



JUDICIAL COUNCIL OF CALIFORNIA

RULES COMMITTEE

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RULES COMMITTEE

MINUTES OF OPEN MEETING

Tuesday, November 1, 2022

4:10 - 5:30 p.m.

Videoconference

Advisory Body Members Present: Hon. Carin T. Fujisaki, Hon. Kevin C. Brazile, Hon. Samuel K. Feng, Ms. Rachel W. Hill, Hon. Kimberly Merrifield, Hon. Glenn Mondo, and Hon. David Rosenberg

Advisory Body Members Absent: Mr. Shawn C. Landry

Staff Present: Ms. Anne M. Ronan and Ms. Benita Downs

Others Present Hon. Gail Dekreon, Hon. Jayne Chong-Soon Lee, Hon. Adrienne M. Grover, Hon. Brian Hoffstadt, Hon. Stephanie E. Hulse, Hon. Louis R. Mauro, Hon. Amy M. Pellman, Hon. Jeffrey S. Ross, Hon. Tamara L. Wood, Mr. James Barolo, Ms. Charlene Depner, Ms. Audrey Fancy, Ms. Sarah Fleischer-Ihn, Mr. Michael Giden, Mr. Kendall Hannon, Mr. John Henzl, Ms. Tracy Kenny, Mr. Eric Long, Ms. Kara Portnow, Ms. Jamie Schechter, Ms. Christy Simons, Ms. Marymichael Smrdeli, and Corby Sturges.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 4:10 p.m., and Ms. Downs took roll call.

Approval of Minutes: The committee unanimously approved the minutes for the September 22 meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

Item 01

Jury Instructions: Civil Jury Instructions (CACI) (Release 42)

The committee reviewed the Advisory Committee on Civil Jury Instructions recommendation to approve the new and revised civil jury instructions prepared by the committee. Among other things, the changes brought the instructions up to date with developments in the law over the previous six months and add new instructions in the Labor Code Actions series. Upon Judicial

Council approval, the instructions will be published in the official 2023 edition of the Judicial Council of California Civil Jury Instructions (CACI).

Action: The Rules Committee unanimously approved the recommendation of the Advisory Committee on Civil Jury Instructions (CACI) which is to go to the Judicial Council for action at the December council meeting.

Item 02

Advisory Committee on Civil Jury Instructions (CACI) Annual Agenda

The committee reviewed the proposed 2023 annual agenda of the Advisory Committee on Civil Jury Instructions.

Action: The committee unanimously approved the 2023 Advisory Committee on Civil Jury Instructions annual agenda.

Item 03

Advisory Committee on Criminal Jury Instructions (CALCRIM) Annual Agenda

The committee reviewed the proposed 2023 annual agenda of the Advisory Committee on Criminal Jury Instructions.

Action: The committee unanimously approved the 2023 Advisory Committee on Criminal Jury Instructions annual agenda.

Item 04

Appellate Advisory Committee Annual Agenda

The committee reviewed the proposed 2023 annual agenda of the Appellate Advisory Committee

Action: The committee unanimously approved the 2023 Appellate Advisory Committee's annual agenda.

Item 05

Rules and Forms: Name-and Gender-Change Form Revisions to Implement Assembly Bill 218 and Assembly Bill 421

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee recommended changes to 21 forms to implement statutory changes in Assembly Bill 218 (Stats. 2021, ch. 577) and Assembly Bill 421 (Stats. 2022, ch. 40). Together, the bills (1) authorize petitions for recognition of change of gender to be joined with requests to have various administrative records issued to reflect the petitioner's changed gender; (2) allow non-California residents to petition to have their names and gender changed on certain administrative records issued in California; (3) add a new category of petitioners who may bring name- or gender-change petitions on behalf of minors; and (4) change when a minor's grandparents must receive notice of a petition to recognize a change in the minor's gender. The proposed forms addressed those statutory changes.

Action: The Rules Committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the December council meeting.

Item 06

Civil and Smalls Claims Advisory Committee Annual Agenda

The committee reviewed the proposed 2023 annual agenda of the Civil and Small Claims Advisory Committee.

Action: The committee unanimously approved the 2023 Civil and Small Claims Advisory Committee's annual agenda.

Item 07

Criminal Law Advisory Committee Annual Agenda

The committee reviewed the proposed 2023 annual agenda of the Criminal Law Advisory Committee.

Action: The committee unanimously approved the 2023 Criminal Law Advisory Committee's annual agenda.

Item 08

Family and Juvenile Law Advisory Committee

The committee reviewed the proposed 2023 annual agenda of the Family and Juvenile Law Advisory Committee.

Action: The committee unanimously approved the 2023 Family and Juvenile Law Advisory Committee's annual agenda.

Item 09

Probate and Mental Health Advisory Committee

The committee reviewed the proposed 2023 annual agenda of the Probate and Mental Health Advisory Committee.

Action: The committee unanimously approved the 2023 Probate and Mental Health Advisory Committee's annual agenda.

Item 10

Traffic Advisory Committee Annual Agenda

The committee reviewed the proposed 2023 annual agenda of the Traffic Advisory Committee.

Action: The committee unanimously approved the 2023 Traffic Advisory Committee's annual agenda.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:13 p.m.

Approved by the advisory body on enter date.

DRAFT



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RULES COMMITTEE

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RULES COMMITTEE

MINUTES OF OPEN MEETING

Wednesday, November 16, 2022

4:10 - 5:10 p.m.

Videoconference

Advisory Body Members Present: Hon. Carin T. Fujisaki, Hon. Kevin C. Brazile, Hon Samuel K. Feng, Ms. Rachel W. Hill, Mr. Shawn C. Landry, Hon Kimberly Merrifield, Hon. Glenn Mondo, and Hon. David Rosenberg.

Advisory Body Members Absent: None

Staff Present: Ms. Anne M. Ronan and Ms. Benita Downs

Other Staff Present Mr. James Barolo, Ms. Deborah Brown, Ms. Sarah Fleischer-Ihn, Mr. Michael Giden, Mr. Kendall Hannon, Mr. Eric Long, and Ms. Jamie Schechter.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 4:10 p.m., and Ms. Downs took roll call.

DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

Item 01

Civil Practice and Procedure: Enforcement of Judgment Form Revisions

The Committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending changes to two forms related to renewals of judgments, effective January 1, 2023, to implement statutory changes in Senate Bill 1200 (Stats. 2022, ch. 883). In relevant part, this bill provides that a judgment creditor may only renew the period of enforceability of a money judgment one time, for 5 years—rather than multiple times, for 10 years each—where the judgment is on a claim against a natural person (1) related to medical expenses if the principal amount of the money judgment remaining unsatisfied is under \$200,000, or (2) related to personal debt if the principal amount of the money judgment remaining unsatisfied is under \$50,000. The proposed revisions address these statutory changes. Because the council forms

would not conform with the law as of January 1 if not revised, the committee is recommending that the form revisions be effective on that date, prior to public comment, and be circulated later.

Action: The Rules Committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the December council meeting.

Item 02

Protective Orders: Civil Protective Order Forms Implementing Assembly Bill 1621

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending revisions of 30 Judicial Council civil restraining order forms to implement statutory changes in Assembly Bill 1621, which are already in effect. The new law addresses “ghost guns,” prohibiting persons restrained under civil restraining orders from possessing firearm parts (in addition to already prohibited firearms). The proposal incorporated those new statutory provisions into the council’s civil restraining order forms and included updated language concerning interpreters, disability accommodation, and priority of enforcement on the proposed forms.

Action: The Rules Committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the December council meeting.

Item 03

Protective Orders: Elder Abuse Form Updates to Implement Legislation

The Committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending revisions of nine forms to implement statutory changes in Assembly Bill 1243, which go into effect January 1, and Assembly Bill 1621, which are already in effect. AB 1243 allows courts to issue findings related to specific debts incurred as the result of financial abuse of an elder or dependent adult. AB 1621 prohibits persons restrained under elder or dependent adult abuse restraining orders from possessing firearm parts (in addition to already prohibited firearms). The proposal incorporated those new statutory provisions into the council’s elder abuse forms and included updated language concerning interpreters, disability accommodation, and priority of enforcement on the proposed forms.

Action: The Rules Committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the December council meeting.

Item 04

Criminal Procedure: Criminal Protective Orders and Firearm Relinquishment Order

The committee reviewed a proposal from the Criminal Law Advisory Committee recommending revisions to two mandatory Judicial Council criminal protective orders to reflect statutory changes to Family Code section 6320 regarding enjoined actions and Penal Code section 15420(b) expanding the definition of a firearm. The committee also recommended revisions to a mandatory Judicial Council order to surrender firearms in a domestic violence criminal case to reflect the statutory changes expanding the definition of a firearm. The revisions to the forms also added a nonbinary gender option, improved consistency with the data fields in the California Restraining and Protective Order System, clarified protective order expiration dates, added additional provisions for protected persons from Penal Code section 136.2, and made changes to the forms' content, format, instructions, and advisements to make them easier to understand and complete. The committee is recommending a March 1 effective date to allow courts to implement the changes.

Action: The Rules Committee unanimously approved the Criminal Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the December council meeting.

Item 05

Criminal Law: Definition of Firearm

The committee reviewed a proposal from the Criminal Law Advisory Committee recommending revisions to two optional Judicial Council plea forms and an optional Judicial Council firearm relinquishment findings form to reflect statutory changes to the definition of *firearm* in Penal Code section 16520(b) and made minor, nonsubstantive technical changes. The committee also recommended additional revisions to one of the plea forms to reflect accurate mandatory minimum probation terms. The committee is recommending a March 1 effective date.

Action: The Rules Committee unanimously approved the Criminal Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the December council meeting

Item 06

Criminal Procedure: Request for Dismissal of Conviction for Violation of Penal Code Section 653.22

The committee reviewed a proposal from the Criminal Law Advisory Committee recommending two new optional forms relating to resentencing, dismissal, and sealing of Penal Code section 653.22 convictions. Senate Bill 357 (Stats. 2022, ch. 86), effective January 1, 2023, repeals Penal Code section 653.22 (loitering with the intent to commit prostitution) and added Penal Code section 653.29, which outlines the process for resentencing, dismissal, and sealing of section

653.22 convictions. Penal Code section 653.29(f) specifically instructs the Judicial Council to “promulgate and make available all necessary forms to enable the filing of petitions and applications provided in this section.” The proposal included forms for a request for relief and a court order granting or denying relief, to be effective when the new statute take effect.

Action: The Rules Committee unanimously approved the Criminal Law Advisory Committee’s recommendation, which is to go to the Judicial Council for action at the December council meeting

Item 07

Uniform Bail and Penalty Schedules 2023 Edition

The committee reviewed the Traffic Advisory Committee recommended revisions to *Uniform Bail and Penalty Schedules, 2023 Edition: Traffic, Boating, Forestry, Fish and Game, Public Utilities, Parks and Recreation, Business Licensing* (UBPS). Vehicle Code section 40310 mandates that the Judicial Council annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Additionally, Penal Code section 1269b and rule 4.102 of the California Rules of Court require all trial courts annually to revise and adopt a countywide schedule of penalties for all felony, misdemeanor, and infraction offenses, except Vehicle Code infractions. Rule 4.102 additionally provides that counties consider the UBPS approved by the Judicial Council. Unlike for traffic infractions, the schedules in the proposed UBPS for infractions and misdemeanors under boating, forestry, fish and game, public utilities, parks and recreation, and business licensing laws are *advisory*. These schedules are intended to provide guidance and uniformity to the trial courts for their schedules for nontraffic misdemeanors and infractions.

Action: The committee unanimously approved the Traffic Advisory Committee’s Uniform Bail and Penalty Schedules, 2023 Edition, which is to go to the Judicial Council for action at the December council meeting

Item 08

Telephone Appearances: Conforming Rules of Court to Senate Bill 233

The committee reviewed a proposal from Judicial Council staff recommending amending three rules of court to conform them to statutory changes that will become effective January 1, 2023. Senate Bill 233 (Stats. 2022, ch. 979) repeals statutes that, among other provisions, required the Judicial Council to set specified uniform, statewide fees for telephone appearances and enter into one or more master agreements with a vendor to provide telephone appearances. The proposed amendments to the rules made them consistent with those statutory changes and would also maintain legal authority for telephone appearance fees that do not to exceed the cost of providing this service.

Action: The committee unanimously approved the Judicial Council’s staff recommendation, which is to go to the Judicial Council for action at the December council meeting

ADJOURNMENT

There being no further business, the open session of the meeting was adjourned at 4:55 p.m.

Approved by the advisory body on enter date.

DRAFT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 12/08/2022

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

Title of proposal: Appellate Procedure: Costs on Appeal

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rules 8.278 and 8.891

Committee or other entity submitting the proposal:
Appellate Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, 415-865-7694

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

Annual agenda approved by Rules Committee on (date): 11/02/2022

Project description from annual agenda: Rule 8.278 generally provides that the prevailing party in the Court of Appeal is entitled to costs. However, *Pollock v. Tri-Modal Distribution Services* (2021) 11 Cal.5th 918 recently held that an appellate court may not award costs or fees on appeal to a prevailing FEHA defendant without first making certain determinations. The project involves amending rule 8.278 to avoid conflict with the FEHA and other statutes requiring a particular analysis for awarding costs. Costs on appeal are an ongoing issue for appellate courts; clarifying the rule will increase efficiency and the accuracy of these determinations.

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

Costs are an issue in every appeal. An earlier effective date will alert courts sooner and assist courts in making costs awards that do not follow the general rule.

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

W23-01

Title	Action Requested
Appellate Procedure: Costs on Appeal	Review and submit comments by January 20, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 8.278 and 8.891	September 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 amending the rules governing costs on appeal in civil actions to clarify that the general rule for awarding costs to the prevailing party is subject to exception for statutes requiring a different or additional finding, determination, or analysis. The proposal is responsive to a recent Supreme Court decision and the constitutional principle that rules of court may not be inconsistent with statute.

Background

Rule 8.278 regarding costs on appeal in unlimited civil cases was adopted effective January 1, 2008. It was amended in 2013, 2016, and 2018, but none of those amendments has bearing on this proposal. The award-of-costs provisions in subdivision (a) have not been amended since adoption.

Similarly, rule 8.891 regarding costs on appeal in limited civil cases was adopted effective January 1, 2009. It was amended in 2011 and 2013, but these amendments are not relevant to this proposal. The rule's right-to-costs provisions in subdivision (a) have not been amended since adoption.

The Proposal

Under rule 8.278, “[e]xcept as provided in this rule, the party prevailing in the Court of Appeal in a civil case other than a juvenile case is entitled to costs on appeal.” (Rule 8.278(a)(1).) The rule also defines prevailing party and allows the court to award costs in its discretion. (Rule 8.278(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.

However, the rule does not account for statutes that require a different or additional finding, determination, or analysis before awarding costs on appeal. For example, in *Pollock v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918 (*Pollock*), the Supreme Court addressed whether costs on appeal in a case under the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) (FEHA) were governed by rule 8.278(a) or by section 12965(c), the FEHA provision that authorizes the recovery of fees and costs. Under the statute, the court, in its discretion, may award reasonable fees and costs “to the prevailing party . . . except that . . . a prevailing defendant shall not be awarded fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought, or the plaintiff continued to litigate after it clearly became so.” (*Id.*, § 12965(c)(6).) In *Pollock*, the lower court awarded fees and costs on appeal to the prevailing defendant under rule 8.278; it made no additional findings.

In reversing the award of fees and costs, the Supreme Court found that the statute was not limited to proceedings in the trial court, either by its terms or its legislative intent to encourage litigation of potentially meritorious claims. The court also rejected the argument that rule 8.278 should control because it “does not include the phrase ‘except as otherwise expressly provided by statute.’” (*Pollock, supra, 11 Cal.5th at p. 950.*) “[E]ven without such language,” the court stated, “a rule of court must yield to an applicable statute when ‘it conflicts with either the statute’s express language or its underlying legislative intent.’” (*Ibid.*; Cal. Const., art. VI, § 6(d) [rules adopted by the Judicial Council “shall not be inconsistent with statute”].) “Section 12965(b) expressly governs ‘the court’ in FEHA actions without limitation, and allowing an award of costs on appeal to a prevailing defendant without a finding that the plaintiff’s action was objectively groundless would undermine the statute’s purpose.” (*Pollock, supra, 11 Cal.5th at p. 950.*)

The Appellate Advisory Committee proposes amending rule 8.278 to clarify that the general rule for awarding costs on appeal to the prevailing party is subject to exception for statutory provisions that require the court to conduct a different or additional finding, determination, or analysis.

The parallel rule regarding entitlement to costs in limited civil actions in the appellate division provides: “Except as provided in this rule, the prevailing party in a civil appeal is entitled to costs on appeal.” (Rule 8.891(a)(1).) The committee proposes similar amendments to this rule and requests comments on whether such amendments to this or other appellate rules regarding costs would be helpful.

Alternatives Considered

The committee considered taking no action, but rejected this option in favor of clarifying the rule to provide additional guidance to appellate courts in addressing claims for costs.

Fiscal and Operational Impacts

This proposal would impose no implementation requirements on the courts, including no possible fiscal or operational impacts, other than making judicial officers aware of the changes. It is not expected to result in any costs 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 the proposal include amending rule 8.891?
- Are there any other appellate rules pertaining to costs that should be similarly amended?

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?

Attachments and Links

1. Cal. Rules of Court, rules 8.278 and 8.891, at pages 4–5

Rules 8.278 and 8.891 of the California Rules of Court would be amended, effective September 1, 2023, to read:

1 **Rule 8.278. Costs on appeal**

2
3 **(a) Award of costs**

- 4
5 (1) Except as provided in this rule or by statute, the party prevailing in the Court
6 of Appeal in a civil case other than a juvenile case is entitled to costs on
7 appeal.
8
9 (2) The prevailing party is the respondent if the Court of Appeal affirms the
10 judgment without modification or dismisses the appeal. The prevailing party
11 is the appellant if the court reverses the judgment in its entirety.
12
13 (3) If the Court of Appeal reverses the judgment in part or modifies it, or if there
14 is more than one notice of appeal, the opinion must specify the award or
15 denial of costs.
16
17 (4) In probate cases, the prevailing party must be awarded costs unless the Court
18 of Appeal orders otherwise, but the superior court must decide who will pay
19 the award.
20
21 (5) In the interests of justice, the Court of Appeal may also award or deny costs
22 as it deems proper.
23

24 **(b)–(d) * * ***

25
26 **Advisory Committee Comment**

27
28 This rule is not intended to expand the categories of appeals subject to the award of costs. See
29 rule 8.493 for provisions addressing costs in writ proceedings.
30

31 **Subdivision (a).** The subdivision (a)(1) exception to the general rule of awarding costs to the
32 prevailing party for statutes that require further analysis or findings reflects the holding of *Pollock*
33 *v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918 (regarding costs on appeal in an
34 action under the California Fair Employment and Housing Act) and the constitutional mandate
35 that rules of court “shall not be inconsistent with statute” (Cal. Const., art. VI, § 6(d)).
36

37 **Subdivision (c).** * * *

38
39 **Subdivision (d).** * * *

1 **Rule 8.891. Costs and sanctions in civil appeals**

2
3 **(a) Right to costs**

- 4
5 (1) Except as provided in this rule or by statute, the prevailing party in a civil
6 appeal is entitled to costs on appeal.
7
8 (2) The prevailing party is the respondent if the appellate division affirms the
9 judgment without modification or dismisses the appeal. The prevailing party
10 is the appellant if the appellate division reverses the judgment in its entirety.
11
12 (3) If the appellate division reverses the judgment in part or modifies it, or if
13 there is more than one notice of appeal, the appellate division must specify
14 the award or denial of costs in its decision.
15
16 (4) In the interests of justice, the appellate division may also award or deny costs
17 as it deems proper.
18

19 **(b)–(e) * * ***

20
21 **Advisory Committee Comment**

22
23 **Subdivision (a).** The subdivision (a)(1) exception to the general rule of awarding costs to the
24 prevailing party for statutes that require further analysis or findings reflects the holding of *Pollock*
25 *v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918 (regarding costs on appeal in an
26 action under the California Fair Employment and Housing Act) and the constitutional mandate
27 that rules of court “shall not be inconsistent with statute” (Cal. Const., art. VI, § 6(d)).
28

29 **Subdivision (d).** * * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 12/8/22

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

Title of proposal: Appellate Procedure: Reporter's Transcripts

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

Amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919

Committee or other entity submitting the proposal:

Appellate Advisory Committee

Staff contact (name, phone and e-mail): Heather Anderson, 707-225-2596, heather.anderson@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): 11/1/22

Project description from annual agenda: Update rules regarding reporter's transcripts - Consider amending 12 appellate rules to increase the transmission and use of electronic reporter's transcripts. The proposed amendments are based on changes to Code of Civil Procedure section 271, which imposes a January 2023 deadline for all courts to be ready to accept electronic reporter's transcripts. The goal of the project is to make it easier for court reporters to send, and for appellate courts to receive, electronic reporter's transcripts. Increased use of electronic transcripts would improve efficiencies, expand the potential for remote access, result in cost savings, and assist courts and court reporters in continuing to transition from paper to electronic transcripts as required by section 271. Source: California Court Reporters Association

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

Earlier effective date would be helpful given that the exception allowing courts to request reporter's transcripts in paper form will expire effective January 1, 2023

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 W23-02

Title	Action Requested
Appellate Procedure: Reporter’s Transcripts	Review and submit comments by January 20, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919	September 1, 2023
Proposed by	Contact
Appellate Advisory Committee Hon. Louis R. Mauro, Chair	Christy Simons, 415-865-7694 christy.simons@jud.ca.gov Heather Anderson, 415-865-7803 heather.anderson@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes amending several rules relating to the format of reporter’s transcripts and borrowing the record on appeal. Code of Civil Procedure section 271 requires that as of January 1, 2023, a reporter’s transcript must be delivered in electronic form unless a party or person entitled to the transcript requests it in paper format. In recognition that most reporter’s transcripts will be in electronic form, this proposal would allow the transcripts to be in a single volume in most cases and would allow a party lending the record to another party to ask the court reporter to provide a read-only electronic copy of the reporter’s transcript to the borrowing party rather than sending its copy of the reporter’s transcript to the borrowing party. In addition, the proposal would clarify that, when it is submitted by a party in lieu of depositing the estimated cost of the transcript with the court, a certified transcript must comply with specified format requirements. This proposal originated with suggestions from the California Court Reporters Association.

Background

Effective January 1, 2018, Code of Civil Procedure section 271¹ was amended to change the default format for reporter’s transcripts from paper to electronic. The statute generally requires a court reporter to “deliver a transcript in electronic form, in compliance with the California Rules of Court, to any court, party, or person entitled to the transcript.” (§ 271(a).) As amended, the

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

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.

statute contains three exceptions allowing for paper transcripts, two of which expire at the end of 2022:

- The party or person entitled to the transcript requests the reporter’s transcript in paper form;
- Prior to January 1, 2023, the court lacks the technical ability to use or store a transcript in electronic form and provides advance notice to the court reporter; and
- Prior to January 1, 2023, the court reporter lacks the technical ability to deliver a transcript in electronic form and provides advance notice of this fact to the court, party, or person entitled to the transcript. (*Ibid.*)

Thus, effective January 1, 2023, court reporters must deliver reporter’s transcripts in electronic form unless a party or person entitled to the transcript requests it in paper format.

