpreter: Yes No (language): _____

d. I have an attorney to represent me: Yes No (name of attorney): _____

e. I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may forfeit any bail that I posted; hold the trial in my absence; impose a civil assessment of up to \$300 under Penal Code 1214.1 or issue a warrant for my arrest; and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: _____ ▶ _____
DEFENDANT'S SIGNATURE

(Defendant's Phone Number)

(Defendant's Street Address/City/State/ZIP)

(Defendant's E-mail Address)

Please return this form to the court clerk in person or mail to:

[Court location]

TO BE COMPLETED BY CLERK

Date: _____ Approved by: _____
DEPUTY CLERK

Hearing set for (type of hearing): _____ on (date): _____ at (time): _____

Location: [off-site location] [off-site location]