In addition, the committee is aware that the Appellate Caseflow Workgroup is currently considering ways to make more efficient the preparation of an appellate record. Further proposals may flow from the recommendations of the workgroup.

The Proposal

General use of electronic transcripts

Rule 8.144 of the California Rules of Court establishes the general requirements for the format of reporter’s transcripts in civil appeals to the Court of Appeal. Through cross-references in rules 8.336(f), 8.395(g), 8.409(b), 8.610(d), 8.838(a), 8.866(b), and 8.919(b), these format requirements also apply in criminal appeals to the Court of Appeal, appeals from superior court decisions in death penalty–related habeas corpus proceedings, in juvenile appeals, in capital appeals to the Supreme Court, and in superior court appellate division appeals, respectively.

Rule 8.144(b)(6) currently requires that clerk’s and reporter’s transcripts must be produced in volumes of no more than 300 pages. As noted above, most reporter’s transcripts will now be in electronic form. A single electronic volume would have one set of indexes and may be easier for courts and parties to navigate and cite. The current 300-page volume limit does not appear to be necessary for transcripts in electronic form. However, rule 8.74(a)(5), relating to the format of electronic documents for purposes of e-filing in the appellate courts, provides that electronic documents may not be larger than 25 megabytes. This megabyte limit is important for functionality of documents within the appellate case management system and the appellate courts. This proposal would therefore amend rule 8.144 to allow reporter’s transcripts to be in a single volume but would require that such transcripts comply with the size limitations in rule 8.74(a)(5). In addition, to avoid the potential confusion that would be caused by differences in page numbering and citation if a reporter’s transcript in a case were delivered in both paper and electronic form, this proposal would retain the 300-page volume limit in cases in which a party or person entitled to a transcript requests that the transcript be provided in paper form. The committee would appreciate comments on whether the 300-page volume limit should also be changed for clerk’s transcripts that are in electronic form.

Rule 8.153 permits a party that has not purchased its own copy of the record to request another party, in writing, to lend it that party's copy of the record. Under this existing rule, after it has prepared its brief, the lending party must send its electronic or paper copy of a reporter's transcript to the borrowing party. To reduce the time and costs for parties associated with sending reporter's transcripts, this proposal would amend rule 8.153(a) to provide lending parties with the additional option of asking the court reporter to provide a read-only electronic copy of the reporter's transcript to the borrowing party. To ensure that the borrowing party receives the reporter's transcript in time to prepare its brief, the proposed amendment would also set a time frame for the lending party to make this request of the court reporter and would require the court reporter to promptly send the copy to the borrowing party. The committee would particularly appreciate comments about whether this option should be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form, given that party costs associated with lending a reporter's transcript in electronic form are likely to be low. The committee would also appreciate comments on what format requirements should be applied to a transcript sent by a court reporter under this amendment.

Rule 8.153(b) requires that the borrowing party return the copy of the record it borrowed when it serves its brief or the time to file its brief has expired. This requirement makes sense when the lending party has a paper version of the record or has purchased a reporter's transcript in electronic form and is lending that electronic reporter's transcript;² however, it may not make sense for other portions of the record that are in electronic form. Clerk's transcripts and administrative records that are part of the record on appeal may be in electronic form and a lending party who provides a borrowing party with an electronic copy of these items may not want or need that copy to be returned. Similarly, if rule 8.153 is amended as proposed to permit a court reporter to provide a borrowing party with a read-only copy of an electronic reporter's transcript, the court reporter may not want or need that copy to be returned. The committee would therefore appreciate comments on whether it is necessary for the borrowing party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter.

Pagination of reporter's transcripts in cases in which there are multiple reporters

Rule 8.144(f) addresses the pagination of reporter's transcripts in cases in which more than one court reporter reported portions of the proceedings. Subdivision (1) of this provision requires that each reporter estimate the number of pages in each segment reported and inform the designated primary reporter of the estimate. The primary reporter must then assign beginning and ending page numbers for each segment of the transcript.

Current rule 8.144(f)(2) and (3) address what a court reporter in a multiple-reporter case should do if a segment is either longer or shorter than the assigned number of pages. If the segment exceeds the assigned number of pages, the rule currently requires that the reporter number the

² Government Code section 69954(d) generally prohibits anyone who has purchased a reporter's transcript from providing it to anyone else.

additional pages with the ending page number, a hyphen, and a new number, starting with 1 and continuing consecutively. For example, if the last page number assigned to a segment was 300, additional pages in this segment would be numbered 300-1, 300-2, 300-3, etc. If a segment has fewer than the assigned number of pages, the rule currently requires that on the certificate page, the reporter must add a hyphen to the last page number used, followed by the segment's assigned ending page number. For example, if the last page number assigned to a segment was 300, but only 256 pages were used, the certificate would identify the last page in the segment as 256-300.

The California Court Reporters Association indicates that the use of hyphens on these pages of a reporter's transcript can create problems in correctly printing sections of the transcript. According to the association, the hyphen format is interpreted by Adobe software as designating a range of pages to be printed. To correct this problem, this proposal would amend rule 8.144(f)(2) and (3) to replace the requirement to use a hyphen with a requirement to use a plus sign in these situations. So, for example, if the last page number assigned to a segment was 300 and the segment was longer than 300 pages, additional pages in this segment would be numbered 300+1, 300+2, 300+3, etc. Similarly, if the last page number assigned to a segment was 300, but only 256 pages were used, the certificate would identify the last page in the segment as 256+300. The committee would particularly appreciate comments about whether transcript users anticipate any difficulties printing, or navigating to, pages numbered using this plus-sign format.

Rule 8.144(b)(2)(D) recognizes that, because of the possibility of segments being longer or shorter than the assigned number of pages in multiple-reporter cases, the pages of the reporter's transcripts in such cases may not be consecutively numbered. Rule 8.452(e), relating to augmenting the record in writ proceedings to review an order setting a hearing under Welfare and Institutions Code section 366.26, and rule 8.456(e), relating to augmenting the record in writ proceedings to review an order designating or denying specific placement of a dependent child after termination of parental rights, require that copies of items to be added to the record, including transcripts, be consecutively numbered. To make these provisions consistent with rule 8.144(b)(2)(D), which articulates an exception to consecutive pagination in multiple reporter cases, this proposal would amend rules 8.452(e)(3) and 8.456(e)(3) to provide a similar exception. In addition, rules 8.452(e)(4) and 8.456(e)(4), which use cross-references to rule 8.122 (relating to clerk's transcripts) and rule 8.130 (relating to reporter's transcripts) to explain how parties must identify documents and transcripts that they are unable to attach to their augmentation motion, would be amended to provide more specific citations to the particular subdivisions of rules 8.122 and 8.130 that explain how to identify documents to be included in a clerk's transcript and proceedings to be included in a reporter's transcript.

Rule 8.144(d)(1)(C) requires that transcripts in electronic form ensure that the electronic page counter in the PDF file viewer matches the transcript page numbering. This generally makes it easier to navigate to or print particular pages. However, if, as recognized by rule 8.144(f), a segment of a reporter's transcript in a multiple-reporter case is longer or shorter than the number of pages assigned, then the page numbers on the transcript will not match the electronic page counter in the PDF file viewer. In recognition of this existing discrepancy, this proposal would

amend rule 8.144(d)(1)(C) to add an exception to the requirement that the electronic page counter in the PDF file viewer match the transcript page numbering in multiple-reporter cases in which a transcript segment is either longer or shorter than the assigned number of pages.

Requirement that certified transcripts comply with formatting requirements when submitted in lieu of making a deposit for a reporter's transcript

Rule 8.130 establishes procedures relating to reporter's transcripts in civil appeals to the Court of Appeal. Under this rule, appellants who wish to use a reporter's transcript must file a notice with the trial court that designates which of the oral proceedings from the trial court they want included in the reporter's transcript. Respondents may then designate additional proceedings to be included in the transcript. Rule 8.130(b) requires that, with its notice designating proceedings to be included in a reporter's transcript, each designating party must deposit with the superior court clerk the approximate cost of transcribing the proceedings, or it may substitute one of the items permitted by 8.130(b)(3): a reporter's written waiver of deposit, a copy of a Transcript Reimbursement Fund application, or a certified transcript of all the proceedings designated by the party.

Sometimes a party in a trial court proceeding will purchase reporter's transcripts of the proceedings before any appeal is filed, such as when a party needs a transcript as part of a writ petition during the trial court proceedings. In recognition of the fact that parties may already have purchased the transcripts that they need for an appeal, rule 8.130(b)(3)(C) allows the deposit of a certified transcript of all the proceedings designated by the party as a permissible substitute for a deposit of the cost of transcribing the designated proceedings. Similar provisions also appear in rules 8.834, 8.866, and 8.919 relating to reporter's transcripts in appeals to the superior court appellate division in civil, misdemeanor, and infraction cases, respectively.

As discussed above, under rule 8.144, there are format requirements for reporter's transcripts used as part of the record on appeal. Rules 8.130, 8.834, 8.866, and 8.919 all require that a certified reporter's transcript submitted in lieu of depositing the cost for transcribing designated proceedings must comply with these format requirements. Among other things, rule 8.144 requires that

- The pages in reporter's transcripts be consecutively numbered;
- The cover of each volume identify the page numbers within that volume and the case name, number, and appellate counsel contact information; and
- The transcript include chronological and alphabetical indexes to the entire reporter's transcript.

However, transcripts prepared during the trial court proceedings do not comply with some or all of these format requirements. To comply with rules 8.130, 8.834, 8.866, and 8.919, such certified transcripts must typically be re-paginated and new covers and indexes created.

The California Court Reporters Association indicates that, despite the requirement in these rules that the transcript comply with the format requirements of rule 8.144, in some cases some courts

have accepted as a substitute for a deposit transcripts that are not in the appropriate format. The association further indicates that when this happens, court reporters have sometimes been tasked with fixing these transcripts to comply with the rule requirements.

The advisory committee comment to rule 8.130 makes clear that the intent of subdivision (b) is that certified transcripts submitted by a party only be accepted by a court as a substitute for a deposit if these transcripts meet the format requirements of rule 8.144:

[S]ubdivision (b) makes clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the certified transcript contains all of the proceedings identified in the notice of designation and the transcript complies with the format requirements of rule 8.144.

Furthermore, the 2013 report to the Judicial Council that recommended adoption of this requirement states that this requirement would “clearly place responsibility on the designating party for ensuring that such transcripts are in the proper format.”³

This proposal would amend rules 8.130, 8.834, 8.866, and 8.919 to state that a certified transcript submitted by a party must not be accepted as a substitute for a deposit under these rules unless it complies with the applicable format requirements. Provisions in the advisory committee comments accompanying these rules that address this requirement would also be amended to provide examples of the types of formatting changes that would need to be made to comply with the rules—consecutive pagination, required appellate cover information, and indexes. Note that, under rules 8.130(d)(3), 8.140, 8.842, 8.874, and 8.924, if a party fails to submit an authorized substitute for a deposit, the clerk will send the party notice of this default and the party will have an opportunity to correct the problem.

This proposal would also make several additional clarifying amendments to rules 8.838, 8.866, and 8.919 relating to appellate division proceedings. Rule 8.838 would be amended to add a cross-reference to rule 8.144(a) to specify section 271’s application in limited civil appeals and to replace a provision relating to the 300-page volume limit with a cross-reference to the relevant subdivision of rule 8.144. Rules 8.866 and 8.919 would be amended to replace cross-references to rule 8.144 with references to rule 8.834 to ensure consistency of transcript format in appellate division proceedings.

References to “electronic format”

Code of Civil Procedure section 271 refers to reporter’s transcripts being delivered in “electronic form.” Rules 8.144(d), 8.204(a), and 8.622(a) currently have references to reporter’s transcripts or the record on appeal being in “electronic format.” To ensure consistency of language between

³ Judicial Council of Cal., Advisory Com. Rep., *Appellate Procedure: Reporter’s Transcripts in Civil Appeals* (Aug. 2, 2013), p. 7, www.courts.ca.gov/documents/jc-20131025-itemA7.pdf. See also discussion on page 14 of this report: “The committees note that . . . the proposed amendments would require that transcripts that a party deposits in lieu of depositing funds for a reporter’s transcript be in the format required by rule 8.144.”

section 271 and the appellate rules, this proposal would change these references to “electronic form.”

Alternatives Considered

The committee considered suggestions to add references to Code of Civil Procedure section 271 to several rules that address reporter’s transcripts. The stated purpose of these suggestions was to ensure that court reporters follow the requirements of section 271 to send transcripts electronically. The committee concluded that adding references to the statute in these rules was not necessary. As noted above, rule 8.144 establishes the format requirements for reporter’s transcripts in appellate proceedings, both directly and through cross-references in other rules. Subdivision (a) of this rule already provides that its provisions must be applied in a manner consistent with Code of Civil Procedure section 271.

The committee also considered suggestions to amend several rules that address sending the record to, or filing it with, the reviewing court, to provide that if the trial court lacks the technical ability to deliver the reporter’s transcript in electronic form to the reviewing court and all the parties, the court reporter may send the reporter’s transcript. The stated purpose of these suggested amendments was to allow reviewing courts to receive electronic transcripts while trial courts were working on changes to their document management systems that would allow them to receive, use, store, and transmit a transcript in electronic form. It is the committee’s understanding that trial courts now have tools available to them to handle reporter’s transcripts delivered to them in electronic form. Given this, the committee determined that these suggested rule amendments were not necessary at this time.

In addition, the committee considered a further proposal for pagination in multiple-reporter cases. The California Court Reporters Association indicated that waiting to assign page numbers until estimates have been received from all court reporters in a case can cause delay in the preparation of transcripts because reporters may not be readily accessible due to illness, vacation, or other reasons. To expedite the preparation of transcripts in multiple-reporter cases, they proposed allowing the primary reporter to assign beginning and ending page numbers to each segment of a transcript without getting estimates from the court reporters. This is known as block numbering. Although the committee recognized the potential benefits of such an amendment in expediting transcript preparation, the committee is not proposing such a change at this time. As noted above, even under the current rules, transcripts in multiple-reporter cases may not be consecutively numbered and the pagination may not match the page number shown in the PDF viewer. Committee members described current difficulties in navigating within transcripts that vary from the normal format requirements in these ways and expressed great concern that the use of block numbering would increase the instances of transcripts with these navigational difficulties. The committee is, however, seeking further input about whether block numbering should be permitted and is also seeking input on whether there is a way to eliminate these navigational difficulties by either including a second method of consecutive pagination, similar to the older method of Bates-stamping pages, or by repagination of these transcripts.

The committee considered the alternative of not taking any action but concluded that the proposed amendments relating to the use of a single volume for reporter's transcripts in electronic form, pagination in multiple-reporter cases, and format requirements for certified transcripts submitted in lieu of a deposit for a reporter's transcript would be helpful to courts, litigants, and court reporters.

Fiscal and Operational Impacts

The committee anticipates that fiscal and operational impacts of this proposal on courts will be minimal. Reviewing courts may find single-volume electronic reporter's transcripts more efficient to use and the other proposed changes may reduce errors and questions regarding transcript format. There may be some additional education required for court staff related to not accepting a certified transcript in lieu of a deposit if the transcript is not in the appropriate format.

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 300-page volume limit be changed for clerk's transcripts that are in electronic form?
- When a party is lending the record to another party, should the option of asking a court reporter to send the borrowing party a copy of the reporter's transcript in electronic form be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form?
- What format requirements should be applied to a transcript sent by a court reporter to a borrowing party?
- Is it necessary for a party borrowing the record from another party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter?
- Do transcript users anticipate any difficulties printing, or navigating to, pages numbered using the plus-sign format?
- Should the rules permit block numbering?
- Can transcripts in multiple reporter cases easily include the equivalent of Bates-stamped page numbers or easily be repaginated to avoid the navigational problems that occur when the pagination of such transcripts is not consecutive and does not match the page number shown in the PDF viewer?

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 4 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 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.834, 8.838, 8.622, 8.866, and 8.919, at pages 10–20
2. Link A: Code of Civil Procedure section 271,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=271.&lawCode=CCP

Rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919 of the California Rules of Court would be amended, effective September 1, 2023, to read:

1 **Rule 8.130. Reporter’s transcript**

2
3 (a) * * *

4
5 (b) **Deposit or substitute for cost of transcript**

6
7 (1)–(2) * * *

8
9 (3) Instead of a deposit under (1), the party may substitute:

10
11 (A) The reporter’s written waiver of a deposit. A reporter may waive the
12 deposit for a part of the designated proceedings, but such a waiver
13 replaces the deposit for only that part.

14
15 (B) A copy of a Transcript Reimbursement Fund application filed under
16 (c)(1).

17
18 (C) A certified transcript of all of the proceedings designated by the party.
19 The transcript submitted by the party must not be accepted as a
20 substitute for a deposit under (1) unless it complies ~~must comply~~ with
21 the format requirements of rule 8.144.

22
23 (c)–(h) * * *

24
25 **Advisory Committee Comment**

26
27 **Subdivision (a).** * * *

28
29 **Subdivision (b).** Where a certified transcript has been previously prepared, subdivision (b) makes
30 clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the
31 certified transcript contains all of the proceedings identified in the notice of designation and the
32 transcript complies with the format requirements of rule 8.144 (e.g., cover information,
33 renumbered pages, required indexes). Otherwise, where a certified transcript has been previously
34 prepared for only some of the designated proceedings, subdivision (b)(1) authorizes a reduced fee
35 to be deposited for those proceedings. This reduced deposit amount was established in
36 recognition of the holding in *Hendrix v. Superior Court of San Bernardino County* (2011) 191
37 Cal.App.4th 889 that the statutory rate for an original transcript only applies to the first
38 transcription of the reporter’s notes. The amount of the deposit is based on the rate established by
39 Government Code section 69950(b) for a first copy of a reporter’s transcript purchased by any
40 court, party, or other person who does not simultaneously purchase the original.

41
42 * * *

1
2 **Rule 8.144. Form of the record**

3
4 (a) * * *

5
6 (b) **Format**

7
8 (1)–(5) * * *

9
10 (6) *Volumes*

11
12 (A) Clerks' transcripts and, except as provided in (B), reporters' transcripts
13 must be produced in volumes of no more than 300 pages.

14
15 (B) If a reporter's transcript is being delivered in electronic form to all
16 courts, parties, and persons entitled to the transcript, it may be
17 produced in a single volume but must comply with the requirements of
18 rule 8.74(a)(5).

19
20 (7) * * *

21
22 (c) * * *

23
24 (d) **Additional requirements for reporter's transcript delivered in electronic form**

25
26 (1) *General*

27
28 In addition to complying with (b), a reporter's transcript delivered in
29 electronic ~~format~~ form must:

30
31 (A)–(B) * * *

32
33 (C) Ensure that the electronic page counter in the PDF file viewer matches
34 the transcript page numbering except as provided in (f)(2) or (3).

35
36 (D)–(H) * * *

37
38 (2) *Multivolume or multireporter transcripts*

39
40 In addition to the requirements in (1), for multivolume or multireporter
41 transcripts delivered in electronic ~~format~~ form, each individual reporter must
42 provide a digitally and electronically signed certificate with his or her
43 respective portion of the transcript. If the court reporter lacks the technical

1 ability to provide a digital signature, then only an electronic signature is
2 required.

3
4 (3) * * *

5
6 (e) * * *

7
8 **(f) Pagination in multiple reporter cases**

9
10 (1) In a multiple reporter case, each reporter must promptly estimate the number
11 of pages in each segment reported and inform the designated primary reporter
12 of the estimate. The primary reporter must then assign beginning and ending
13 page numbers for each segment.

14
15 (2) If a segment exceeds the assigned number of pages, the reporter must number
16 the additional pages with the ending page number, a ~~hyphen~~ plus sign, and a
17 new number, starting with 1 and continuing consecutively.

18
19 (3) If a segment has fewer than the assigned number of pages, on the last page of
20 the segment, before the certificate page, the reporter must state in parentheses
21 “(next volume and page number is ____),” and on the certificate page, the
22 reporter must add a ~~hyphen~~ plus sign to the last page number used, followed
23 by the segment’s assigned ending page number.

24
25 (g) * * *

26
27 **Rule 8.153. Lending the record**

28
29 **(a) Request**

30
31 Within 20 days after the record is filed in the reviewing court, a party that has not
32 purchased its own copy of the record may request another party, in writing, to lend
33 it that party’s copy of the record. The other party must then lend its copy of the
34 record when it serves its brief. In lieu of lending its copy of the reporter’s transcript
35 to the requesting party, within 5 days of receiving a request to borrow the record,
36 the lending party may ask the court reporter, in writing, to send an electronic read-
37 only copy of the reporter’s transcript to the requesting party. The court reporter
38 must promptly send the copy to the requesting party.

39
40 (b) * * *

1 **Rule 8.204. Contents and format of briefs**

2
3 **(a) Contents**

4
5 (1) Each brief must:

6
7 (A)–(B) * * *

8
9 (C) Support any reference to a matter in the record by a citation to the
10 volume and page number of the record where the matter appears. If any
11 part of the record is submitted in an electronic ~~format~~ form, citations to
12 that part must identify, with the same specificity required for the
13 printed record, the place in the record where the matter appears.

14
15 (2) * * *

16
17 **(b)–(e) * * ***

18
19
20 **Rule 8.452. Writ petition to review order setting hearing under Welfare and**
21 **Institutions Code section 366.26**

22
23 **(a)–(d) * * ***

24
25 **(e) Augmenting or correcting the record in the reviewing court**

26
27 (1)–(2) * * *

28
29 (3) A party must attach to its motion a copy, if available, of any document or
30 transcript that it wants added to the record. Except as provided in rule
31 8.144(f) for reporter’s transcripts in multiple reporter cases, the pages of the
32 attachment must be consecutively numbered, beginning with the number one.
33 If the reviewing court grants the motion, it may augment the record with the
34 copy.

35
36 (4) If the party cannot attach a copy of the matter to be added, the party must
37 identify it as required under rules 8.122(a)(1) and 8.130(a)(1).

38
39 (5)–(6) * * *

40

1 **Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 to**
2 **review order designating or denying specific placement of a dependent child**
3 **after termination of parental rights**

4
5 **(a)–(d) * * ***

6
7 **(e) Augmenting or correcting the record in the reviewing court**

8
9 **(1)–(2) * * ***

10
11 (3) A party must attach to its motion a copy, if available, of any document or
12 transcript that it wants added to the record. Except as provided in rule
13 8.144(f) for reporter’s transcripts in multiple reporter cases, the pages of the
14 attachment must be consecutively numbered, beginning with the number one.
15 If the reviewing court grants the motion, it may augment the record with the
16 copy.

17
18 (4) If the party cannot attach a copy of the matter to be added, the party must
19 identify it as required under rules 8.122(a)(1) and 8.130(a)(1).

20
21 **(5)–(6) * * ***

22
23
24 **Rule 8.622. Certifying the trial record for accuracy**

25
26 **(a) Request for corrections or additions**

27
28 (1) Within 90 days after the clerk delivers the record to defendant’s appellate
29 counsel:

30
31 (A) Any party may serve and file a request for corrections or additions to
32 the record. Immaterial typographical errors that cannot conceivably
33 cause confusion are not required to be brought to the court’s attention.
34 Items that a party may request to be added to the clerk’s transcript
35 include a copy of any exhibit admitted in evidence, refused, or lodged
36 that is a document in paper or electronic ~~format~~ form. The requesting
37 party must state the reason that the exhibit needs to be included in the
38 clerk’s transcript. Parties may file a joint request for corrections or
39 additions.

40
41 (B) * * *

42
43 **(2)–(4) * * ***

1
2 **(b)–(e) * * ***

3
4
5 **Rule 8.834. Reporter’s transcript**

6
7 **(a) * * ***

8
9 **(b) Deposit or substitute for cost of transcript**

10
11 (1) * * *

12
13 (2) Within 10 days after the clerk notifies the appellant of the estimated cost of
14 preparing the reporter’s transcript—or within 10 days after the reporter
15 notifies the appellant directly—the appellant must do one of the following:

16
17 (A) Deposit with the clerk an amount equal to the estimated cost and a fee
18 of \$50 for the superior court to hold this deposit in trust;

19
20 (B)–(C) * * *

21
22 (D) File a certified transcript of all of the designated proceedings. The
23 transcript submitted by the party must not be accepted as a substitute
24 for a deposit under (A) unless it complies ~~must comply~~ with the format
25 requirements of rule 8.144 8.838; or

26
27 (E) * * *

28
29 (3) * * *

30
31 **(c)–(f) * * ***

32
33 **Rule 8.838. Form of the record**

34
35 **(a) Paper and format**

36
37 Except as otherwise provided in this rule, clerk’s and reporter’s transcripts must
38 comply with the requirements of rule 8.144(a), (b)(1)–(4) and (6), (c), and (d).

39
40 **(b) * * ***

41
42 **(c) Binding and cover**

1 (1) If filed in paper form, clerk's and reporter's transcripts must be bound on the
2 left margin ~~in volumes of no more than 300 sheets~~, except that transcripts
3 may be bound at the top if required by a local rule of the appellate division.
4

5 (2)–(3) * * *

6
7
8 **Rule 8.866. Preparation of reporter's transcript**
9

10 **(a) When preparation begins**

11
12 (1) * * *

13
14 (2) If the notice sent to the reporter by the clerk under rule 8.864(a)(1) indicates
15 that the appellant is the defendant and that the defendant was not represented
16 by appointed counsel at trial:

17
18 (A) * * *

19
20 (B) The clerk must promptly notify the appellant and his or her counsel of
21 the estimated cost of preparing the reporter's transcript. The
22 notification must show the date it was sent.

23
24 (C) Within 10 days after the date the clerk sent the notice under (B), the
25 appellant must do one of the following:

26
27 (i) Deposit with the clerk an amount equal to the estimated cost of
28 preparing the transcript;

29
30 (ii)–(iii) * * *

31
32 (iv) File a certified transcript of all of the proceedings required to be
33 included in the reporter's transcript under rule 8.865. The
34 transcript submitted by the appellant must not be accepted as a
35 substitute for a deposit under (i) unless it complies ~~must comply~~
36 with the format requirements of rule ~~8.144~~ 8.838;

37
38 (v)–(vii) * * *

39
40 (D) If the trial court determines that the appellant is not indigent, within 10
41 days after the date the clerk sends notice of this determination to the
42 appellant, the appellant must do one of the following:
43

1 (i) Deposit with the clerk an amount equal to the estimated cost of
2 preparing the transcript;

3
4 (ii) * * *

5
6 (iii) File a certified transcript of all of the proceedings required to be
7 included in the reporter's transcript under rule 8.865. The
8 transcript submitted by the appellant must not be accepted as a
9 substitute for a deposit under (i) unless it complies ~~must comply~~
10 with the format requirements of rule 8.144 8.838;

11
12 (iv)–(vi) * * *

13
14 (E) * * *

15
16 **(b) Format of transcript**

17
18 The reporter's transcript must comply with rule 8.144 8.838.

19
20 **(c)–(f)** * * *

21
22 **Advisory Committee Comment**

23
24 **Subdivision (a).** If the appellant was not represented by the public defender or other appointed
25 counsel in the trial court, the appellant must use *Defendant's Financial Statement on Eligibility*
26 *for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form
27 CR-105) to show indigency. This form is available at any courthouse or county law library or
28 online at www.courts.ca.gov/forms.

29
30 **Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii).** Sometimes a party in a trial court proceeding will
31 purchase reporter's transcripts of all or part of the proceedings before any appeal is filed. In
32 recognition of the fact that such transcripts may already have been purchased, this rule allows an
33 appellant, in lieu of depositing funds for a reporter's transcript, to deposit with the trial court a
34 certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and
35 (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a
36 reporter's transcript only where the certified transcript contains all of the proceedings required
37 under rule 8.865 and the transcript complies with the format requirements of rule 8.144 8.838
38 (e.g., cover information, renumbered pages, required indexes).

1 **Rule 8.919. Preparation of reporter’s transcript**

2
3 **(a) When preparation begins**

4
5 (1) * * *

6
7 (2) If the notice sent to the reporter by the clerk under rule 8.915(a)(3) indicates
8 that the appellant is the defendant:

9
10 (A) * * *

11
12 (B) The clerk must promptly notify the appellant and his or her counsel of
13 the estimated cost of preparing the reporter’s transcript. The
14 notification must show the date it was sent.

15
16 (C) Within 10 days after the date the clerk sent the notice under (B), the
17 appellant must do one of the following:

18
19 (i) Deposit with the clerk an amount equal to the estimated cost of
20 preparing the transcript;

21
22 (ii)–(iii) * * *

23
24 (iv) File a certified transcript of all of the proceedings required to be
25 included in the reporter’s transcript under rule 8.918. The
26 transcript submitted by the appellant must not be accepted as a
27 substitute for a deposit under (i) unless it complies ~~must comply~~
28 with the format requirements of rule 8.144 8.838;

29
30 (v)–(vii) * * *

31
32 (D) If the trial court determines that the appellant is not indigent, within 10
33 days after the date the clerk sends notice of this determination to the
34 appellant, the appellant must do one of the following:

35
36 (i) Deposit with the clerk an amount equal to the estimated cost of
37 preparing the transcript;

38
39 (ii) * * *

40
41 (iii) File a certified transcript of all of the proceedings required to be
42 included in the reporter’s transcript under rule 8.918. The
43 transcript submitted by the appellant must not be accepted as a

1 substitute for a deposit under (i) unless it complies ~~must comply~~
2 with the format requirements of rule ~~8.144~~ 8.838;

3
4 (iv)–(vi) * * *

5
6 (E) * * *

7
8 **(b) Format of transcript**

9
10 The reporter’s transcript must comply with rule ~~8.144~~ 8.838.

11
12 **(c)–(f)** * * *

13
14 **Advisory Committee Comment**

15
16 **Subdivision (a).** The appellant must use *Defendant’s Financial Statement on Eligibility for*
17 *Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-
18 105) to show indigency. This form is available at any courthouse or county law library or online
19 at www.courts.ca.gov/forms.

20
21 **Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii).** Sometimes a party in a trial court proceeding will
22 purchase a reporter’s transcripts of all or part of the proceedings before any appeal is filed. In
23 recognition of the fact that such transcripts may already have been purchased, this rule allows an
24 appellant, in lieu of depositing funds for a reporter’s transcript, to deposit with the trial court a
25 certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and
26 (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a
27 reporter’s transcript only where the certified transcript contains all of the proceedings required
28 under rule 8.865 and the transcript complies with the format requirements of rule ~~8.144~~ 8.838
29 (e.g. cover information, renumbered pages, required indexes).

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 12/8/2022

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

Title of proposal: Unlawful Detainer: Opportunities for Settlement Before Trial

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Adopt Cal. Rules of Court, rule 3.2005 and approve form UD-155

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

Staff contact (name, phone and e-mail): Eric Long, 415-865-7691 eric.long@jud.ca.gov
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): 11/01/2022
Project description from annual agenda: 11. ADR: Increased Use of Settlement Conferences in Unlawful Detainer Cases

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*
Planned as a Winter cycle circulation due to other committee work

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

W23-03

Title

Unlawful Detainer: Opportunities for Settlement Before Trial

Action Requested

Review and submit comments by January 20, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 3.2005 and approve form UD-155

Proposed Effective Date

September 1, 2023

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara Wood, Chair

Contact

Eric Long, 415-865-7691
eric.long@jud.ca.gov
James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee is proposing a new rule and a new form for optional use in unlawful detainer cases to promote settlement opportunities through the use of alternative dispute resolution processes. The new rule states a policy favoring at least one opportunity for participation in some form of pretrial dispute resolution, and would allow a court to shorten the existing deadline for submitting a mandatory settlement conference statement. The proposed new form would allow parties to submit any settlement agreement they reached to the court and ask for either an order without judgment or a stipulated judgment.

Background

The Ad Hoc Workgroup on Post-Pandemic Initiatives examined successful court practices adopted during the COVID-19 pandemic in order to increase access to justice. The workgroup recommended that the Civil and Small Claims Advisory Committee consider developing a proposal that would encourage parties in unlawful detainer cases to work on solutions not requiring trials. The workgroup's recommendation included, as one possibility, considering ways to encourage more frequent use of mandatory settlement conferences.

The Proposal

The Civil and Small Claims Advisory Committee proposes that the Judicial Council adopt a new rule—rule 3.2005—effective September 1, 2023, that would establish a policy favoring an opportunity for settlement before trial in eviction cases. The committee also proposes that the

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.

Judicial Council, effective September 1, 2023, approve *Eviction Case (Unlawful Detainer) Stipulation* (form UD-155) for optional use. The proposal is responsive to the directive from the Ad Hoc Workgroup on Post-Pandemic Initiatives. The form would give parties in eviction cases a framework for use in reaching an agreement, whether it be a stipulation and order without entry of judgment or a stipulated judgment.

Courts are currently authorized to set mandatory settlement conferences under California Rules of Court, rule 3.1380, but courts are not required to hold them. To understand current practice for pretrial dispute resolution of eviction cases, the committee informally surveyed superior courts around the state. Through this survey the committee learned that eviction alternative dispute resolution (ADR) programs vary by court. Some courts offer day-of-trial mediation using volunteer mediators. A few courts require participation in mandatory settlement conferences, as resources allow. And some courts have no pretrial ADR programs for eviction cases in place at this time. Because the courts that have ADR programs in place are using different processes based on the resources available, the committee concluded that a rule requiring courts to use a particular ADR process would be undesirable and potentially burdensome if resources were not available. Plus, a rule focused on mandatory settlement conferences alone would not account for existing court-connected mediation programs or other ADR processes that may have proven or might prove successful in resolving eviction cases without a trial.

Rule 3.2005

The proposed rule adopts a policy encouraging—in all unlawful detainer actions—an opportunity for participating in any ADR process, including settlement conferences or mediation, before trial. Because eviction cases move more quickly than most civil litigation, the proposed rule allows a court to exempt the parties from the five-court-day deadline for mandatory settlement conference statements set in rule 3.1380(c). The committee acknowledges that there may be other deadlines relating to ADR processes that may need to be shortened for parties in eviction cases to participate in those processes. An advisory committee comment has been included to note that the rule’s stated exemption is not meant to limit courts in granting relief from other deadlines that may facilitate a party’s participation in any ADR process that might result in resolution before trial.

Form UD-155

Because eviction cases often involve at least one self-represented party, the committee is proposing a plain-language form, UD-155, that parties can use to submit a settlement agreement that they reach to the court and ask for either a Stipulation and Order (without entry of judgment and with or without a conditional judgment) or a Stipulated Judgment. The proposed form, which is designed to be understood by both attorneys and self-represented parties, can also be used to assist parties, mediators or neutrals, and judicial officers in guiding discussions that might lead to resolution before trial. The proposed new form addresses the most common components of a stipulated agreement in eviction cases. Items 6–10 of the form also include an “Other” option in which the parties may specify any other terms that are necessary to the agreement.

Proposed form UD-155 will serve as an alternative to the existing form, *Stipulation for Entry of Judgment* (form UD-115). Form UD-115 allows parties to tell the court that there is an agreement to finish an eviction case and ask the judge to approve it by entering judgment. That form may still be used if preferred by the parties. Form UD-115, however, is not easily modified to reflect a settlement that avoids entry of judgment. Proposed new form UD-155, in contrast, allows for the parties to reach an agreement that seeks an end to an eviction case without a judgment. The committee understands that avoiding a judgment may be an important goal for defendants in eviction cases.

Alternatives Considered

The advisory committee considered whether to propose that parties in unlawful detainer cases be required to participate in a mandatory settlement conference (MSC) before trial. The committee concluded that there are other ADR processes that may also help parties reach solutions not requiring trials, and that requiring MSCs would unnecessarily promote one form of ADR to the exclusion of other available ADR processes. The committee also had concerns about whether courts had the resources necessary to successfully hold an MSC before every unlawful detainer trial.

The committee also considered taking no action because some courts already offer court-connected mediation or MSCs in eviction cases. However, the committee determined that adopting a policy favoring settlement opportunities and adopting an optional form would be helpful to parties, neutrals, judicial officers, and courts.

Fiscal and Operational Impacts

The proposal's fiscal or operational impacts, if any, are expected to be minimal. The new form is intended to assist parties, neutrals, and courts in resolving eviction cases before trial by setting out the most common terms at issue in stipulated eviction-case agreements. Court staff, judicial officers, and self-help center staff may need to be trained on the new form. Case management systems may need to be adjusted to appropriately handle the new 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?
- Are there other terms common to stipulated agreements in eviction cases that ought to be considered for inclusion on the form? If there are any common terms that might be added, specify which item the term would best be located under and any proposed phrasing for it.
- Are there other terms common to orders in eviction cases that might be considered for inclusion on the form? For example, does the form need to state when the case is to be calendared for dismissal?

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 3.2005, at page 5
2. Form UD-155, at pages 6–10

Rule 3.2005 of the California Rules of Court would be adopted, effective September 1, 2023, to read:

1 Title 3. Civil Rules

2
3 Division 20. Unlawful Detainers

4
5 **Rule 3.2005. Settlement opportunities**

6
7 **(a) Policy favoring an opportunity for resolution without trial**

8
9 The intent of this rule is to promote opportunities for resolution of unlawful
10 detainer cases before trial. Courts should encourage participation, to the extent
11 feasible, in at least one opportunity for resolution before trial, including but not
12 limited to a settlement conference, mediation, or another alternative dispute
13 resolution process.

14
15 **(b) Exemption for mandatory settlement conference statement deadline**

16
17 The court may exempt a party in an unlawful detainer case participating in a
18 mandatory settlement conference from the five-court-day deadline for submitting a
19 settlement conference statement set out in rule 3.1380(c).

20
21
22 **Advisory Committee Comment**

23
24 The Judicial Council has adopted an optional form—*Eviction Case (Unlawful Detainer)*
25 *Stipulation* (form UD-155)—that can be used to advise the court about any settlement that has
26 been reached before trial.

27
28 **Subdivision (b).** Because unlawful detainer cases generally proceed on an expedited basis, this
29 exemption allows parties in unlawful detainer cases to participate in and complete mandatory
30 settlement conferences on shorter timelines. Nothing in this rule, including the exemption set out
31 in subdivision (b), is intended to preclude a court from shortening other deadlines related to
32 alternative dispute resolution processes.

Clerk stamps date here when form is filed.

DRAFT

11/28/2022

NOT APPROVED BY THE
JUDICIAL COUNCIL**Instructions**

- This form is for use only in an **eviction (unlawful detainer) case**.
- Complete this form if the parties have agreed to resolve the case before trial.
- A stipulation is an agreement between the parties that is submitted to the court for approval.
- If a party does not do everything agreed to in this stipulation, an eviction and lockout may take place, entry of judgment may occur, or a trial may be necessary.

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 The plaintiff (the person or entity asking the court to order defendant to move out) is:

a. Name: _____

b. Lawyer (complete if plaintiff has one for this case):

Name: _____

State Bar No.: _____ Firm Name: _____

c. Address (if plaintiff has a lawyer, use the lawyer's information):

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____

- Check here if there is more than one plaintiff and attach one sheet of paper or form MC-025 and write "UD-155, Item 1" at the top.

2 The defendant (the tenant being sued for a court order to move out) is:

a. Name: _____

b. Lawyer (if defendant has one for this case):

Name: _____

State Bar No.: _____ Firm Name: _____

c. Address (if defendant has a lawyer, use the lawyer's information):

Address: _____

City: _____ State: _____ Zip: _____

Email Address: _____

- Check here if there is more than one defendant and attach one sheet of paper or form MC-025 and write "UD-155, Item 2" at the top.

3 The rental property is located at:

Street Address: _____

Apartment No.: _____ City: _____ State: _____ Zip: _____



4 Type of Stipulation *(Check one.)*

- A Stipulation and Order tells the court about the parties’ agreement and makes it part of the court record. A Stipulation and Order can include a Conditional Judgment, which tells the court how to resolve the case if one of the parties does not do everything agreed to in the Stipulation and Order. Once signed by the court, the stipulation becomes a legally binding order.
 - A Stipulated Judgment is similar except that it ends the case once the court signs the Stipulation. If the Stipulation and Judgment is approved, the court will enter a judgment against the defendant immediately.
- a. Stipulation and Order (no entry of judgment at this time) *(Check one.)*
- (1) With Conditional Judgment *(Complete 11.)*
- (2) Without Conditional Judgment *(Skip 11.)*
- b. Stipulated Judgment

5 Purpose of the Stipulation *(Check one.)*

- a. Defendant will stay in the rental property if defendant does everything agreed to in this Stipulation.
- b. Defendant will move out of (vacate) the rental property with conditions stated in this Stipulation.
- c. Other *(describe any other purpose of the Stipulation):* _____
- _____
- Check here if you need more space. Attach one sheet of paper or form MC-025 and write “UD-155, Item 5” at the top.

6 Defendant agrees to do the following *(Check all that defendant agrees to.)*

- a. To pay the following:

Past Due Rent	Damages	Attorney Fees	Court Costs	Other	Total
\$	\$	\$	\$	\$	\$

(Damages may include an amount based on daily rental value or any harm to the property.)

- b. To a payment plan, making payments in cash, certified funds, cashier’s check, or money order
 postmarked received as follows *(check one):*
- (1) Payments of \$ _____, on the _____ day of each week month, starting
(date): _____ until *(date of final payment):* _____; amount of final
 payment: _____
- (2) Payments of \$ _____ by _____, \$ _____ by _____, \$ _____
 by _____, \$ _____ by _____, and \$ _____ on the _____ day of each
 month thereafter until paid in full.
- (3) Other payment schedule *(state payment terms):* _____
- c. To deliver payment to *(state delivery terms):* _____
- d. To move out of (vacate) the rental property no later than midnight _____ and not to request any
 further delays (or stays of execution).
- e. To incorporate and comply with the General Provisions agreed to in 10.
- f. Other *(describe any other things agreed to by defendant):* _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write “UD-155, Item 6” at the top.



7 **If defendant does not do everything agreed to** *(Complete if the parties agree to this process.)*

Defendant agrees that plaintiff can tell the court without defendant's participation (ex parte) how defendant has not complied with the Stipulation and ask the court to quickly make the judgment in the eviction case as follows:

- a. Notice *(check one)*:
 - (1) Plaintiff is not required to give additional notice to defendant.
 - (2) Plaintiff will give _____ hours' notice to defendant.
- b. Hearing *(check one)*:
 - (1) The court can make the judgment without holding another hearing.
 - (2) Plaintiff can ask the court for a hearing in 6–10 days.
- c. Result *(check all that apply)*:
 - (1) That defendant be ordered to move out (evicted) and locked out (immediate possession) of the rental property identified in **3**.
 - (2) That defendant be ordered to pay any amount of money still unpaid.
 - (3) Cancellation of the rental agreement/lease.
 - (4) Other *(describe any other order the plaintiff may request)*: _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 7" at the top.

8 **Plaintiff agrees to do the following** *(Check all that plaintiff agrees to.)*

- a. To dismiss permanently (with prejudice) the eviction case that is currently pending as soon as defendant has done everything agreed to in **6**.
- b. To request an immediate court order to enforce eviction (writ of possession) for the rental property identified in **3** but to wait to act (stay actual execution of such writ) until *(date)*: _____
- c. To waive all fees and interest for the amount owed and make the payment plan interest/penalty free.
- d. To make the following repairs *(describe all repairs to the property)*: _____
 _____ by *(date)*: _____
- e. To credit all future payments first to rent due and then to the amounts due under the stipulated judgment/order entered by the court in this eviction case.
- f. To incorporate and comply with the General Provisions agreed to in **10**.
- g. Other *(describe any other things agreed to by plaintiff)*: _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 8" at the top.

9 **If plaintiff does not do everything agreed to** *(Complete if the parties agree to this process.)*

Plaintiff agrees that defendant can tell the court without plaintiff's participation (ex parte) how plaintiff has not complied with the Stipulation and ask the court to quickly act as follows:

- a. Notice: Defendant will give 2 days' notice to plaintiff.
- b. Hearing: Defendant will ask the court for a hearing in 6–10 days.
- c. Result: That plaintiff be ordered to do what was promised, to pay damages, or both.



10 General Provisions *(Check all that the parties agree to.)*

- a. Defendant states that all adults who live in the rental property are named as defendants in the documents that started this eviction case (the summons and complaint). No other adult lives in the rental property or has a right to live there.
- b. Defendant states that all tenants have already moved out of the rental property. Plaintiff may lawfully take possession of the rental property effective immediately.
- c. Defendant agrees to leave the rental property in a clean and orderly condition, free of garbage and debris and all personal belongings. Any personal items left in the rental property after *(date)*: _____ are deemed abandoned. This means the items will no longer be considered defendant's personal belongings. Plaintiff will have the right to dispose of any abandoned personal items.
- d. The parties request that the court bar access to the court record under Code of Civil Procedure section 1161.2(a)(2).
- e. Under Code of Civil Procedure section 664.6, the court will retain jurisdiction over the parties (continue to be able to make orders) to enforce this settlement if one party does not do what they say they will do until everything agreed to in this Stipulation has been done. A party will not have to file a new case to tell the court about any noncompliance.
- f. The security deposit will be handled according to California law in the following manner *(check all that apply)*:
 - (1) Plaintiff is awarded the security deposit of \$ _____ to cover rent due in the amount of \$ _____ for the period of *(state period of time)*: _____. Defendant gives up any claim to return of the security deposit and any interest.
 - (2) Plaintiff may apply the security deposit toward the judgment in this eviction case.
 - (3) Plaintiff will return the security deposit to defendant by *(date)*: _____.
 - (4) Under Civil Code section 1950.5, plaintiff will mail an itemized statement along with any unused portion of the security deposit to the defendant within 21 days after the defendant moves out of (vacates) the rental property.
- g. Other *(describe any other terms agreed to by the parties)*: _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 10" at the top.

11 Conditional Judgment *(Skip if the parties do not want the court to enter a conditional judgment.)*

Defendant will stay in the rental property if all conditions are met. Plaintiff will dismiss permanently (with prejudice) the eviction case that is currently pending as soon as defendant has done everything agreed to in this Stipulation. But plaintiff may seek eviction and lockout (immediate possession of the rental property) if defendant does not do everything agreed to in this Stipulation.

- a. If defendant delivers the sum of \$ _____ in cash, certified check, cashier's check, or money order to plaintiff/plaintiff's lawyer by *(time)*: _____ on *(date)*: _____ at *(state delivery terms)*: _____ then defendant will retain possession of the rental property and plaintiff will dismiss the action with prejudice. If defendant does not deliver the agreed-upon sum of money as stated in this Stipulation, then plaintiff may file a declaration regarding the nonpayment and may enforce the eviction (writ of possession), cancellation of the rental agreement/lease, and a judgment for \$ _____ in rent and damages, \$ _____ in attorney fees, and \$ _____ in court costs.
- b. Incorporate General Provisions agreed to in **10**.



I have read the entire Stipulation and I understand and agree that there are no promises, representations, or terms other than what is contained within this written Stipulation. I understand this Stipulation fully and request that this Stipulation be incorporated by the court as its order.

Date: _____

Type or print name

▶ _____
Signature of Plaintiff or Plaintiff's Lawyer

Type or print name

▶ _____
Signature of Defendant or Defendant's Lawyer

Names and signatures of additional parties follow last attachment.

Judge will fill out section below.

Order

- a. It is so ordered.
- b. Based on the stipulation of the parties, and under Code of Civil Procedure section 1161.2(a)(2), the court bars access to the court file and all court records, electronic or otherwise, of this case by any person except the parties, counsel of record, and the court until further order of the court.
- c. Judgment is entered.
- d. Other (*specify any additional terms or modifications*): _____

Date: _____

▶ _____
Signature of Judicial Officer

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 12/8/22

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

Title of proposal: Criminal Procedure: Mental Competency Proceedings

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 4.130

Committee or other entity submitting the proposal:
Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 5-7702, 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): 11/1/22

Project description from annual agenda: Develop a proposal to amend rule to 4.130 to reflect changes to Penal Code section 1369 et seq., by (1) SB 184 (Stats. 2022, ch. 47), regarding the court's finding on whether antipsychotic medication is appropriate for the defendant; and (2) SB 1223 regarding mental health diversion eligibility.

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

The committee requests an effective date of May 15, 2023 because the proposed revisions are based on law already in effect.

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

W23-04

Title	Action Requested
Criminal Procedure: Mental Competency Proceedings	Review and submit comments by January 20, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 4.130	May 15, 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 amendments to rule 4.130 of the California Rules of Court to reflect the renumbering of Penal Code section 1001.36, statutory changes to Penal Code section 1369(a) regarding treatment with antipsychotic medication of a defendant found incompetent to stand trial, and minor, nonsubstantive technical revisions.

Background

Effective June 30, 2022, Penal Code section 1369, which applies to felony cases in which a defendant is found to be mentally incompetent, was amended, in relevant part, to change how a court may order treatment with antipsychotic medication of a defendant found incompetent to stand trial, including on an involuntary basis. (Sen. Bill 184; Stats. 2022, ch. 180.)

Effective January 1, 2023, Penal Code section 1001.36 was amended to expand eligibility for mental health diversion, and included the renumbering of existing subdivisions. (Sen. Bill 1223; Stats. 2022, ch. 735.)

The Proposal

This proposal would amend rule 4.130 as follows:

- Amend subdivision (d)(2)(E) to reflect statutory changes to Penal Code section 1369(a) regarding a recommendation by a psychologist or psychiatrist about treating a defendant found incompetent to stand trial with antipsychotic medication, by deleting the statement that if an examining psychologist is of the opinion that a referral to a psychiatrist is

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.

necessary to address the medical appropriateness of antipsychotic medication, the psychologist must inform the court of this opinion and the psychologist's recommendation that a psychiatrist should examine the defendant, and adding provisions around what is required in an opinion from a licensed psychologist or psychiatrist regarding the medical appropriateness of antipsychotic medication;

- Amend subdivision (d)(2)(F) to clarify what collateral sources were considered by the examiner and replacing gendered pronouns; and
- Amend subdivision (g) to correct the references to recently renumbered Penal Code section 1001.36(d) to 1001.36(g).

The committee discussed whether the rule should include the new language in Penal Code section 1369(a)(2)(B) and (C) around what is required in an opinion from a licensed psychologist or psychiatrist regarding the medical appropriateness of antipsychotic medication, because the language would largely mirror the statutory requirements. The committee decided that including the requirements would be useful when the rule is referenced by court-appointed experts.

The committee recommends an immediate effective date upon Judicial Council approval because the proposed amendments reflecting changes to Penal Code section 1369 have been in effect since June 30, 2022.

Alternatives Considered

The committee did not consider the alternative of taking no action, determining that it was important to amend the rule to implement legislative changes.

Fiscal and Operational Impacts

Any impacts will arise from the new statutory provisions, rather than council action.

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 an immediate effective date upon Judicial Council approval of this proposal 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 4.130, at pages 4–5

Rule 4.130 of the California Rules of Court would be amended, effective May 15, 2023, to read:

1 **Rule 4.130. Mental competency proceedings**

2
3 (a)–(c) * * *

4
5 (d) **Examination of defendant after initiation of mental competency proceedings**

6
7 (1) * * *

8
9 (2) Any court-appointed experts must examine the defendant and advise the
10 court on the defendant’s competency to stand trial. Experts’ reports are to be
11 submitted to the court, counsel for the defendant, and the prosecution. The
12 report must include the following:

13
14 (A)–(D) * * *

15
16 (E) Under Penal Code section 1369, a statement on whether treatment with
17 antipsychotic or other medication is medically appropriate for the
18 defendant, ~~whether the treatment is likely to restore the defendant to~~
19 ~~mental competence, a list of likely or potential side effects of the~~
20 ~~medication, the expected efficacy of the medication, possible~~
21 ~~alternative treatments, whether it is medically appropriate to administer~~
22 ~~antipsychotic or other medication in the county jail, and whether the~~
23 defendant has capacity to make decisions regarding antipsychotic or
24 other medication as outlined in Penal Code section 1370. If an
25 examining psychologist is of the opinion that a referral to a psychiatrist
26 is necessary to address these issues, the psychologist must inform the
27 court of this opinion and his or her recommendation that a psychiatrist
28 should examine the defendant; If a licensed psychologist examines the
29 defendant and opines that treatment with antipsychotic medication may
30 be appropriate, the psychologist’s opinion must be based on whether
31 the defendant has a mental disorder that is typically known to benefit
32 from that treatment. A licensed psychologist’s opinion must not exceed
33 the scope of their license. If a psychiatrist examines the defendant and
34 opines that treatment with antipsychotic medication is appropriate, the
35 psychiatrist must inform the court of their opinion as to the likely or
36 potential side effects of the medication, the expected efficacy of the
37 medication, and possible alternative treatments, as outlined in Penal
38 Code section 1370;

39
40 (F) A list of all sources of information considered by the examiner,
41 including legal, medical, school, military, regional center, employment,
42 hospital, and psychiatric records; the evaluations of other experts; the

Rule 4.130 of the California Rules of Court would be amended, effective May 15, 2023, to read:

1 results of psychological testing; police reports; criminal history;
2 statement of the defendant; statements of any witnesses to the alleged
3 crime; booking information, mental health screenings, and mental
4 health records following the alleged crime; consultation with the
5 prosecutor and defendant’s attorney; and any other collateral sources
6 considered by the examiner in reaching ~~his or her~~ a conclusion;

7
8 (G)–(H) * * *

9
10 (3) * * *

11
12 (e)–(f) * * *

13
14 **(g) Reinstatement of felony proceedings under section 1001.36~~(d)~~(g)**

15
16 If a defendant eligible for commitment under section 1370 is granted diversion
17 under section 1001.36, and during the period of diversion, the court determines that
18 criminal proceedings should be reinstated under section 1001.36~~(d)~~(g), the court
19 must, under section 1369, appoint a psychiatrist, licensed psychologist, or any other
20 expert the court may deem appropriate, to examine the defendant and return a
21 report opining on the defendant’s competence to stand trial. The expert’s report
22 must be provided to counsel for the People and to the defendant’s counsel.

23
24 (1) * * *

25
26 (2) If the court finds by a preponderance of the evidence that the defendant is
27 mentally competent, the court must hold a hearing as set forth in Penal Code
28 section 1001.36~~(d)~~(g).

29
30 (3)–(4) * * *

31
32 **(h)** * * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 12/8/22

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

Title of proposal: Criminal Procedure: Petition for Resentencing Based on Health Conditions due to Military Service

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form CR-412/MIL-412

Committee or other entity submitting the proposal:
Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 5-7702, 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): 11/1/22

Project description from annual agenda: Develop a proposal to revise Petition for Resentencing Based on Health Conditions Due to Military Service (form CR-412) to implement SB 1209 (Stats. 2022, ch. 721). SB 1209 amends Penal Code section 1170.91 to allow a defendant to petition for recall and resentencing without regard to whether the defendant was sentenced prior to January 1, 2015.

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

The committee requests an effective date of September 1, 2023 because the proposed revisions are based on changes effective January 1, 2023.

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 W23-05

Title	Action Requested
Criminal Procedure: Petition for Resentencing Based on Health Conditions due to Military Service	Review and submit comments by January 20, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form CR-412/MIL-412	September 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 the optional Judicial Council petition for resentencing based on health conditions due to military service to reflect statutory changes to Penal Code section 1170.91(b). This section was amended to delete the requirement that the petitioner was sentenced before January 1, 2015, and to add exclusions for petitioners convicted of specified serious and violent felony offenses and offenses requiring sex offender registration. The committee also recommends technical and formatting revisions to comply with Judicial Council form standards.

Background

Senate Bill 1209 (Stats. 2022, ch. 721) amended, in relevant part, Penal Code section 1170.91(b) to remove the requirement that the petitioner was sentenced before January 1, 2015, and to add exclusions for petitioners convicted of certain serious and violent felonies specified under Penal Code section 667(e)(2)(c)(iv)¹ and offenses requiring sex offender registration.

¹ Pen. Code, § 667(e)(2)(c)(iv) The defendant suffered a prior serious or violent felony conviction, as defined in subdivision (d) of this section, for any of the following felonies:

(I) A “sexually violent offense” as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age and more than 10 years younger than the defendant as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger

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

This proposal would revise form CR-412/MIL-412 to reflect statutory changes to section 1170.91(b), as follows:

- Revise item 6 to remove the requirement that the petitioner verify that they were sentenced before January 1, 2015;
- Add a new item 6 stating that “Petitioner was not convicted of, or does not have one or more prior convictions for, an offense that is listed in Penal Code section 667(e)(2)(C)(iv) or an offense requiring sex offender registration under Penal Code section 290(c)”;
- Make additional technical and nonsubstantive revisions to comply with Judicial Council form standards.

Alternatives Considered

The committee did not consider the alternative of taking no action, determining that it was important to revise the forms to implement legislative changes.

Fiscal and Operational Impacts

Expected costs for this optional form should be limited to training, possible case management system updates, and the production of new forms. No other implementation requirements or operational impacts are expected.

than the defendant as defined by Section 286, or sexual penetration with another person who is under 14 years of age and more than 10 years younger than the defendant, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machinegun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious or violent felony offense punishable in California by life imprisonment or death.

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 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. Form CR-412/MIL-412, at page 4

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 <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: CDC OR ID NUMBER: DATE OF BIRTH:	
PETITION FOR RESENTENCING BASED ON HEALTH CONDITIONS DUE TO MILITARY SERVICE LISTED IN PENAL CODE SECTION 1170.91(b)	
Instructions (if you are filing for yourself): File this petition with the same court where you were sentenced. File a separate petition for each case in which you are asking for resentencing. "Petitioner" as used in this form refers to you.	
CASE NUMBER:	
FOR COURT USE ONLY	
DATE: TIME: DEPARTMENT:	

PETITIONER OR COUNSEL DECLARES AS FOLLOWS:

1. Petitioner (*the defendant in the above-entitled criminal action*) is currently serving a sentence for the felony conviction listed below.
 - a. Petitioner is currently in jail or prison.
 - b. Petitioner is on supervision (for example, probation, parole, PRCS, mandatory supervision) because of the conviction.
2. On (date of conviction): _____, petitioner was convicted of the following felony offenses:

Code	Section	Name of offense

- a. If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).
3. Military service (choose one)
 - a. Petitioner was a member of the U.S. military. Petitioner served in (branch of military): _____ from (date of entry into military): _____ until (last date served in the U.S. military): _____
 - b. Petitioner is currently a member of the U.S. military. Petitioner serves in (branch of military): _____ and petitioner's entry date was: _____
4. As a result of military service, petitioner may be suffering from the following health conditions (check all that apply):

<input type="checkbox"/> Sexual trauma	<input type="checkbox"/> Post-traumatic stress disorder (PTSD)
<input type="checkbox"/> Traumatic brain injury (TBI)	<input type="checkbox"/> Substance abuse
<input type="checkbox"/> Mental health problems (list or describe): _____	
5. When petitioner was sentenced, the judge did not consider health conditions resulting from petitioner's military service as a factor in deciding the sentence.
6. Petitioner was not convicted of, or does not have one or more prior convictions for, an offense that is listed in Penal Code section 667(e)(2)(C)(iv) or an offense requiring sex offender registration under Penal Code section 290(c).

Date: _____



SIGNATURE OF PETITIONER OR ATTORNEY

Proof of Service (form CR-106) may be used to provide proof of service of this petition.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 12/8/22

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

Title of proposal: Criminal Procedure: Defendant's Financial Statement

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form CR-105

Committee or other entity submitting the proposal:
Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 5-7702, 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): 11/1/22

Project description from annual agenda: Develop a proposal to revise Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense (form CR-105) to reflect the repeal of Penal Code section 987.8 by AB 1869 (Stats. 2020, ch. 92).

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

The committee requests an effective date of September 1, 2023 because the proposed revisions are based on current law.

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

W23-06

Title	Action Requested
Criminal Procedure: Defendant’s Financial Statement	Review and submit comments by January 20, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form CR-105	September 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 the optional Judicial Council form used by defendants to state financial eligibility for appointment of counsel and record on appeal at public expense to reflect the repeal of Penal Code section 987.8 by Assembly Bill 1869 (Stats. 2020, ch. 92). The repeal of section 987.8 removed the authority of the court to make a postproceeding determination of the defendant’s ability to pay and to order the defendant to reimburse the county for the costs of the public defender.

Background

AB 1869, effective July 1, 2021, repealed Penal Code section 987.8, which allowed the court to make a determination of the defendant’s present ability to pay all or a portion of the cost of appointed counsel, on the conclusion of criminal proceedings and after notice and a hearing. If the court determined that the defendant had the present ability to pay all or a part of the cost, the court would order an amount for reimbursement to the county. Section 987.8(f) required the court to provide to the defendant, before the furnishing of counsel or legal assistance, notice that the court may require reimbursement.

The Proposal

This proposal would revise form CR-105 to reflect the repeal of section 987.8, as follows:

- Revise the form title to “Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Record on Appeal at Public Expense,” (formerly “Defendant’s Financial

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.

Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense”);

- Revise the form’s short title to “Defendant’s Financial Statement” (formerly “Defendant’s Financial Statement and Notice to Defendant”)
- Delete item 13, *Eligibility for Appointment of Counsel and Notice to Defendant*, a notice to the defendant stating that if an attorney was appointed to represent the defendant, the court could hold a hearing to determine the defendant’s ability to pay all or a portion of the cost of the attorney and order the defendant to pay all or part of such cost (former section 987.8(f));
- Delete a statement in the declaration of the defendant that the defendant understands the notice contained in item 13; and
- Delete a reference to section 987.8 in the footer and replace it with a reference to section 987, which allows the court to require a defendant to file a financial statement to determine whether the defendant is able to employ counsel in a criminal case.

Alternatives Considered

The committee did not consider the alternative of taking no action, determining that it was important to revise the forms to implement legislative changes.

Fiscal and Operational Impacts

As an optional form, expected costs should be limited to training, possible case management system updates, and the production of new forms. 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 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. Form CR-105, at pages 4–5

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
 STREET ADDRESS:
 MAILING ADDRESS:
 CITY AND ZIP CODE:
 BRANCH NAME:

PEOPLE OF THE STATE OF CALIFORNIA v.
DEFENDANT:

DEFENDANT'S FINANCIAL STATEMENT
(check all that apply)

ELIGIBILITY FOR APPOINTMENT OF COUNSEL

ELIGIBILITY FOR RECORD ON APPEAL AT PUBLIC EXPENSE

FOR COURT USE ONLY

DRAFT
Not approved by
the Judicial
Council

CASE NUMBER:

1. a. Defendant's name: _____ d. Date of birth: _____
 b. Other names used: _____ e. Telephone number: _____
 c. Address: _____ f. Driver's license number: _____
2. Defendant's present employment
 - a. Occupation: _____
 - b. Name of employer: _____
 - c. Address: _____
 - d. Gross pay per month: \$ _____ week: \$ _____ day: \$ _____
 - e. Take-home pay per month: \$ _____ week: \$ _____ day: \$ _____
 - f. Name of union: _____
 - g. Name of credit union: _____
3. If defendant is not now working, state the name and address of defendant's last employer and the last date defendant was employed.
 - a. Name: _____
 - b. Address: _____
 - c. Last date of employment: _____
4. Defendant is is not married.
5. a. Spouse's name: _____ d. Date of birth: _____
 b. Other names used: _____ e. Telephone number: _____
 c. Address: _____ f. Driver's license number: _____
6. Spouse's present employment
 - a. Occupation: _____
 - b. Name of employer: _____
 - c. Address: _____
 - d. Gross pay per month: \$ _____ week: \$ _____ day: \$ _____
 - e. Take-home pay per month: \$ _____ week: \$ _____ day: \$ _____
 - f. Name of union: _____
 - g. Name of credit union: _____
7. If spouse is not now working, state the name and address of spouse's last employer and the last date spouse was employed.
 - a. Name: _____
 - b. Address: _____
 - c. Last date of employment: _____

8. Dependents	Name	Address	Relationship	Age
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
--	--------------

	<u>Defendant</u>	OTHER MONTHLY INCOME	<u>Spouse</u>
9.	a. Unemployment and disability	\$ _____	a. Unemployment and disability
	b. Social Security	\$ _____	b. Social Security
	c. Welfare, TANF	\$ _____	c. Welfare, TANF
	d. Veteran's benefits	\$ _____	d. Veteran's benefits
	e. Worker's compensation	\$ _____	e. Worker's compensation
	f. Child support payments	\$ _____	f. Child support payments
	g. Spousal support payments	\$ _____	g. Spousal support payments
	h. All other income not elsewhere listed	\$ _____	h. All other income not elsewhere listed
	Total:	\$ _____	Total:

EXPENSES			
10.	Monthly expenses being paid by defendant alone or by defendant and spouse		
	a. Rent or house payments	\$ _____	f. Clothing and laundry
	b. Car payments	\$ _____	g. Food
	c. Transportation payments	\$ _____	h. Support payments
	d. Medical and dental payments	\$ _____	i. Insurance payments
	e. Loan payments	\$ _____	j. Other payments (union, taxes, utilities)
			Total (a-j):

11.	Installment payments other than those listed in item 10.		
	<u>Name of Creditor</u>	<u>Monthly Payment</u>	<u>Balance Owed</u>
	a. _____	\$ _____	\$ _____
	b. _____	\$ _____	\$ _____
	c. _____	\$ _____	\$ _____
	d. _____	\$ _____	\$ _____
	e. _____	\$ _____	\$ _____
		Total:	Total:

12.	What do you own? (State value):		
	ASSETS		
	a. Cash	\$ _____	
	b. House equity	\$ _____	
	c. Cars, other vehicles and boat equity (List make, year, and license number of each)	\$ _____	
	d. Checking, savings, and credit union accounts (List name and account number of each)	\$ _____	
	e. Other real estate equity	\$ _____	
	f. Income tax refunds due	\$ _____	
	g. Life insurance policies (ordinary life, face value)	\$ _____	Length of ownership _____
	h. Other personal property (jewelry, furniture, furs, stocks and bonds, etc.)	\$ _____	
		Total:	

Declaration of Defendant

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Date: _____

 _____
 SIGNATURE OF DEFENDANT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: December 8, 2022

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

Title of proposal: Juvenile Law: Changes to Implement New Disposition for Serious Offenses

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

Adopt Cal. Rules of Court, adopt rules 5.804, 5.807, and 5.808; amend rules 5.663, 5.670, 5.790, and 5.820; repeal rule 5.805; approve form JV 733; revise forms JV-060-INFO, JV-618, JV-665, JV-667, JV-690, JV-692, JV-735, JV-751; and repeal form JV-732

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Staff contact (name, phone and e-mail): 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

Project description from annual agenda: 3. DJJ Realignment Implementation

Legislation enacted in 2020 (SB 823) and follow up trailer bill legislation (SB 92) enacted in 2021 establish the framework for juvenile courts and counties to take over all responsibility for juvenile justice dispositions and require them to implement new procedures to commit serious offenders to an Secure Your Treatment Facility (SYTF) in anticipation of the complete closure of DJJ on June 30, 2023. The committee will update rules and forms to remove DJJ references and adapt them to incorporate SYTF requirements.

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

This proposal is to have a July 1, 2023 effective date to be lined up with the imminent closure of the Division of Juvenile Justice which will occur on June 30, 2023.

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 W23-07

Title

Juvenile Law: New Disposition for Serious Offenses

Action Requested

Review and submit comments by January 20, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rules 5.804, 5.807, and 5.808; amend rules 5.663, 5.670, 5.790, and 5.820; repeal rule 5.805; approve form JV-733; revise forms JV-060-INFO, JV-618, JV-665, JV-667, JV-690, JV-692, JV-735, JV-751; revoke form JV-732

Proposed Effective Date

July 1, 2023

Contact

Tracy Kenny (916) 263-2838,
tracy.kenny@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes adopting three rules of court, amending four rules of court, and repealing one rule of court, as well as approving one optional form, revising eight forms, and revoking one form to reflect the closure of the Department of Juvenile Justice and create new procedures to assist courts in using the new secure youth treatment facility disposition. These revisions would become effective on July 1, 2023, to align with the closure of the Division of Juvenile Justice on June 30, 2023.

Background

In 2020, the Governor and the Legislature reached agreement on a framework to close the Division of Juvenile Justice (DJJ) and reallocate funding to counties to allow them to meet the needs of youth who would previously have been committed to the DJJ in local or regional programs. The details of this framework were spelled out in Senate Bill 92 (Stats. 2021, ch. 18), which was enacted in May 2021. Senate Bill 92 adds a new article, Secure Youth Treatment Facilities, to the Welfare and Institutions Code that sets forth a new dispositional option for

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juveniles ages 14 and over who are adjudicated for a Welfare and Institutions Code section 707(b) offense and for whom a less restrictive alternative disposition is unsuitable.¹

The Proposal

The proposal would amend existing rules and forms to replace references to “Division of Juvenile Justice” with “secure youth treatment facility,” as appropriate. The proposal would also repeal the current rule of court and revoke the form used to commit a youth to the DJJ and replace them with a set of rules and an optional form to be used by the court for the new SYTF disposition.

Rule and form changes to reflect closure of Division of Juvenile Justice

Numerous rules and forms currently refer to the Division of Juvenile Justice; those references must be removed and, where appropriate, replaced. In addition, with the closure of the DJJ, there will no longer be any juvenile sex offenses requiring registration, so those references must be deleted.

Rule 5.663

Rule 5.663, which sets forth the duties of counsel in juvenile justice matters, would be amended consistent with the enactment of Welfare and Institutions Code section 634.3, which provides that counsel in these matters are to represent the expressed interests of the child through any postdispositional phase. Rule 5.663 is referenced on form JV-665, which is proposed to be revised, and thus the committee wants to ensure that rule 5.663 accurately reflects the current state of the law.

Rule 5.670

This rule, which contains the factors for the court to consider at a detention hearing, would be revised to require the court to consider whether a youth had been committed to an SYTF rather than to the DJJ. In addition, the rule would be amended to update internal cross-references.

Rule 5.790

Rule 5.790 would be amended to delete subdivision (i), concerning youths who were committed to the DJJ at the time of the disposition, and to re-letter the subsequent subdivision.

Rule 5.805

The committee proposes that rule 5.805 (commitment to the DJJ) be repealed effective July 1, 2023, because the DJJ would no longer be a dispositional option for juvenile courts.

¹ Another proposal to implement an offense-based classification matrix for setting SYTF baseline terms was circulated in 2022 in a special cycle and is also proposed to become effective on July 1, 2023; see *Juvenile Law: Secure Youth Treatment Facility Offense-Based Classification Matrix* (SP22-14), www.courts.ca.gov/documents/sp22-14.pdf.

Rule 5.820

Rule 5.820 would be amended to replace a reference to a commitment to the DJJ with a reference to an SYTF commitment.

Juvenile Justice Court: Information for Parents (form JV-060-INFO)

This form would be revised to remove language about the DJJ and substitute information about the SYTF disposition. The form would also be revised to reflect recent statutory changes concerning the interrogation of juveniles and a requirement that the public defender be notified within two hours of a youth being taken into custody. Revisions concerning the role of appointed counsel reflect recent changes to the law described above with reference to rule 5.663. In addition, information about transfer to adult court would be updated to reflect that only youth 16 and older are eligible for transfer. In addition, a section is proposed to be added to the form to highlight that some juvenile adjudications will result in a prohibition on possessing firearms until age 30, as provided in Penal Code section 29820. Finally, all gendered pronouns and language would be made gender neutral consistent with the council’s efforts to remove gendered language from rules and forms where it is not required.

Waiver of Rights—Juvenile Justice (form JV-618)

Form JV-618 would be revised to remove references to the DJJ in item 4b and substitute a reference to the SYTF disposition. In addition, item f would be revised to delete the check box for sex offender registration because it applies only to commitments to the DJJ, which cannot occur after June 30, 2023.

Disposition—Juvenile Delinquency (form JV-665)

Form JV-665 would be revised to remove item 18, the check box for the court to require sex offender registration; to renumber the remaining items; and to revise the reference to attached form JV-732 (commitment to the DJJ) to substitute proposed new form JV-733 (commitment to an SYTF).

Custodial and Out-of-Home Placement Disposition Attachment (form JV-667)

Form JV-667 would be revised to replace a reference to commitment to the DJJ with commitment to an SYTF in item 9, revise item 6h to remove check boxes for “mother” and “father” as superfluous in this context, and remove gendered pronouns in item 7b.

School Notification of Court Adjudication (Welfare & Institutions Code Section 827(b) and Education Code Section 48267) (form JV-690)

Form JV-690 would be revised to delete the check box for the DJJ and substitute one for an SYTF in item 2b. In addition, gendered pronouns would be replaced by gender-neutral terms on the form.

Notification to Sheriff of Juvenile Delinquency Felony Adjudication (Welfare & Institutions Code Section 827.2) (form JV-692)

Form JV-692 would be revised to remove a check box for a DJJ commitment and add one for an SYTF commitment.

Commitment to the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities (form JV-732)

The commitment form for the DJJ would be revoked and a new, optional form approved for commitment to an SYTF (see form JV-733).

Juvenile Notice of Violation of Probation (form JV-735)

Form JV-735 would be revised to replace a reference to the DJJ in item 3e with a reference to an SYTF. In addition, the notice to parents about financial liability would be revised to reflect recent changes in the law taking away financial liability for the cost of appointed counsel for a child and for the costs of the child's placement and supervision.

Citation and Written Notification for Deferred Entry of Judgment—Juvenile (form JV-751)

Form JV-751 would be revised to remove references to DJJ commitment as a possible consequence in items 8 and 9; delete item 10, concerning transfer to criminal court jurisdiction, because it is not an accurate statement of the law; and rewrite items 4a and 11 (to be renumbered as item 10) to remove gender-specific language.

New rules and form to implement new SYTF disposition

The committee proposes adopting three new rules (in addition to proposed rule 5.806 which contains the matrix for setting baseline terms and was circulated for comment previously in a special cycle) and one optional form to provide procedures and a commitment form to support the SYTF disposition option.

Rule 5.804

The committee proposes a new rule of court to replace the DJJ commitment rule. Proposed new rule 5.804 includes the findings the court must make when committing a youth to an SYTF, including an adjudication for an eligible offense, setting the baseline term and maximum confinement time for the youth, receiving and approving an individualized rehabilitation plan, and setting a progress review hearing for the youth no later than six months from the date of commitment.

Rule 5.807

The committee proposes a new rule of court setting forth the requirements for the court at each six-month progress review hearing, as well as the requirements when the court is considering transferring a youth from an SYTF to a less restrictive placement.

Rule 5.808

The committee proposes a new rule of court that provides the process for holding a discharge hearing at the end of the youth's baseline term of commitment, as well as the required findings for additional confinement if the youth poses a substantial risk of imminent harm at the time the baseline term is complete.

Commitment to Secure Youth Treatment Facility (form JV-733)

The committee proposes an optional form for courts to use when committing a youth to an SYTF disposition that includes the required information on the baseline term, maximum confinement time (which is identical to the similar item on form JV-732), and other essential information, as well as the ability to set a hearing to review the individualized rehabilitation plan and to order the first progress review hearing.

Alternatives Considered

The committee considered limiting the proposal solely to existing rules and forms that needed to be revised to reflect the closure of the DJJ and the new option of the SYTF disposition, but determined that rules for implementing the SYTF disposition would be of value to the courts as they implement the recently enacted statute. The committee is proposing also including rules and a form for the SYTF disposition based on feedback from juvenile courts that more direction and structure are needed. The committee also considered making the commitment form for the SYTF mandatory, but concluded that since these programs are run locally, it might be beneficial for courts to have the option to make a local form to accommodate the needs of their programs.

Fiscal and Operational Impacts

Courts that make copies of form JV-060-INFO available to parents on paper may incur additional costs to print the updated form. Training and case management system update costs to the courts are also anticipated.

DRAFT

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 proposed commitment form JV-733 be mandatory or optional?
- Are new rules of court required to set forth the SYTF commitment process, or would it be preferable to rely on the statutory directives in Welfare and Institutions Code section 875?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 1.5 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 5.663, 5.670, 5.790, 5.804, 5.805, 5.807, 5.808, and 5.820, at pages 7–14
2. Forms JV-060-INFO, JV-618, JV-665, JV-667, JV-690, JV-692, JV-732, JV-733, JV-735, and JV-751, at pages 15–40
3. Link A: Welf. & Inst. Code, § 875,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=875.&lawCode=WIC
4. Link B: Welf. & Inst. Code, § 634.3,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=634.3.&lawCode=WIC

Rules 5.804, 5.807, and 5.808 of the California Rules of Court would be adopted, rules 5.663, 5.670, 5.790, and 5.820 would be amended, and rule 5.805 would be repealed, effective July 1, 2023, to read:

1 **Rule 5.663. Responsibilities of children’s counsel in delinquency proceedings**
2 **(§§ 202, 265, 633, 634, 634.3 634.6, 679, 700)**

3
4 (a) ***

5
6 (b) **Responsibilities of counsel**

7
8 A child’s counsel is charged ~~in general with defending the child against the~~
9 ~~allegations in all petitions filed in delinquency proceedings and with advocating~~
10 providing effective, competent, diligent, and conscientious advocacy and making
11 rational and informed decisions founded on adequate investigation and preparation.
12 Counsel must maintain a confidential relationship with the child and provide legal
13 representation within the framework of the delinquency proceedings, that the child
14 receive care, treatment, and guidance consistent with his or her best interest based
15 on the child’s expressed interests.

16
17 (c) **Right to representation**

18
19 A child is entitled to have ~~the child’s~~ their interests represented by counsel at every
20 stage of the proceedings, including ~~in the postdispositional hearings phase.~~
21 Counsel must continue to represent the child unless relieved by the court on the substitution
22 of other counsel, or for cause.

23
24 (d) ***

25
26
27 **Rule 5.760. Detention hearing; report; grounds; determinations; findings; orders;**
28 **factors to consider for detention; restraining orders**

29
30 (a)–(f) ***

31
32 (g) **Factors—violation of court order**

33
34 Regarding the ground for detention in (c)(1)(A), the court must consider:

35
36 (1)–(8) ***

37
38 (h) **Factors—escape from commitment**

39
40 Regarding the ground for detention in (c)(~~2~~)(1)(B), the court must consider whether
41 or not the child:

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- (1) Was committed to ~~the California Department of Corrections and Rehabilitation, Division of Juvenile Justice;~~ or a county juvenile home, ranch, camp, forestry camp, secure youth treatment facility, or juvenile hall; and
- (2) Escaped from the facility or the lawful custody of any officer or person in which the child was placed during commitment.

(i) Factors—likely to flee

Regarding the ground for detention in ~~(c)(3)(1)(C)~~, the court must consider whether or not:

~~(1)–(8) ***~~

(j) Factors—protection of child

Regarding the ground for detention in ~~(c)(4)(1)(D)~~, the court must consider whether or not:

~~(1)–(3) ***~~

(k) Factors—protection of person or property of another

Regarding the ground for detention in ~~(c)(5)(1)(E)~~, the court must consider whether or not:

~~(1)–(3) ***~~

(l) ***

Rule 5.790. Orders of the court

~~(a)–(h) *~~**

~~(i) California Department of Corrections and Rehabilitation, Division of Juvenile Justice~~

~~If, at the time of the disposition hearing, the child is a ward of the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ) under a prior commitment, the court may either recommit or return the child to the DJJ. If the child is returned to the DJJ, the court may:~~

- ~~(1) Recommend that the ward's parole status be revoked;~~
- ~~(2) Recommend that the ward's parole status not be revoked; or~~
- ~~(3) Make no recommendation regarding revocation of parole.~~

(j)(i) Fifteen-day reviews (§ 737)

If the child or nonminor is detained pending the implementation of a dispositional order, the court must review the case at least every 15 days as long as the child is detained. The review must meet all the requirements in section 737.

Rule 5.804. Commitment to secure youth treatment facility

(a) Eligibility (§ 875(a))

A youth may be committed to a secure youth treatment facility as defined in section 875 if:

- (1) The youth committed an offense listed in section 707(b) when the youth was 14 years of age or older; and
- (2) The offense is the most recent offense for which the youth has been adjudicated; and
- (3) The court finds on the record that a less restrictive alternative disposition is unsuitable for the youth after considering all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case and evaluate the criteria in section 875(a)(1)–(3).

(b) Setting baseline term (§ 875(b))

The court must set a baseline term for the youth as provided in rule 5.806.

(c) Setting the maximum term of confinement (§ 875(c))

The court must set a maximum term of confinement as provided in section 875(c), including the application of the youth's precommitment credits to this term.

1 **(d) Individualized rehabilitation plan (§ 875(d))**

2
3 The court must order the probation department to prepare an individualized
4 rehabilitation plan for the youth as provided by section 875(d) and the court must
5 approve a plan for the youth no later than 30 judicial days after the order of
6 commitment. The court may set a hearing to review the individual rehabilitation
7 plan if requested by any party or on its own motion provided that the plan is
8 finalized and approved no later than 30 judicial days from the date of the
9 commitment order.

10
11 **(e) Setting the progress review hearing (§ 875(e))**

12
13 The court must set a progress review hearing no later than six months from the date
14 of the commitment order to evaluate the youth's progress in relation to the
15 rehabilitation plan and must determine whether the baseline term of confinement is
16 to be modified.

17
18
19 **Rule 5.805. California Department of Corrections and Rehabilitation, Division of**
20 **Juvenile Justice, commitments [Repealed]**

21
22 ~~If the court orders the youth committed to the California Department of Corrections and~~
23 ~~Rehabilitation, Division of Juvenile Justice (DJJ):~~

- 24
25 ~~(1) The court must complete Commitment to the California Department of Corrections~~
26 ~~and Rehabilitation, Division of Juvenile Justice (form JV-732).~~
27
28 ~~(2) The court must specify whether the offense is one listed in section 707(b) or~~
29 ~~subdivision (c) of Penal Code section 290.008.~~
30
31 ~~(3) The court must order the probation department to forward to the DJJ all required~~
32 ~~medical information, including previously executed medical releases.~~
33
34 ~~(4) If the youth is taking a prescribed psychotropic medication, the DJJ may continue~~
35 ~~to administer the medication for up to 60 days, provided that a physician examines~~
36 ~~the youth on arrival at the facility, and the physician recommends that the~~
37 ~~medication continue.~~
38
39 ~~(5) The court must provide to the DJJ information regarding the youth's educational~~
40 ~~needs, including the youth's current individualized education program if one exists.~~
41 ~~To facilitate this process, the court must ensure that the probation officer~~
42 ~~communicates with appropriate educational staff.~~
43

1 **Rule 5.807. Secure youth treatment facility progress review hearing**

2
3 **(a) Application**

4
5 This rule applies to progress review hearings held under section 875(e) for youth
6 committed to secure youth treatment facility dispositions to evaluate the youth's
7 progress in relation to the rehabilitation plan approved under rule 5.804(d).
8

9 **(b) Findings and orders**

10
11 At the progress review hearing, after having considered the recommendations of
12 counsel, the probation department and any behavioral, educational, or other
13 specialists having information relevant to the ward's progress, the court:
14

- 15 (1) Must make a finding on the record as to whether the youth is to remain
16 committed to the secure youth treatment facility for the remainder of the
17 baseline term or if the baseline term is to be reduced by no more than six
18 months after considering the progress of the youth in relation to the
19 rehabilitation plan and the recommendations of probation concerning the
20 youth's positive behavior in the secure youth treatment facility program as
21 required by rule 5.806(c); and
22
23 (2) Must set a progress review hearing or, if the baseline term remaining is six
24 months or less, a discharge hearing, no more than six months from the date of
25 the current hearing.
26

27 **(c) Transfer to a less restrictive placement**

- 28
29 (1) The court may order that the youth be transferred from the secure youth
30 treatment facility to a less restrictive placement at any progress review
31 hearing. Upon a motion by the probation department or the youth, the court
32 must consider such a transfer at the youth's next progress review hearing or
33 may set a separately scheduled hearing to consider the motion. The moving
34 party must serve the motion on the prosecution, the youth, and the probation
35 department if they are not the moving party. In making its determination, the
36 court must consider:
37
38 (A) The youth's overall progress in relation to the rehabilitation plan during
39 the period of confinement in a secure youth treatment facility; and
40
41 (B) The programming and community transition services to be provided, or
42 coordinated by the less restrictive program, including any educational,

1 vocational, counseling, housing, or other services made available
2 through the program.

3
4 (2) If the court orders the youth transferred to a less restrictive program:

5
6 (A) The court must set the length of time the youth is to remain in a less
7 restrictive program, not to exceed the remainder of the baseline or
8 modified baseline term, prior to a discharge hearing; and

9
10 (B) The court may require the youth to observe any conditions of
11 performance or compliance with the program that are reasonable and
12 appropriate in the individual case and that are within the capacity of the
13 youth to perform.

14
15 (3) If, after placement in a less restrictive placement, the court determines that
16 the youth has materially failed to comply with the court-ordered conditions of
17 placement in the program, the court may:

18
19 (A) Modify the terms and conditions of placement in the program; or

20
21 (B) Order the ward to be returned to a secure youth treatment facility for
22 the remainder of the baseline term, or modified baseline term, subject
23 to further progress review hearings as required in this rule.

24
25 (4) If the court orders a youth returned to a secure youth treatment facility from a
26 less restrictive placement the court must adjust the youth's baseline or
27 modified baseline term to include credit for the time served by the ward in
28 the less restrictive program.

29
30
31 **Rule 5.808. Discharge from secure youth treatment facility disposition**

32
33 **(a) Application**

34
35 This rule applies to any youth committed to a secure youth treatment facility
36 disposition who has reached the end of their baseline term, including any
37 modifications to that term made during progress review hearings. This rule also
38 applies to any youth who has been transferred from a secure youth treatment
39 facility to a less restrictive placement under rule 5.807(c) and section 875(f).

40
41 **(b) Conduct of the hearing**

1 At the discharge hearing the court must review the progress of the youth toward
2 meeting the goals of the individual rehabilitation plan and the recommendations of
3 counsel, the probation department, and any other agencies or individuals having
4 information the court deems necessary.

5
6 **(c) Findings and orders**

7
8 (1) The court must order that the youth be discharged to a period of probation
9 supervision in the community under conditions approved by the court, unless
10 the court finds that the youth poses a substantial risk of imminent harm to
11 others in the community if released from custody.

12
13 (A) The court must determine the reasonable conditions of probation that
14 are suitable to meet the developmental needs and circumstances of the
15 youth and that will facilitate the youth's successful reentry into the
16 community.

17
18 (B) The court must periodically review the youth's progress under
19 probation supervision and make any additional orders deemed
20 necessary to modify the program of supervision in order to facilitate the
21 provision of services or to otherwise support the youth's successful
22 reentry into the community.

23
24 (C) If the court finds that the youth has failed materially to comply with the
25 reasonable orders of probation imposed by the court, the court may
26 order that the ward be returned to a juvenile facility or to a less
27 restrictive placement for a period not to exceed either the remainder of
28 the baseline term, including any court-ordered modifications, or six
29 months, whichever is longer, subject to the maximum confinement
30 limits of section 875(c).

31
32 (2) If the court finds that the youth poses a substantial risk of imminent harm to
33 others in the community if released from custody, the court may order that
34 the youth be retained in custody in a secure youth treatment facility for up to
35 one additional year of confinement, subject to the maximum confinement
36 provisions of section 875(c). If the court orders that the youth is to be
37 confined, it must set a progress review hearing under rule 5.807, or if the
38 period of confinement is six months or less, a discharge hearing under this
39 rule for a date not to exceed six months from the date of the initial discharge
40 hearing.

1 **Rule 5.820. Termination of parental rights for child in foster care for 15 of the last**
2 **22 months**

3
4 **(a) *****

5
6 **(b) Calculating time in foster care (§ 727.32(d))**

7
8 The following guidelines must be used to determine if the child has been in foster
9 care for 15 of the most recent 22 months:

10
11 (1)–(3) ***

12
13 (4) Exclude time during which the child was detained in the home of a parent or
14 guardian; the child was living at home on formal or informal probation, at
15 home on a trial home visit, or at home with no probationary status; the child
16 was a runaway or “absent without leave” (AWOL); or the child was out of
17 home in a non-foster care setting, including juvenile hall; ~~California~~
18 ~~Department of Corrections and Rehabilitation, Division of Juvenile Justice;~~ a
19 ranch; a camp; a school; a secure youth treatment facility; or any other
20 locked facility.

21
22 (5)–(6) ***

JV-060-INFO**Juvenile Justice Court: Information for Parents**

Juvenile justice court (sometimes called delinquency court) is a court that decides if a child broke the law. The juvenile justice court helps to protect, guide, and rehabilitate children. And it helps keep the community safe.

This information sheet answers common questions that many parents have. It has three sections:

1. What Happens When Your Child Is Arrested
2. Your Child's Court Hearings and Orders
3. How to Keep Your Child's Juvenile Court Records Private

This form describes the juvenile justice court process. Some children who have contact with law enforcement or probation never need to go to court, even if it is believed that they broke the law.

1 What Happens When Your Child Is Arrested

This section is about:

- What to expect when your child is arrested,
- What your child's legal rights are,
- What the *notice to appear* and the *petition* are,
- What it means to transfer your child to adult court, and
- What a *probation officer* does.

My child was arrested. What happens next?

Your child might be brought home or allowed to go home with you.

You will be given or mailed a notice to appear that tells you the date, time, and place you and your child need to go to the probation department or juvenile court. You may want to talk to a qualified juvenile defense lawyer about your child's case. You can call your local public defender's office before your child goes to court. If your child has to go to court, the court will appoint a lawyer to represent your child at no cost to you if you do not hire a lawyer.

Warning! You and your child *must* go to the meeting listed on the notice to appear even if no one contacts you again. Sometimes the meeting will be at probation. Sometimes the notice will order you to go to the juvenile court.

Your child might NOT be sent home immediately after the arrest.

If that happens, the officer who arrested your child may:

- Let your child go later, without going to juvenile hall.
- Take your child to juvenile hall and keep them there. This is called *in-custody detention*. If this happens, the arresting officer *must* try to contact you immediately to tell you where your child is and that your child is in custody.



What are my child's legal rights after arrest?



Your child has the right to make at least **two phone calls** within **1 hour** of being arrested.

- One call must be a *completed* call to a parent, guardian, responsible relative, or employer.
- The other call must be a *completed* call to a lawyer.
- If your child is currently in court-ordered foster care, your child may also be allowed to call a foster parent or social worker.

What if the police want to question my child?

If your child is under 18, and in custody, your child must have a confidential consultation with an attorney. Your child cannot decide to answer questions or give up rights without first talking to a lawyer. This right to speak to an attorney cannot be given up. After that consultation, and before any officer asks your child about what happened, the officer must first tell your child about their child's *Miranda* rights:



- You have the right to remain silent.
- Anything you say will be used against you in court.
- You have a right to have a lawyer with you during questioning.
- If you or your parents cannot afford a lawyer, one will be appointed for you.



Does my child need a lawyer?

If a petition is filed, your child has a right to an *effective* and *prepared* lawyer, who must have specific education and training in juvenile justice cases. The lawyer will be appointed at your child's first hearing unless you hire an attorney for your child.



Your child's lawyer represents only your child, not you, even if you are paying for that lawyer. Your child's lawyer is required to have a confidential relationship with your child. That means the lawyer cannot talk to you about your child's case unless the child agrees and allows it.

Do I need a lawyer for myself?

The court can order you to do things for your child and can order you to pay *restitution* to the *victim*. Some parents hire lawyers for legal advice about these issues.

NOTE: If you think you need your own lawyer and cannot afford to hire one, you can ask the court to appoint a lawyer for you. The court will decide whether to appoint you a lawyer. If it does, you might be ordered to pay back the cost of the lawyer if the court decides you can afford to pay that cost.

If my child is required to meet with probation, how can we get ready?

It's a good idea to get legal advice. A defense lawyer who specializes in juvenile justice cases can help you understand your child's rights and know what to expect. Try to find school records and other information that shows what you and your child are doing to get back on track.

At the meeting, the probation officer will talk with you and your child about the next steps in your child's case.

NOTE: At this meeting, the probation officer must tell you and your child about the *Miranda* rights. Any information you or your child share with the probation officer might be shared with the court or the prosecuting attorney (D.A.).

- If the alleged offense is not serious or it's the first time your child has been accused of breaking the law, the probation officer might just tell your child what they did was wrong (reprimand them) and let your child go.

- The probation officer might offer to let your child do a special *diversion program* instead of going to court. Each county has different rules and different programs. If you and your child agree to the program and your child does everything the program requires, the juvenile court does not need to get involved.
- If the offense is more serious, the probation officer might refer your child's case to the prosecuting attorney (D.A.). If the prosecutor decides to file charges, they will file a petition in juvenile court. That's what the rest of this form is about.

What happens if my child is taken to juvenile hall after getting arrested?

The probation officer can decide to:

- Keep your child in custody, or
- Let your child go home with you.

If the probation officer lets your child go, the officer may still:

- Ask the D.A. to file a petition, and
- Set limits on what your child is allowed to do while at home.

If the probation officer does *not* let your child go, the officer must notify the public defender that your child is in custody within two hours. If the D.A. decides to file charges, a petition *must* be filed within 48 hours of the arrest. A detention hearing must be held the next day the court is in session. The courts are closed on Saturdays, Sundays, and holidays. You and your child *must* be given a copy of the petition.

How long can they keep my child in juvenile hall?

The judge will decide at the detention hearing. The judge may release your child or keep your child in juvenile hall until the next hearing or until the whole case is over.

Can I visit my child in juvenile hall?

Yes, but before you go, contact the juvenile hall or the probation officer to find out how to set up a visit.

What if the probation officer says a petition will be filed?

The petition states the things your child is accused of or charged with. It means your child's case will be sent to juvenile court. You have the right to receive a copy of the petition. If you have not received a copy of the petition, ask the probation officer or the court clerk for one.

The petition says your child did something against the law and asks the juvenile court to decide that what it says is true, but it does not prove anything.

Read the Petition Carefully! It is important to know what your child is accused of.

Are all petitions the same?

No. Each petition is tailored to the child and the alleged offense. There are two kinds of petitions:

A **601 Petition** is filed when a child has:

- Run away,
- Skipped school a lot,
- Violated a curfew, or
- Regularly disobeyed a parent or guardian.

These petitions are filed by the probation department at the juvenile court. If the court decides the charges are true, your child can become a “ward” of the court. That means the court will supervise your child, and your child must obey the court’s orders.

A **602 Petition** is for a charge that would be a *misdemeanor* (like shoplifting or simple assault) or *felony* (like stealing a car, selling drugs, rape, or murder) if an adult had done it.

These petitions are filed by the prosecuting attorney (D. A.). If the court decides the charges are true, the judge can:

- Order your child put on probation,
- Make your child a “ward” of the court, and
- Order your child placed out of your home or committed (locked up) to a juvenile facility.

NOTE: If your family is involved with the child welfare system, talk with your lawyer about what your child’s arrest means for that case. Depending on everything that has happened, the court might decide that it’s best for your child to stay in the child welfare system, to be supervised in the juvenile justice system, or to be supervised and served in both systems.

Can my child’s case be moved to adult court?

In cases with felony charges, the prosecuting attorney (D. A.) can ask the juvenile court to transfer your child’s case to adult criminal court. If that happens, talk to your child’s lawyer right away. Adult criminal cases are handled very differently and there may be very serious consequences for your child.

Your child’s case can only be transferred to adult court if your child is 16 years old or older, charged with a felony, and the court finds that the juvenile system cannot rehabilitate your child.

What does the probation officer do?

Probation officers investigate children’s situations and backgrounds and write reports for the court. They also supervise children to see if they are doing what the court has ordered them to do.

Why does the probation officer write reports?

The probation officer writes reports to give the court information about your child. The reports give the judge a description of your child’s situation, including life at home and school, the current charge(s), and any previous arrests or petitions. It can also include:

- Statements from your child, you, your family, and other people who know your child well;
- A school report;
- A statement by the victim; and
- Recommendations about what the court should do if the judge finds that your child did what the petition says.

When does the judge see the reports?

The probation officer presents a report at the *detention hearing*, *disposition hearing*, and each *review hearing*. The judge uses the reports to help decide how to handle your child’s case.

2 Your Child's Court Hearings and Orders

If a petition is filed in your child's case, you and your child will have to go to juvenile court. Each time you go to court is called a "hearing." You may have to go to several court hearings. This section is about:

- What happens at the different court hearings,
- What happens after the hearings,
- What happens if your child becomes a ward of the court, and
- What your duties and responsibilities as a parent are.

Get Ready for Court

When is the first court hearing?

If your child is in custody, the first hearing, called the detention hearing, must take place on the court day immediately after the petition is filed. The probation officer or prosecuting attorney (D.A.) must tell you when and where the hearing will be. You will also get a copy of the petition. At this hearing, the court decides only whether your child can go home or needs to stay in custody until the next hearing.

If your child is not in custody, the first hearing, often called the initial hearing or "arraignment," must take place no more than 30 days after the petition is filed. In addition to the notice described earlier, you and your child will get a copy of the petition at least 10 days before the date of this hearing.

How will I find out about other court hearings?

If your child is in custody, both you and your child will get notice at least 5 days before the hearing. Someone will deliver it personally or by certified mail.

If your child is not in custody, both you and your child will get notice of each court hearing at least 10 days before the date of the hearing. Someone will deliver it personally, by first-class mail, or, if you agree, electronically.

Can I go to my child's court hearings?

Yes. In fact, the law says you *must* go. The judge decides what is best for your child. Depending on the charges, if you can show that your child will listen to you and follow your rules, and that you will hold your child accountable and be supportive at home, the judge may let your child go home with you.

How many times will we have to go to court?

You and your child will probably need go to court several times. There will be different kinds of hearings where the court makes different decisions. *See page 8 for a table of different hearing types.*

Do we have the right to an interpreter?

Both you and your child have a right to an interpreter if needed. Ask for one if you do not speak English well and don't understand everything being said in court.

Can I speak at the court hearings?

Yes. You may speak when:

- The judge asks you questions,
- You are called as a witness, or
- The judge gives you permission.

Who else speaks at the court hearings?

Your child's lawyer will speak for your child. The prosecuting attorney (D.A.) will speak for the government. The probation officer may speak for the probation department.

Can the victim go to the hearings?

Yes. A crime victim has a right to go to and speak at any court hearing about the effect the crime had on them. The victim and the victim's parents (if the victim is under 18) will get notice of the hearing. Do not talk to the victim unless your lawyer tells you to.

What is a jurisdiction hearing?

The jurisdiction hearing or "trial" is when the judge decides if your child actually did what it says in the petition. Before a jurisdiction hearing the judge may set a pre-jurisdiction hearing to decide if your child's case can be resolved without a contested jurisdiction hearing.

Here's what to expect:

- The judge will ask your child to *admit* or *deny* the charges listed in the petition.
- Your child's lawyer will consider the evidence and the possible outcomes, and then advise your child what to do.
- If your child *admits* some or all of the charges, your child gives up the right to a trial. The judge will decide that the petition is true.
- If your child *denies* the charges, there will be a trial (called a *contested hearing*). The court may hold the trial on another day to give your child's lawyer time to get ready.

What happens at the “trial”?

At the trial, the prosecuting attorney (D.A.) will call witnesses and present evidence to prove the charges. Then your child’s lawyer may call witnesses and present evidence in your child’s defense. The judge will consider all the evidence and decide if the charges are true “beyond a reasonable doubt.”

If there is not enough proof to decide the charges are true, the judge will dismiss individual charges or the entire case. If your child is in custody and the entire case is dismissed, your child will be let go. If this happens, skip ahead to section 3 of this form.

If the judge decides some or all of the charges are true, there will be a disposition hearing. That’s when the judge will say what your child will need to do and where your child will live. Sometimes this hearing is right after the jurisdiction hearing, but usually it is 2–4 weeks later.

If your child is in custody, the judge can order your child to stay in custody or be released until the disposition hearing.

If you live in a different county, the court can transfer the case to your local court for the disposition hearing.

What happens at the disposition hearing?

The judge will decide what orders to make to protect and rehabilitate your child and to protect the community.

The judge might order your child to:

- Live at home and obey informal probation rules for up to six months.
- Live at home, be supervised by a probation officer, and obey rules set by the judge.
- Live at a relative’s home, a foster family home, a private group home, or a residential treatment program; be supervised by a probation officer; and obey rules set by the judge.
- Spend time in a county camp, home, ranch, juvenile hall, or secure youth treatment facility (in custody) and on probation.

The judge may also order *you*, the parent, to get counseling or parent training or do other activities.

What if the judge puts my child on probation?

If your child is put on probation, the probation officer will supervise and work with your child to make sure that your child follows:

- The law,
- The court’s orders, and
- All the rules of probation.

The probation officer will also encourage your child to do well in school and participate in job training, counseling, and community programs.

How often will the probation officer see my child?

Each case is different. The probation officer will meet regularly with your child during their case.

What if the judge makes my child a ward of the court?

The juvenile law uses special language. Children who have committed offenses may become wards of the court, but are not “convicted.” If your child becomes a ward of the court, that means the court is in charge of some of your child’s care and conduct. The court does this to protect your child and the community.

What if the judge orders my child placed in foster care?

If the judge orders suitable out-of-home or foster placement, the probation officer may place your child in:

- An adult relative’s home,
- An approved foster family home,
- A licensed private group home, or
- A residential treatment program.

What if the court sends my child to a secure county facility?

Most wards of the court who need secure confinement are sent to county facilities, like a ranch, camp, or juvenile hall, where they can be close to their families and local rehabilitative services. Ask the probation department about your child’s program and how you can visit, stay in touch, and help your child’s rehabilitation.

Some of these secure confinement programs may be for an extended period of time and may be located in another county. They are called secure youth treatment facilities and can hold your child until age 25 or up to two years from the date your child was sent to the secure youth treatment facility, if that is later.

If my child's case was moved to adult court, can my child be sent to adult prison?

Yes, but between the ages of 16 and 18, your child must stay at a juvenile facility even if sentenced to adult prison.

Important! If your child's case gets moved to adult court, talk to your child's lawyer right away.

Do I have to pay for what my child did?

The court may order you to pay fines or penalties.

If the court decides that the victim is entitled to restitution, you and your child are equally responsible for paying the victim back. *Restitution* is money that pays the victim to make up for the damage or harm your child caused.

Restitution can pay the victim back for:

- Stolen or damaged property,
- Medical expenses, and
- Lost wages.

If restitution is not completely paid when your child's case is closed, it will become a *civil judgment*, which can affect your credit score.

Do I have to pay fees for services my child receives from the court or county?

No. You do not have to pay fees or pay back the cost of services, support, or an attorney *given to your child* by the county or court as part of this case.

What are my responsibilities as a parent?

Your parental duties do not end when the court gets involved. Your child may need you now more than ever.

If the judge decides the charges in the petition are true, you may be ordered to do things to:

- Help make up for harm your child caused, and
- Keep your child out of trouble in the future.

The court may order you to:

- Take classes,
- Go to counseling, or
- Do other activities that will help you and your child.

What if my child is in foster care or in custody?

Wherever your child goes, stay in touch as much as you can, however you can. Visit your child as often as you can. Support your child's programs and activities.

Encourage your child to obey the court's orders and not to leave the placement without permission.

Find out what is happening in your child's life so that you can get ready for your child to return home. Learn how to make a protective and supportive environment for your child's return to school or work. Develop plans to hold your child accountable for their actions.

Where can I find parenting resources?

Contact your child's probation officer. Ask for referrals to community organizations, such as parents' groups or counseling services, that can help you. Your school district and local hospital or mental health department may also have useful programs.

If you have any questions that have not been answered, you may want to contact a lawyer for help.

3 How to Keep Your Child's Juvenile Court Records Private

Will anyone be able to look at my child's juvenile records?

Maybe. Although most juvenile court records are confidential, the law sometimes allows government officials to look at them.

However, in many cases the court will "seal" your child's juvenile records. Once the records are sealed, the law treats the arrest and court case as if they never happened. That means your child can truthfully say that your child does not have a criminal or juvenile record.

Exception: If your child wants to join the military, get a federal security clearance, or become a law enforcement officer your child may need to disclose information about the juvenile record. Your child's lawyer can provide advice about that.

How can I seal my child's juvenile records?

It depends on your child's situation.

Sealing at dismissal. If the juvenile court dismisses your child's case without making your child a ward of the court, the court must seal your child's records.

If the court does make your child a ward and later dismisses the case because your child has satisfactorily completed probation, the court will also seal your child's records and send your child copies of the sealing order and form JV-596-INFO, *Sealing of Records for Satisfactory Completion of Probation*.

If your child completes a probation diversion program, the probation department will seal those records and give notice to your child.

Sealing on request. If your child does *not* satisfactorily complete probation or the probation diversion program, the court **may** *not* dismiss the case and your child's records will not be automatically sealed. Your child can either:

- Ask the court to review the probation department's decision and order the records sealed, or
- Ask the court later to seal the records. (See form JV-595-INFO, *How to Ask the Court to Seal Your Records*, for more information.)

If your child is made a ward for an offense listed in Welfare and Institutions Code section 707(b), your child can ask the court to seal the records at age 18.

Even sealed records can be viewed by the prosecuting attorney (D.A.) in some cases.

Can my child's juvenile court record be used against them as an adult?

Under the three-strikes law, some serious or violent felonies committed by a child at age 16 or 17 can be counted as strikes and used against the child in the future.

Will my child's right as an adult to possess a firearm be restricted?

If your child is made a ward of the court for certain offenses, your child is not allowed to have a firearm until reaching age 30. The Department of Justice can look at your child's sealed records to prevent your child from buying a firearm.

Court Hearings in Juvenile Justice Court

You and your child may have to go to court several times. Each time you go is called a “hearing.” Depending on your case, there may be different kinds of hearings where the judge makes different decisions. Here are some of them. Each time you have to go to court, you and your child (if 18 or older) will get a notice. The notice will tell you the date, time, and place to go.

Kind of hearing	What happens at this hearing
Detention	The judge will decide if your child can go home or must stay in custody until the next hearing.
Transfer to criminal court	The juvenile court judge will decide if the case of a child who is 16 or older should be transferred to adult criminal court. Children under 16 cannot have their cases transferred to adult court. This hearing usually happens for very serious or violent charges and only if the prosecuting attorney (D.A.) asks for the transfer.
Pre-jurisdiction (pretrial or settlement conference)	<p>The judge, lawyers, and probation officer try to resolve the case without having a trial. The D.A. may make an “offer” to reduce or dismiss some of the charges. The judge will ask your child to <i>admit</i> or <i>deny</i> the charges listed in the petition. Your child’s lawyer will consider the evidence and possible outcomes, and then advise your child what to do. Whether to admit a charge is your child’s decision.</p> <p>If your child admits the charges, your child will give up the right to a trial. The judge will decide that the petition is true.</p> <p>If your child denies the charges, there will be a trial, usually a week or two later.</p>
Jurisdiction (trial)	<p>At the trial, the prosecuting attorney will present evidence to prove the charges. Then your child’s lawyer will decide whether to present evidence in your child’s defense. The law does not require a defense to be presented. The judge will consider all the evidence and decide if the charges are true “beyond a reasonable doubt.”</p> <p>– <i>If there is not enough proof to decide the charges are true</i>, the judge will dismiss the case. If your child is in custody, your child will be let go.</p> <p>– <i>If the judge decides the charges are true</i>, there will be a disposition hearing.</p>
Disposition	This happens <i>only</i> if the judge decides that one or more charges in the petition are true. The judge then decides what orders to make for your child. This hearing is sometimes right after the jurisdiction hearing but is often postponed for another day.
Hearing on motions	The court decides legal questions that affect the case.
Review hearings	This hearing provides a way for the court to check how your child is doing on probation or in placement. If your child is placed in foster care, the court must hold a review hearing at least once every six months.

GLOSSARY OF TERMS

Civil judgment: A court order requiring a person to pay money to another person.

Detention hearing: The first court hearing after an arrest if the child is detained in custody.

Felony: An action that would be a serious crime if committed by an adult.

In-custody detention: Keeping a person in a secure place and not letting them go free or go home.

Juvenile delinquency: See *juvenile justice*, below.

Juvenile justice: The legal system designed to guide, rehabilitate, and protect children who break the law, and to keep the community safe. Also known as “juvenile delinquency.”

Miranda: The U.S. Supreme Court case that requires law enforcement to tell persons detained in custody their rights before asking them questions.

Misdemeanor: An action that would be a less serious crime if committed by an adult.

Notice to appear: A paper telling you and your child to meet with a probation officer or go to juvenile court at a specific time and place.

Notice of hearing: A paper telling you the date, time, and place of a court hearing, and what will happen there.

Petition: A paper filed with the court that says your child did something against the law.

601 petition: A petition filed by the probation officer that accuses your child of something that’s against the law for a child to do, for example, skipping school or breaking curfew.

602 petition: A petition filed by the prosecuting attorney that accuses your child of doing something that would be a crime if an adult did it.

Probation officer: A law enforcement officer who advises the court about the orders the child needs to protect and rehabilitate the child, and supervises the child as ordered by the court.

Restitution: Money owed to the victim of an act to make up for the damage or harm done.

Terms or terms and conditions of probation: Court orders that tell a person on probation what they must and must not do.

Ward: A child whom the court has decided to supervise because the child did something against the law.

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-618.v3.111722.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
WAIVER OF RIGHTS—JUVENILE JUSTICE		CASE NUMBER:
Read this form carefully. The judge will ask you if you understand each right and if you want to give up that right.		

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

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

4. **I understand the following consequences of my admission:**

	<i>Initial</i>
a. If I plead no contest or submit the petition on the report, the court will probably find that the petition is true.	_____
b. The most that I can be punished for my admitting to these charges is a commitment (to be locked up) to a secure youth treatment facility or a local confinement facility like juvenile hall or ranch for (months/years):	_____
c. If I am not a United States citizen, my admission or no contest plea may mean that I will have to leave the country (be deported) and never allowed to return (exclusion) and/or never be allowed to become a United States citizen.	_____
d. If I am declared a ward of the court, a violation of: _____ will prohibit me from owning, possessing, or having in my custody or control any gun or firearm until I am 30 years old. (Pen. Code, § 29820.)	_____
e. The court may order that my driver's license be restricted, delayed, or suspended.	_____
f. <input type="checkbox"/> I may be required to register under Penal Code section 186.30 (gang).	_____
g. My parents or legal guardians and I may have to pay for the things I did that hurt others and caused them to lose money, including paying for things I took, broke, or damaged. We may also have to pay fines.	_____
5. **Waiver of Rights.** I understand that I have all of the rights below and that by admitting the charge(s) in the petition, or pleading no contest, I will not have a trial or hearing and I will give up all of these rights:

	<i>Initial</i>
a. The right to a speedy court trial or hearing where the judge would listen to all the evidence and decide if the district attorney has enough evidence to prove that I did what the petition says I did.	_____
b. The right to see, hear, and have my attorney question witnesses, including the officer who wrote the report, and any of the people who provided information that is written in the report.	_____
c. The right to testify or speak up for myself in court.	_____
d. The right to be silent and not say anything that might hurt myself or my case.	_____
e. The right to have witnesses come to court, even if they don't want to, and talk to the judge about my case.	_____
f. The right to appeal, or ask another court to look at, decisions by the judge that I disagree with.	_____

CHILD'S NAME:	CASE NUMBER:
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DISPOSITION—JUVENILE DELINQUENCY

- The court has read and considered the social study prepared by the probation officer and any other relevant evidence.
- The child has been detained and is at risk of entering foster care. The probation officer believes that child will be able to return home, and the social study includes a case plan as described in Welfare and Institutions Code section 636.
- The probation officer has recommended initial or continuing placement in foster care, and the social study includes a case plan as described in Welfare and Institutions Code section 706.6.

THE COURT FINDS AND ORDERS

1. Notice has been given as required by law.
2. The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.
3. The court previously sustained the following counts. As to any offense that could be considered a misdemeanor or a felony, the court is aware of and exercises its discretion to determine the offense as follows:

Count number	Statutory violation	Misdemeanor	Felony	Enhancement (<i>specify</i>)
		<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"/>	
		<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	

4. The child resides in (*specify*): _____ County.
5. The case is transferred to (*specify*): _____ County for disposition. *Juvenile Court Transfer-Out Orders* (form JV-550) will be completed and transmitted.
6. 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.
7. The child is placed on probation for up to six months under Welfare and Institutions Code section 725(a) under conditions described in an attachment to this form.
8. Deferred entry of judgment is granted denied.
9. The child is declared continued as a ward of the court.
10. The recommended findings and orders contained in the probation report dated _____ at pages _____ are adopted as modified by the court as its own, a copy of which is attached and incorporated herein.
11. The child is declared a ward and placed on probation
 - a. under the supervision of the probation officer without probation supervision
 - b. in the custody of
 - (1) parent (*name*): _____ mother father
 - (2) parent (*name*): _____ mother father
 - (3) legal guardian (*name*): _____
 - (4) probation for out-of-home placement or confined commitment. Form JV-667, *Custodial or Out-of-Home Placement Disposition Attachment*, is completed and attached.
 - c. under terms and conditions described on the attached form.
12. The child and legal parent are to pay a restitution fine of \$ _____ as specified on the attached form.
13. The child, with their parent, is to pay restitution
 - as described on the attached restitution order.
 - to each victim (*name each*):
 - a. _____ c. _____
 - b. _____ d. _____
 - in the amount of \$ _____ in the amount and manner determined by the probation office, with the opportunity for review by the court if disputed by the child or the parents.

CHILD'S NAME:	CASE NUMBER:
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- 14. The child, with the child's parents, is to pay a fine in the amount of \$ _____, plus a penalty assessment in the amount of \$ _____, for a total of \$ _____.
- 15. Terms regarding vehicles. The child must
 - a. participate in and successfully complete (*specify*):
 - b. only drive to and from school, work, and/or counselling programs.
 - c. surrender license to court probation officer.
- 16. The child's driver's license is
 - suspended.
 - revoked.
 - delayed
 - for a period of _____ months _____ years.
 - until the child attains 18 years of age.
- 17. The court will notify the Department of Motor Vehicles of the judgment. The DMV has independent authority to suspend, revoke, or delay driving privileges.
- 18. The child is ordered to submit to DNA collection under Penal Code section 296.
- 19. Other (*specify*):
- 20. **The next hearing will be:**

Date:	Time:	Dept:
Date:	Time:	Dept:
- 21. The child is ordered to return to court on the above date and time.
- 22. The child is advised of their right to appeal.
- 23. The child is advised that their appointed attorney has a continuing obligation to represent them on this case, until counsel is relieved by the court under California Rules of Court, rule 5.663.
- 24. All prior orders not in conflict, including any terms and conditions of probation, remain in full force and effect.

Date:

JUDICIAL OFFICER

The following attachments are incorporated by reference as findings and orders:

- Custodial and Out-Of-Home Placement Disposition Attachment (JV-667)*
- Terms and Conditions (JV-624)*
- Juvenile Court Transfer-Out Orders (JV-550)*
- Notice of Hearing and Temporary Restraining Order—Juvenile (JV-250)*
- Commitment to Secure Youth Treatment Facility (JV-733)***
- Order for Victim Restitution (CR-110/JV-790)*
- Order Regarding Application for Psychotropic Medication (JV-223)*
- Order Designating Educational Rights Holder (JV-535)*
- Parentage—Findings and Judgment (JV-501)*

Additional attachments:

- Indian Child Welfare Act
- Order for Repayment of Cost of Legal Services (JV-135)*
- Responses from tribes or BIA
- Victim Identification Form
- Probation officer's case plan approved by the court
 - As submitted
 - As amended and stated on the record
- Other (*specify*):

CHILD'S NAME:

CASE NUMBER:

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 Welfare and Institutions Code section 739.
5. Reasonable efforts to prevent or eliminate the need for removal
- a. have been made.
- b. have not been made.
6. 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*):
- 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 Welfare and Institutions Code.
- (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.
- 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.
- 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*):
- 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.

CHILD'S NAME:	CASE NUMBER:
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6. f. The child is to be placed out of state at the following (*name and address*):
- (1) In-state facilities are unavailable or inadequate to meet the needs of the child.
- (2) The state Department of Social Services or its designee has performed initial and continuing inspection of the facility and has certified that it meets all California licensure standards, or has granted a waiver based on a finding that there is no adverse impact to health and safety.
- (3) The requirements of the Family Code section 7911.1 are met.
- g. Pending placement, the child is detained in juvenile hall. If being housed in another county, please specify county:
- h. The child is placed on home supervision in the home of
- (1) parent (*name*):
- (2) parent (*name*):
- (3) legal guardian (*name*):
- (4) other (*name and address*):
- and is subject to electronic monitoring.
- i. 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.
- j. The county is authorized to pay for care, maintenance, clothing, and incidentals at the approved rate.
- k. 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*):
- l. 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.
7. 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 his or her 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 the child 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:
8. 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:
9. **The child is committed to a secure youth treatment facility and *Commitment to Secure Youth Treatment Facility* (form JV-733) or similar local form will be completed.**
10. The minor is placed in a short-term residential therapeutic program. A hearing to review the placement under Welfare and Institutions Code section 727.12 was held on or is set for (*date*):

Date:

 JUDICIAL OFFICER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

SCHOOL NOTIFICATION OF COURT ADJUDICATION
(Welfare & Institutions Code Section 827(b) and Education Code Section 48267)

TO SUPERINTENDENT:

SCHOOL DISTRICT:

MAILING ADDRESS:

CITY, STATE, ZIP CODE:

1. YOU ARE HEREBY NOTIFIED that (child's name): _____, born on: _____, is currently enrolled in your public school and that under:

- a. Education Code section 48267, the child is in a grade 7 thru 12 and is described by section 602, and a condition of probation requires that the minor attend a school program approved by the probation officer.
b. Welfare & Institutions Code section 827(b), the child is in a grade kindergarten to grade 12 and was found by a court of competent jurisdiction to have committed a felony or misdemeanor involving:
(1) gambling (code section, optional):
(2) alcohol (code section, optional):
(3) drugs (code section, optional):
(4) graffiti (code section, optional):
(5) carrying of weapons (code section, optional):
(6) a sex offense listed in section 290 of the Penal Code (code section, optional):
(7) assault or battery (code section, optional):
(8) larceny (code section, optional):
(9) vandalism (code section, optional):
(10) distribution of tobacco products (code section, optional):

2. THE COURT-ORDERED DISPOSITION of the child's case is (complete only for Welf. & Inst. Code, § 827(b)):

- a. wardship probation
b. Secure Youth Treatment Facility
c. nonwardship probation
d. Other:

Date: _____
CLERK OF THE SUPERIOR COURT

For more information, contact the probation officer for the child.

WARNING: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A MISDEMEANOR

Any information received from this court is to be kept in a separate confidential file at the school of attendance. This record must be destroyed upon the child's graduating from high school, reaching the age of 18, or being released from court jurisdiction, whichever occurs first.

FURTHER INSTRUCTIONS

This form serves two purposes. It is primarily designed to provide the notice required by Welfare and Institutions Code section 827(b). The form can also be used to provide notice under Education Code section 48267. In addition, the form can be used to provide notice under both. If the form is providing notice for both section 827(b) and section 48267, the rules of section 827(b) on its dissemination, listed below, should be followed.

PURPOSE AND DISSEMINATION UNDER EDUCATION CODE SECTION 48267

Education Code section 48267 requires that if the child is in a grade from 7 to 12, the juvenile court must notify the superintendent of the child's school district when the child is described by section 602 and a condition of probation requires attendance in a school program approved by the probation officer.

If the form is being used to provide notice under Education Code section 48267, the juvenile court must provide the written notice to the superintendent of the school district of attendance within seven days of the disposition order, which must be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee must not disclose this information to any other person except as otherwise required by law.

PURPOSE AND DISSEMINATION UNDER WELFARE AND INSTITUTIONS CODE SECTION 827(b)

Welfare and Institutions Code section 827(b) requires that when a child is found to have committed a felony or misdemeanor for certain offenses, the court must send this form to inform the school of the underlying offense and the outcome of the case. The form is intended to encourage communication between the courts, law enforcement, and schools to ensure rehabilitation of the child and to promote public safety.

Juvenile court proceedings and information related to the case are confidential, and disclosure of this form is governed by the rules of confidentiality found in Welfare and Institutions Code section 827. Information related to a child's juvenile case is strictly confidential; the disclosure on this form is a limited exception. It is to be provided only to select individuals in the child's school district. An intentional violation of these rules is a misdemeanor.

Welfare and Institutions Code section 827(b) provides specific instructions for the school on how the form should be disseminated when it is sent by the court:

- The court will send this form to the district superintendent of the child's school district.
- The district superintendent must expeditiously transmit it to the principal at the school of attendance.
- The principal must then expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the child. In addition, the principal must disseminate the information to any teachers or administrators directly supervising or reporting on the behavior or progress of the child, if the principal believes they need the information to work with the child in an appropriate fashion or to promote school safety.

Any information received from the court by a teacher, counselor, or administrator must be received in confidence for the limited purpose of rehabilitating the child and protecting students and staff.

A teacher, counselor, or administrator who receives the information in the form must *not* disclose the information or disseminate the form unless it is communication with the child, the child's parents or guardians, law enforcement personnel, or the juvenile probation officer and is necessary to effectuate the child's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of Welfare and Institutions Code section 827(b) is a misdemeanor punishable by a fine not to exceed \$500.

If a child is removed from public school because of the court's finding described in this form, the superintendent must maintain the information in a confidential file and must defer transmitting the form received from the court until the child is returned to public school. If the child is returned to a school district other than the one from which the child came, the parole or probation officer having jurisdiction over the child must notify the superintendent of the last district of attendance, who must transmit the notice received from the court to the superintendent of the new district of attendance.

The form is required to be destroyed when the child graduates from high school, reaches the age of 18, or is released from court jurisdiction, whichever occurs first. At any time after the form is required to be destroyed, the child or the child's parent or guardian has the right to make a written request to the principal of the school to review the child's school records to verify that the form has been destroyed. After this requested review, the principal or the principal's designee must respond in writing to the written request and either confirm or deny that the form has been destroyed, or explain why destruction has not yet occurred.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF:

MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

**NOTIFICATION TO SHERIFF OF
JUVENILE DELINQUENCY
FELONY ADJUDICATION
(Welfare & Institutions Code Section 827.2)**

TO THE SHERIFF OF THE COUNTY OF:

MAILING ADDRESS:
CITY AND ZIP CODE:

ATTENTION, COUNTY SHERIFF:

Pursuant to Welfare & Institutions Code section 827.2, you are hereby notified that

CHILD'S NAME:

CHILD'S DATE OF BIRTH :

was found by a court of competent jurisdiction to have committed at least one offense which would have been a felony if committed by an adult. The child was found to have committed the following felony offenses:

(List statutory violations)

YOU ARE BEING NOTIFIED BECAUSE *(Check all that apply)*

- The offenses occurred in your county
- The child is a resident of your county.
- The child's disposition has been modified.

THE COURT-ORDERED DISPOSITION of the child's case is:

- | | |
|---|--|
| <input type="checkbox"/> Wardship probation | <input type="checkbox"/> Nonwardship probation |
| <input type="checkbox"/> Secure youth treatment facility commitment | <input type="checkbox"/> Other: |

Date: _____

Clerk of the Superior Court: _____

WARNING: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A MISDEMEANOR

Any information received from this court is to be received in confidence for the limited law enforcement purpose for which it was provided and shall not be further disseminated except as provided by the provisions of Welfare and Institutions Code section 827.2. An intentional violation of the confidentiality provisions of this section is a misdemeanor.

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-732.v1.91422.cz REVOKED
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY: ZIP CODE: BRANCH NAME:	
YOUTH'S NAME:	
COMMITMENT TO THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, DIVISION OF JUVENILE FACILITIES	CASE NUMBER: JUVENILE:

1. a. Youth's name: _____
- b. Youth's date of birth: _____
- c. Parent's/guardian's name: _____ Address: _____ Phone No.: _____
- d. Educational rights/developmental rights holder (if applicable): _____
2. a. Date of hearing: _____ Dept.: _____ Room: _____
- b. Judicial officer (name): _____
- c. Persons present

<input type="checkbox"/> Youth	<input type="checkbox"/> Youth's attorney	<input type="checkbox"/> Mother	<input type="checkbox"/> Father	<input type="checkbox"/> Guardian	<input type="checkbox"/> Deputy district attorney
<input type="checkbox"/> Others as reflected on the attached minute order					

THE COURT FINDS AND ORDERS:

3. The youth was under the age of 18 years at the time of the commission of the offense for which the youth is being committed to the Division of Juvenile Facilities.
4. The mental and physical condition and qualifications of this youth render it probable that the youth will benefit from the reformatory discipline or other treatment provided by the Division of Juvenile Facilities.
5. a. The youth is committed to the Division of Juvenile Facilities for acceptance.
- b. The youth is returned to the Division of Juvenile Facilities for a modification, as a sanction for a serious violation or a series of repeated violations of the conditions of supervision, under Welfare and Institutions Code section 1767.35. The court-ordered release date is: _____
- c. The youth is committed to the Division of Juvenile Facilities for a 90-day period of observation and diagnosis.
6. The youth has been declared a ward of the court and is committed based on the most recent offense(s) listed in Welfare and Institutions Code section 707(b) or Penal Code section 290.008:

<u>Code section</u>	<u>with a max term of:</u>	<u>Enhancements (code section and max. term)</u>	<u>Total</u>
Principal felony:		+	=
	<u>Sentencing options</u>		
Subordinate offense(s):	<input type="checkbox"/> Felony	+	=
	<input type="checkbox"/> Felony	+	=
	<input type="checkbox"/> Felony	+	=
	<input type="checkbox"/> Misdemeanor	+	=
	<input type="checkbox"/> Misdemeanor	+	=

Continued on attachment 6.

The maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth before the court is:

7. After having considered the individual facts and circumstances of the case under section 731(c), the court orders that the maximum period of confinement is:

(If lower than the total in number 6, the court has used its discretion to modify the maximum confinement period under section 731(c).)

YOUTH'S NAME:	CASE NUMBER: JUVENILE:
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8. The youth has credit for time served at the Division of Juvenile Facilities of (number): _____ days.
 The youth has credit for time served at a local holding facility of (number): _____ days.
9. The youth is ordered to pay a restitution fine of: \$ _____
10. The youth is ordered to pay victim restitution as stated on attachment 10.
11. Exceptional needs (a, b, or c must be checked)
- a. The youth has been identified as an individual with exceptional needs under Welfare and Institutions Code section 1742 and has an individualized education program under Education Code 56340 et seq. which (check one)
- (1) is included as attachment 11a.
(2) will be furnished to the Division of Juvenile Facilities upon delivery of the youth.
- b. The youth is not an individual with exceptional needs.
- c. No determination has been made regarding whether the youth has any exceptional needs.
12. The court requests that a copy of the Clinical Summary Report be sent to the youth's attorney (name and address of attorney): _____
13. The probation officer is directed to forward a copy of the youth's medical records to the Division of Juvenile Facilities before delivery.
14. The youth has has not been prescribed psychotropic medication. If form JV-220 has been completed for the youth, it is attached on attachment 14. Such psychotropic medication, if still necessary based on an evaluation by a Division of Juvenile Facilities physician, may be continued for a period not to exceed 60 days from the date of delivery of the youth to the Division of Juvenile Facilities reception center and clinic.
If no form JV-220 accompanies this form, the types and dosages of medication is/are (specify): _____
- Continued on attachment 14.
15. The youth is ordered to submit to AIDS testing
- a. under Welfare and Institutions Code section 1768.9.
b. under Penal Code section 1202.1 due to a sustained offense listed in Penal Code section 1202.1(e).
16. The youth was committed for a sex offense under Penal Code section 290.008 requiring registration as a sex offender:
- a. The youth was 18 years of age or older at the time of assessment, 15 years of age or younger at the time of the offense, or is a female; no SARATSO tool was ordered.
b. The appropriate SARATSO score, selected under Penal Code section 290.04(d) or (e), was used to assess the youth. The court has read and considered the following risk assessment and received it into evidence:
- (1) The youth was under 18 at the time of assessment and offense; the JSORRAT-II was considered.
(2) The youth was 18 years of age at the time of assessment and 16 or 17 at the time of the offense; the Static-99 was considered.
17. The court has determined that the youth has been in at least one foster care or other title IV-E eligible placement (Part E of subchapter IV of chapter 7 of title 42 of the United States Code) during the course of a dependency or delinquency case.
18. Other findings and orders
- a. See attachment 18a
b. (Specify): _____

Date: _____

 _____
JUDICIAL OFFICER

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 Not approved by the Judicial Council JV-733.v6.111722.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
YOUTH'S NAME:	
COMMITMENT TO SECURE YOUTH TREATMENT FACILITY	CASE NUMBER:

1. a. Youth's name:
- b. Youth's date of birth:
- c. Parent's or guardian's name:
 Address: _____ Phone No.: _____
- d. Educational rights or developmental rights holder (if applicable):
2. a. Date of hearing: _____ Dept: _____ Room: _____
- b. Judicial officer (name): _____
- c. Persons present
 Youth Youth's attorney Mother Father Guardian Deputy district attorney
 Others as reflected on the attached minute order

THE COURT FINDS AND ORDERS:

3. The youth was at least 14 years of age, and under the age of 18, at the time of the commission of the offense for which the youth is being committed to a secure youth treatment facility.
4. That a less restrictive, alternative disposition for the youth has been considered and is found to be unsuitable.
5. The youth is committed to a secure youth treatment facility.
6. The youth has been declared a ward of the court and is committed based on the most recent offense(s) listed in Welfare and Institutions Code section 707(b):

a. Commitment offense:	Category:	Baseline term:
b. Calculation of maximum confinement time:		
<u>Code section</u>	<u>Sentencing options</u>	<u>Enhancements (code section and middle term)</u>
Principal felony:	with a max term of:	<u>Total</u>
		+ =
Subordinate offense(s):	<input type="checkbox"/> Felony	+ =
	<input type="checkbox"/> Felony	+ =
	<input type="checkbox"/> Felony	+ =
	<input type="checkbox"/> Misdemeanor	+ =
	<input type="checkbox"/> Misdemeanor	+ =

Continued on Attachment 6.

The maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth before the court is:

YOUTH'S NAME:	CASE NUMBER:
---------------	--------------

7. After having considered the individual facts and circumstances of the case under section 875(c), the court orders that the maximum period of confinement is:
 (If lower than the total in item 6, the court has used its discretion to modify the maximum confinement period under section 875(c).)
8. The youth has credit for time served of (number): _____ days.
9. The youth is ordered to pay a restitution fine of: \$ _____
10. The youth is ordered to pay victim restitution as stated on Attachment 10.
11. Exceptional needs (check a, b, or c)
- a. The youth has been identified as an individual with exceptional needs and has an individualized education program under Education Code section 56340 et seq., which (check one)
- (1) is included as Attachment 11a.
- (2) will be furnished to the secure youth treatment facility upon delivery of the youth.
- b. The youth is not an individual with exceptional needs.
- c. No determination has been made regarding whether the youth has any exceptional needs.
12. The court orders that an individualized rehabilitation plan be developed and submitted to the court by (date): _____
 A hearing on the individualized rehabilitation plan is set for (date): _____ (time): _____ in _____ Department:
13. The youth has has not _____ been prescribed psychotropic medication. If form JV-220, *Application for Psychotropic Medication*, has been completed for the youth, it is attached as Attachment 13.
 If no form JV-220 accompanies this form, the types and dosages of medication are (specify): _____
- Continued on Attachment 13.
14. The youth is ordered to submit to AIDS testing under Penal Code section 1202.1 due to a sustained offense listed in Penal Code section 1202.1(e).
15. The court has determined that the youth has been in at least one foster care or other title IV-E-eligible placement (Part E of subchapter IV of chapter 7 of title 42 of the United States Code) during the course of a dependency or delinquency case.
16. Other findings and orders
- a. See Attachment 16.
- b. (Specify) _____
17. A progress review hearing is set for (date): _____ (time): _____ (location): _____

Date: _____



JUDICIAL OFFICER

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-735.v4.111722.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: CHILD'S NAME:	
JUVENILE NOTICE OF VIOLATION OF PROBATION <input type="checkbox"/> § 725 <input type="checkbox"/> § 777(a)	CASE NUMBER:

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602.			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was NOT declared a ward and was placed on summary probation under Welfare and Institutions Code section 725(a).			
c. Child's name and address	d. Age:	e. Date of birth:	f. Sex:
g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
i. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	j. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
k. Attorney for child (if known): Address: Phone number:	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention (custody): Current place of detention (address):		

(See important notice on page 2.)

CHILD'S NAME:

CASE NUMBER:

2. The child is a probationer or ward of the court under Welfare and Institutions Code section 601 602 725(a) and the child has violated a condition of probation or order of the court. (State supporting facts concisely, and number them 1, 2, etc.)
- See Attachment 2.

3. The recommended modification consequence is:
- a. Removal from the custody of a parent guardian relative friend
 - b. Placement in a foster home or relative's home
 - c. Commitment to a private institution
 - d. Commitment to a county institution
 - e. Commitment to a secure youth treatment facility
 - f. To be determined
 - g. Other (specify):

DRAFT

4. The child violated nonwardship probation. Petitioner requests a hearing be set under Welfare and Institutions Code section 725(a) to decide if the child should be a ward and determine the appropriate disposition.

5. Number of pages attached: _____

**TO PARENTS OR OTHERS LEGALLY
RESPONSIBLE FOR THE SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of legal services for you by a court-appointed attorney if one is appointed to represent you, and the cost of any restitution owed to the victim.

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-751.v3.111722.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
CITATION AND WRITTEN NOTIFICATION FOR DEFERRED ENTRY OF JUDGMENT—JUVENILE <input type="checkbox"/> Notice of Hearing	CASE NUMBER:

CITATION

TO (Name of youth):
 (Name of custodial parent, guardian, or caregiver):
 (Address):

1. The district attorney has determined that this youth is eligible to be considered by the juvenile court for a deferred entry of judgment on the offense or offenses alleged in the petition filed (date):
2. **YOU ARE ORDERED TO APPEAR AT A HEARING**

on (date):	at (time):	in Dept.:	Room:
------------	------------	-----------	-------

located at: courthouse address above other (specify address):

At the hearing the court will consider whether or not to grant a deferred entry of judgment.

NOTICE

**To Parent and Others Legally Responsible for
the Care and Support of the Youth**

**If the court grants a DEFERRED ENTRY OF JUDGMENT, you may be required to participate
in a counseling or education program with the youth.**

YOUTH'S NAME:

CASE NUMBER:

WRITTEN NOTIFICATION

3. A DEFERRED ENTRY OF JUDGMENT will mean that the youth will be on probation for a specific length of time (between 12 and 36 months). Upon successful completion of probation:
 - a. The petition that has been filed will be dismissed.
 - b. The arrest for the offenses will be considered to NEVER have occurred.
 - c. All records in the court, probation department, and law enforcement agencies regarding the petition will be sealed, although the district attorney and the probation department may have access for the limited purpose of determining future eligibility for deferred entry of judgment.
4. If the court grants a DEFERRED ENTRY OF JUDGMENT instead of normal court proceedings, the youth will be required to do all of the following:
 - a. To admit that they committed the offense or offenses alleged to have been committed.
 - b. To agree to postpone the final determination of the case.
 - c. To satisfactorily complete a program of probation.
 - d. To obey all laws, follow all of the orders of the court, and the directions of the probation officer.
5. At the hearing, the court will consider the information provided by the district attorney, any report by a probation officer, and other evidence presented. The youth or the youth's attorney may submit written or oral evidence or statements.
6. If the court grants a DEFERRED ENTRY OF JUDGMENT, it must impose the following probation condition: Submission to a search of the youth's person, residence, and property under the youth's control, without a warrant, by a police or probation officer.
7. The court may also consider imposing other conditions of probation, such as:
 - a. A curfew.
 - b. Regular attendance at school or an education or training program, or employment.
 - c. Prohibiting the consumption or possession of alcoholic beverages, controlled substances, and tobacco and requiring submission to chemical tests to determine the use of any of these items, if appropriate.
 - d. Restitution to a victim.
 - e. Any other orders the court finds would assist the youth and protect the community, including orders for the parent, guardian, or caregiver of the youth to participate in a counseling or education program.
 - f. Counseling or treatment that the court finds will benefit the youth.
8. IF AT ANY TIME DURING THE PERIOD OF PROBATION
 - a. the youth is found to have committed a felony,
 - b. the youth is found to have committed misdemeanor offenses on more than one occasion, or
 - c. the district attorney or the probation officer notifies the court that the youth is not complying with the conditions of probation, or the orders are not benefiting the youth,

the court will lift the deferred entry of judgment and set a hearing to conclude the case, with consideration of all possible consequences under the law.
9. IF AT ANY TIME DURING THE PERIOD OF PROBATION the youth is found to have committed one misdemeanor or more on only one occasion, the court may set a hearing to determine if the deferred entry of judgment should be lifted and other orders, including punishment, should be made, or if the deferred entry of judgment should be continued with additional or different conditions of probation. If the court terminates the deferred entry of judgment, the court will then conclude the case, with consideration of all possible consequences.
10. During this proceeding, the youth will be represented by an attorney acting on the youth's behalf. The district attorney will act for the state, prosecuting the case. The probation department will supervise the youth during the period of the deferred entry of judgment. The court's role is to ensure that the procedures are properly followed.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: December 8, 2022

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

Title of proposal: Juvenile Law: Sex Offender Registration Termination

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt forms JV 915, JV-917, JV-918; approve forms JV-915-INFO and JV-916

Committee or other entity submitting the proposal:
 Family and Juvenile Law Advisory Committee
 Hon. Stephanie E. Hulseley, Cochair
 Hon. Amy M. Pellman, Cochair

Staff contact (name, phone and e-mail): 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

Project description from annual agenda: 4. Implementation of SB 384 (Stats. 2017, ch. 541), Sex offenders: registration: criminal offender record information systems

Develop juvenile forms to implement SB 384, which, in relevant part, establishes three tiers of sex offender registration based on specified criteria and a petition process to request termination from the registry upon completion of a mandated minimum registration period under specified conditions. Forms were adopted in 2021 for criminal court use, but juvenile courts have requested that forms be made available for the relatively smaller number of juveniles who have been required to register as sex offenders.

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

This item was on the committee's 2022 agenda but was not able to be completed, since the underlying statute is now in effect and courts are receiving these requests, the committee would like to put these forms in place in 2023.

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 W23-08

Title

Juvenile Law: Sex Offender Registration
Termination

Action Requested

Review and submit comments by January 20,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt forms JV-915, JV-917, JV-918;
approve forms JV-915-INFO and JV-916

Proposed Effective Date

September 1, 2023

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Contact

Tracy Kenny, 916-263-2838
tracy.kenny@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes the adoption of three mandatory forms and the approval of two optional forms to be used to petition the juvenile court for termination of sex offender registration for persons required to register as sex offenders as a result of a juvenile adjudication and commitment to the Division of Juvenile Justice. All five forms are adapted from existing forms that were approved by the council for use in criminal courts and became effective July 1, 2021.

Background

Under the Sex Offender Registration Act, effective January 1, 2021, sex offender registration has converted from a lifetime requirement to a tier-based registration system with a minimum registration time period. Sex offender registration for youth adjudicated in juvenile court is required only for those who are committed to the Division of Juvenile Justice, and the minimum time period is either 5 or 10 years, depending on the registrable offense. The California Department of Justice will designate tiers for all current registrants and will notify the registering law enforcement agency of the designation. As of July 1, 2021, registrants have been able to petition the court in the county of registration to terminate the registration requirement if the registrant has been registered for the minimum required time and meets other criteria. The district attorney (DA) may request a hearing if the DA believes that the person does not meet the requirements or that community safety would be enhanced by the person's continued

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.

registration. Penal Code section 290.5, effective July 1, 2021, outlines the procedure and requirements for the petition process. On March 12, 2021, the Judicial Council adopted three mandatory criminal forms and approved two optional forms to be used for this purpose, but juvenile cases were not included because of the differences in the statutory requirements and terminology.¹

The Proposal

The committee proposes the adoption of three mandatory forms and approval of two optional forms to allow for the court to complete the process for considering petitions for termination of juvenile sex offender registration.

Petition to Terminate Juvenile Sex Offender Registration (form JV-915)

Form JV-915 allows petitioner or counsel to (1) indicate that petitioner has met the requirements for termination under Penal Code section 290.5(a), including proof of current registration; that petitioner has no pending charges that could extend the time to complete the registration requirements of petitioner's tier or change petitioner's status; and that petitioner is not in custody and not on parole, probation, postconviction supervised release, or any other form of supervised release; (2) identify petitioner's tier designation and indicate whether petitioner has registered for the minimum number of years for that tier designation, as required under Penal Code section 290.008; (3) provide information on any previously filed and denied petitions so the served parties and the court are aware of any time restrictions on filing a subsequent petition under Penal Code section 290.5(a)(4); and (4) identify the law enforcement agencies that the petition was served on and the method of service, to indicate compliance with the service requirements of Penal Code section 290.5(a)(2).

Information on Filing a Petition to Terminate Juvenile Sex Offender Registration (form JV-915-INFO)

Proposed form JV-915-INFO is an information sheet that provides background on eligibility for relief, tier designation, tolling of the registration period, and the petition process.

Proof of Service–Juvenile Sex Offender Registration Termination (form JV-916)

Proposed form JV-916 is designed to assist a petitioner in documenting all required service on law enforcement and the district attorney, as stated in section 290.5(a)(2).

Response by District Attorney to Petition to Terminate Juvenile Sex Offender Registration (form JV-917)

This form allows the district attorney to provide a response to a petition, which may be to indicate no objection to the petition, object because of community safety, object because the petitioner is ineligible, or request a summary denial and state the reason. It is being proposed as a mandatory form that would be filed in all cases.

¹ Judicial Council of Cal., Advisory Com. Rep., *Criminal Forms: Sex Offender Registration Termination* (Feb. 11, 2021), <https://jcc.legistar.com/View.ashx?M=F&ID=9183000&GUID=C952EF51-7DC9-4D06-8519-CF6CCC9811D1>.

Order on Petition to Terminate Juvenile Sex Offender Registration (form JV-918)

Form JV-918 allows the court to take one or more of the following actions: (1) grant the request to terminate sex offender registration under Penal Code section 290 et seq.; (2) summarily deny the request based on petitioner's ineligibility; (3) deny the request after hearing based on a finding that community safety would be significantly enhanced by petitioner's continued registration or because petitioner did not meet the requirements of Penal Code section 290(e); (4) indicate that its findings after hearing are either stated on the record or in writing in the order; and (5) state the time period after which the petitioner may file another petition.

Alternatives Considered

The committee considered making all the forms—not just the information form and the proof of service form—optional in case any courts wish to retain local forms that they created, as an alternative to the mandatory forms, but determined that mandatory forms would be preferable unless the comments received indicate that it would be disruptive to courts to make the forms mandatory. The committee has asked for specific comment on this issue. The committee also considered taking no action to assist those required to register for juvenile adjudications but determined that, although the volume of these cases is not high, the procedure is challenging and the courts and registrants would benefit from the approval of standardized forms.

Fiscal and Operational Impacts

The volume of petitions for termination of juvenile sex offender registration under Penal Code section 290.5 is anticipated to be relatively small because of the narrow group of offenders who are required to register as juvenile offenders. Moreover, with the closure of Division of Juvenile Justice, after June 30, 2023, no youth adjudicated in juvenile court will be required to register. Despite this smaller pool of petitioners, juvenile courts have requested access to forms to assist them with the juvenile requests for termination. The proposed forms are intended to mitigate workload burdens by streamlining some of this process. Expected costs include training, case management system updates, and the production of new forms.

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 making forms JV-915, JV-917, and JV-918 mandatory result in a significant disruption of existing court processes because of the adoption of local forms?

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 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. Forms JV-915, JV-915-INFO, JV-916, JV-917, and JV-918, at pages 5–14
2. Link A: Pen. Code, § 290.5,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=290.5.&lawCode=PEN
3. Link B: Pen. Code, § 290.008,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=290.008.&lawCode=PEN

3 Termination Request

Petitioner requests termination of the requirement to register as a sex offender in California.

4 Pending Charges

There are no known pending charges against petitioner that could extend the time to complete the registration requirements of petitioner's tier or change petitioner's tier status.

5 Custody Status

Petitioner is not in custody (*in jail or prison*).

6 Supervision Status

Petitioner is not on parole, probation, postconviction supervised release, or any other form of supervised release.

7 Tier Designation and Eligibility

Petitioner was designated by the Department of Justice in the following tier and has registered for the following number of years:

- a. Tier 1 (Juvenile)
 Petitioner has registered for at least 5 years.
- b. Tier 2 (Juvenile)
 Petitioner has registered for at least 10 years

8 Previous Petition

- a. Petitioner (*check one*) has has not previously filed a Penal Code section 290.5 petition in California for termination of a sex offender registration requirement that was denied by the court.
- b. The previous petition was denied in (*case number*): _____, in the Superior Court of California, County of: _____, on (*date*): _____
- c. The court set: _____ years and _____ months as the time period after which petitioner may request termination again.

9 Registration Period

Petitioner believes that petitioner has met the requirements to register for the time period required by petitioner's tier designation as determined by the Department of Justice.

Date: _____

Printed name of petitioner or attorney

Signature of petitioner or attorney

1 General Information

- You must continue to register as a sex offender until a court grants your request to terminate the registration requirement.
- You may be required to register as a sex offender in another jurisdiction even if your requirement to register in California is terminated.
- Do not file evidence that shows proof of rehabilitation unless requested by the court after the petition is filed.
- Form JV-915 and proof of current registration may only be filed following the expiration of your mandated minimum registration period.
- This information sheet is for terminating registration based on adjudications in juvenile court. It does not address registration based on criminal convictions.
- Proof of current registration is available at the registering law enforcement agency.
- It is very important that you provide a reliable mailing address on JV-915 so that the district attorney and court can reach you. Contact the court immediately if your mailing address changes.

- Upon being adjudicated for a registrable offense, your minimum required registration period begins on the date you were released from the Division of Juvenile Justice.
- Any misdemeanor conviction for failure to register extends the minimum time period by one year, without regard to the actual time served in custody for the conviction. Any felony conviction for failure to register extends the minimum time period by three years, without regard to the actual time served in custody for the conviction.
- If the minimum registration period has not been tolled or extended, you are eligible for relief after you have registered for the following time periods:

You must have registered for at least...

If you are...	for at least...
Tier 1 (Juvenile)	5 years
Tier 2 (Juvenile)	10 years

4 Are there any other requirements besides registering for my tier's minimum time period?

If you are assessed as Tier 1 or Tier 2, you are eligible to petition for relief only upon reaching the end of the minimum registration period, and only if *all of the following* are true:

- You are not the subject of pending criminal charges that could extend the time to complete the registration requirements of the tier or change the tier status;
- You are not in custody;
- You are not on parole, probation, postconviction supervised release, or any other form of supervised release;
- You have not been convicted of a new offense requiring sex offender registration since your release from custody following your adjudication for the offense originally giving rise to your duty to register; and
- You have not been convicted of a new offense described in Penal Code section 667.5(c) since your release from custody upon adjudication for the offense originally giving rise to your duty to register.

2 Am I eligible for relief under Penal Code section 290.5?

You *may be* eligible to petition for relief under Penal Code section 290.5 if:

- You are required to register as a sex offender under Penal Code section 290 et seq.; *and*
- You have registered for the minimum time period for your assigned tier.

3 Which tier am I? How is my tier determined?

- Your tier is based on the offense for which you were adjudicated and committed to the Division of Juvenile Justice. The Department of Justice will determine tier placement for all current registrants and will notify the law enforcement agency where you register. Registrants may request a tier notification letter from the registering law enforcement agency.



5 At the end of my minimum period of registration, where and how do I file my petition and proof of current registration with the court?

You may file form JV-915 and proof of current registration as a sex offender, which you can get from the registering law enforcement agency, in the juvenile court in the county where you register. If you register with more than one law enforcement agency (for example, campus registration or additional residence address), you must file the petition and proof of current registration in the county of your primary residence.

- Make a copy of the completed form JV-915 and proof of current registration for each law enforcement agency and district attorney’s office you (or someone on your behalf) must serve.
- Contact the court clerk or check the court’s website to see if any local rules exist regarding filing or service of the petition and proof of current registration and ask how you can receive proof of filing.
- File the form JV-915 and proof of current registration by:
 - Taking them to the court clerk in person;
 - Mailing them to the court; or
 - Depending on the court’s local rules and practices, filing them electronically.

6 Who else gets a copy of the petition and proof of current registration, and how?

After the form JV-915 and proof of current registration are filed with the court, you or someone on your behalf must deliver a copy of the petition and the proof of current registration to:

- The law enforcement agency with which you currently register; and
- The district attorney in the county in which you currently register.

If you were adjudicated of a registrable offense in a county other than where you currently reside or register, the petition and proof of current registration must also be delivered to the law enforcement agency and the district attorney of the county of conviction of the registrable offense.

Example: If you were adjudicated for a registrable offense in Los Angeles County but register in Orange County, you or someone on your behalf must serve the law enforcement agency and the district attorney’s office in both counties.

Contact every agency that must be served to check if there is a specific person or mailing address that should receive the petition and proof of current registration. If the agencies do not get a copy, they will not be able to provide the information the court needs to consider your request, and the court may deny the request or delay its decision until it receives this information.

There are three main ways to serve the petition and proof of current registration (use *Proof of Service Juvenile Sex Offender Registration Termination* (form JV-916) to guide you on the information you need to report back to the court about how and when the petition was served):

- **Personal service:** You may serve the petition and proof of current registration or ask someone else to do it. Go in person to hand-deliver the petition and proof of current registration to a representative of the law enforcement agency and district attorney's office during business hours. This is the most reliable form of service.
- **Service by mail:** Place copies of the petition and proof of current registration in a stamped, sealed envelope addressed to the law enforcement agency and district attorney’s office. Put first class postage on the envelope, and mail it by depositing the envelope with the U.S. Postal Service or at an office or business mail drop where the mail is picked up every day and deposited with the U.S. Postal Service.

Alternatively, you may mail the documents by certified mail with a return receipt requested.

- **Electronic service:** Contact the law enforcement agency and district attorney’s office to check if they accept electronic service and, if so, how to confirm receipt of service. The court may require proof of consent and proof of electronic service. You can use *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV) and *Proof of Electronic Service* (form EFS-050), available at www.courts.ca.gov/forms.



Your petition may be denied if all law enforcement agencies and district attorney offices required to be served are not served. When service is complete, you or the person who served the documents on your behalf must fill out *Proof of Service Juvenile Sex Offender Registration Termination* (form JV-916) and file it with the court.

7 Time frame for court's decision

The court will not make a decision until it hears from the law enforcement agency and the district attorney. This may take four months or longer.

- The law enforcement agency has 60 days from receipt of the petition to report on your eligibility to the court and district attorney. The law enforcement agency may request more time if it discovers a conviction not previously considered by the Department of Justice.
- The district attorney may request a hearing within 60 days after receiving the eligibility report from law enforcement.

Once you file your petition and proof of current registration and the court gives you a case number, you can see whether the court has received and filed any responses from the law enforcement agency and the district attorney's office by (1) looking up the case online (if the court offers remote electronic access), or (2) going in person to the court to review the case docket at a public access kiosk or on a paper file.

The court may grant your request, deny your request, or set the request for a hearing if one is requested by the district attorney.

8 Hearing

The district attorney in the county where the petition is filed may request a hearing if the district attorney does not believe you have registered for the minimum time period required or if it believes that you should continue registering for community safety. If the court must decide at the hearing whether you should continue to register for community safety, the court will make its decision by reviewing the facts of your case, your conduct before and after the conviction, and your current risk of sexual or violent re-offense, among other factors.

If the district attorney does not request a hearing, the court must grant the petition for termination if (1) you provided proof of current registration, (2) the registering law enforcement agency reported that you met the requirements for termination, (3) there are no pending charges against you that could extend the time to complete the registration requirements of the tier or change your tier status, and (4) you are not in custody or on parole, probation, or supervised release.

9 Subsequent petition

If the court denies your request, it will let you know how much time must pass before you can make the request again. That period must be at least one year from date of denial, but may not exceed five years, based on facts presented at the hearing.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-916.v2.101922.cz

Instructions

- This form is for providing proof that a copy of a filed *Petition to Terminate Juvenile Sex Offender Registration* (form JV-915) and proof of current registration were served (delivered) to the required law enforcement agencies and district attorney offices. Read *Information on Filing a Petition to Terminate Juvenile Sex Offender Registration* (form JV-915-INFO) for more information.
- The person who serves (delivers) a document or form in this case and who fills out this form must be at least 18 years old.
- This form is for proof of service by mail or personal delivery. For proof of electronic service, read and follow rule 2.251 of the California Rules of Court, and use *Proof of Electronic Service* (form POS-050/EFS-050).
- File a completed form with the court. Keep a copy of this form for your records.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

- 1 At the time I served *Petition to Terminate Juvenile Sex Offender Registration* (form JV-915) and proof of current registration, I was at least 18 years old.
- 2 My name is: _____
My mailing address is: _____

Street City State Zip
- 3 I served copies of the *Petition to Terminate Juvenile Sex Offender Registration* and proof of current registration filed (check one):
 for myself on behalf of (name of petitioner): _____
- 4 I mailed or personally delivered a filed-stamped copy of *Petition to Terminate Juvenile Sex Offender Registration* (form JV-915) and proof of current registration to the agencies listed below:
 - a. **Registering law enforcement agency**
Name of agency: _____
Address: _____
Street City State Zip
Date of service: _____
Method of service (check one):
 Mailed the documents to the agency at the address above in a sealed envelope from (city, state): _____ by depositing the envelope with the U.S. Postal Service
 Delivered in person to (name): _____ at (time): _____ at the address above



Response by District Attorney to Petition to Terminate Juvenile Sex Offender Registration

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council
JV-917.v4.111722.cz

Fill in court name and street address:

Superior Court of California, County of

1 Petitioner's Information

This is a response to a petition filed by:

a. Name: First Middle Last

Date of birth: (mm/dd/yyyy)

CSAR Petition No.:

b. Tier (check one):

Tier 1 (Juvenile)

Tier 2 (Juvenile)

2 Response

a. The district attorney has no objection to this petition.

b. The district attorney objects to granting the petition and requests a hearing because (check all that apply):

(1) Community safety would be significantly enhanced by the petitioner's continued registration.

(2) Petitioner has not met the requirements of Penal Code section 290(e).

c. The district attorney requests that the petition be summarily denied because (check all that apply and state reasons for requesting a summary denial):

(1) Petitioner has not fulfilled the filing and service requirements of Penal Code section 290.5 because:

(2) Pending charges against petitioner could extend the time to complete the registration requirements of the tier or change petitioner's tier status:

(3) Petitioner is in custody or on parole, probation, or supervised release:

(4) Petitioner has not met the mandatory minimum registration period for that tier.

(5) Other:

d. This response has been served on the petitioner or counsel at the address stated on the petition.

Case Number:

For Court use only:

Date:

Time:

Department:

Date:

Printed name, office address, and phone number of district attorney/district attorney's representative

Signature of district attorney/district attorney's representative

**Order on Petition to Terminate
Juvenile Sex Offender Registration**

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-918.v3.101922.cz**

① Petitioner's Name: _____
First Middle Last

Birthdate: _____ CSAR Petition No.: _____
(mm/dd/yyyy)

Name of attorney representing petitioner *(if any)*: _____

Mailing address: _____
Street

City State Zip

Email: _____

Fill in court name and street address:

Superior Court of California, County of

② The court **GRANTS** the petition to terminate the sex offender registration requirement under Penal Code section 290 et seq.

③ The court **SUMMARILY DENIES** the petition to terminate the sex offender registration requirement because *(check all that apply and state reasons for summary denial)*:

Court fills in case number when form is filed.

Case Number:

a. Petitioner has not fulfilled the filing and service requirements of Penal Code section 290.5 because: _____

b. Pending charges against petitioner could extend the time to complete the registration requirements of the tier or change petitioner's tier status: _____

c. Petitioner is in custody or on parole, probation, or supervised release: _____

d. Petitioner has not met the mandatory minimum registration period for petitioner's tier.

e. Other: _____

④ After hearing, the court **DENIES** the petition to terminate the adult sex offender registration requirement because the court finds that *(check all that apply)*:

a. Petitioner has not met the requirements of Penal Code section 290(e).

b. Community safety would be significantly enhanced by the petitioner's continued registration. The court's findings are *(select one)*: stated orally on the record stated below:

This is a Court Order.



Case Number: _____

4 c. Petitioner may not file another petition for termination for ____ years (must be between one to five years) from the date of denial, for the following reasons: _____

Date: _____

Signature of Judicial Officer

To the court: Notify the Department of Justice, California Sex Offender Registry, when a petition for termination from the registry is granted, denied, or summarily denied. If the petition is denied after hearing, the court must also state the time period after which the person can file a new petition for termination. The court may notify the department through electronic reporting or by mail (California Sex Offender Registry, P.O. Box 903387, Sacramento, CA 94203-3780).

DRAFT

This is a Court Order.

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 <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: CDC OR ID NUMBER: DATE OF BIRTH:	
PETITION FOR RESENTENCING BASED ON HEALTH CONDITIONS DUE TO MILITARY SERVICE LISTED IN PENAL CODE SECTION 1170.91(b)	
Instructions (if you are filing for yourself): File this petition with the same court where you were sentenced. File a separate petition for each case in which you are asking for resentencing. "Petitioner" as used in this form refers to you.	CASE NUMBER: FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

1. Petitioner (*the defendant in the above-entitled criminal action*) is currently serving a sentence for the felony conviction listed below.
 - a. Petitioner is currently in jail or prison.
 - b. Petitioner is on supervision (for example, probation, parole, PRCS, mandatory supervision) because of the conviction.
2. On (date of conviction): _____, petitioner was convicted of the following felony offenses:

Code	Section	Name of offense

- a. If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).
3. Military service (*choose one*)
 - a. Petitioner was a member of the U.S. military. Petitioner served in (*branch of military*): _____ from (*date of entry into military*): _____ until (*last date served in the U.S. military*): _____
 - b. Petitioner is currently a member of the U.S. military. Petitioner serves in (*branch of military*): _____ and petitioner's entry date was: _____
4. As a result of military service, petitioner may be suffering from the following health conditions (*check all that apply*):

<input type="checkbox"/> Sexual trauma	<input type="checkbox"/> Post-traumatic stress disorder (PTSD)
<input type="checkbox"/> Traumatic brain injury (TBI)	<input type="checkbox"/> Substance abuse
<input type="checkbox"/> Mental health problems (<i>list or describe</i>): _____	
5. When petitioner was sentenced, the judge did not consider health conditions resulting from petitioner's military service as a factor in deciding the sentence.
6. Petitioner was not convicted of, or does not have one or more prior convictions for, an offense that is listed in Penal Code section 667(e)(2)(C)(iv) or an offense requiring sex offender registration under Penal Code section 290(c).

Date: _____



SIGNATURE OF PETITIONER OR ATTORNEY

Proof of Service (form CR-106) may be used to provide proof of service of this petition.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: December 8, 2023

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

Title of proposal: Juvenile Law: Transfer of Jurisdiction to Criminal Court

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Amend Cal. Rules of Court, rule 5.770; revise form JV 710

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee
 Hon. Stephanie E. Hulseley, Cochair
 Hon. Amy M. Pellman, Cochair

Staff contact (name, phone and e-mail): 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 1, 2022

Project description from annual agenda:

1. Legislative Changes from the 2022 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.

y. AB 2361 (Bonta) Juveniles: transfer to court of criminal jurisdiction (Ch. 330, Stats. of 2022)

Requires the juvenile court to find by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to transfer the minor to a court of criminal jurisdiction.

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

The Judicial Council just approved changes to the impacted rule and form to take effect on January 1 which are now out of date because of this newly enacted legislation. Making them accurate sooner than later will ensure that courts are using the right evidentiary standards when considering these motions for transfer of jurisdiction.

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 W23-09

Title	Action Requested
Juvenile Law: Transfer of Jurisdiction to Criminal Court	Review and submit comments by January 20, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.770; revise form JV-710	September 1, 2023
Proposed by	Contact
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

The Family and Juvenile Law Advisory Committee proposes to amend one rule and revise one form to implement recent legislative changes requiring that the court find by clear and convincing evidence that a youth is not amenable to rehabilitation while under the jurisdiction of the juvenile court. Assembly Bill 2361 (Bonta; Stats. 2022, ch. 330) amended Welfare and Institutions Code section 707 to include that standard of proof, and to require the court to set forth the basis in an order entered upon the minutes for making that finding.

The Proposal

The Family and Juvenile Law Advisory Committee proposes amending rule 5.770 of the California Rules of Court and revising *Order to Transfer Juvenile to Criminal Court Jurisdiction (Welfare and Institutions Code, § 707)* (form JV-710) to reflect the changes to section 707¹ enacted by AB 2361.

Amendments to rule 5.770

Rule 5.770(a) would be amended to update the standard of proof for the prosecution to a clear and convincing evidence standard. Rule 5.770(b) would be amended to add paragraph (3), which sets forth the new required court finding regarding whether the youth is amenable to

¹ All references to code sections hereafter are to the Welfare and Institutions Code unless otherwise indicated.

rehabilitation while under the jurisdiction of the juvenile court. The requirements for the court to set forth its reasoning on the record would be relocated to rule 5.770(c), which currently requires the court to specify the basis for its order. The Advisory Committee Comment to rule 5.770 would also be amended accordingly, to add AB 2361 to the comment on the intent of subdivision (b), and to relocate the comment on setting forth the basis of the order to be a comment on subdivision (c).

Revisions to Order to Transfer Juvenile to Criminal Court Jurisdiction (Welfare and Institutions Code, § 707) (form JV-710)

The current optional order form to effectuate a transfer of jurisdiction from juvenile to criminal court would be revised at item 4.b. to state that the prosecution has shown by clear and convincing evidence that the youth is not amenable to rehabilitation while under the jurisdiction of the juvenile court (based on findings that are stated on the record) and should be transferred to the jurisdiction of the criminal court.

Alternatives Considered

The committee considered not changing the rule or form, but that would have left the documents both legally inaccurate and misleading.

Fiscal and Operational Impacts

There will be minor costs to translate and reproduce the new forms. The heightened standard of proof may result in the filing of fewer motions to transfer youth to criminal court jurisdiction by the prosecuting attorney.

DRAFT

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 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, rule 5.770, at pages 4–5
2. Form JV-710, at page 6
3. Link A: Assembly Bill 2361,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2361

Rule 5.770 of the California Rules of Court would be amended, effective September 1, 2023, to read:

1 **Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707**

2
3 **(a) Burden of proof (§ 707)**

4
5 In a transfer of jurisdiction hearing under section 707, the burden of proving that
6 there should be a transfer of jurisdiction to criminal court jurisdiction is on the
7 petitioner, by a ~~preponderance of the evidence~~ clear and convincing evidence.
8

9 **(b) Criteria to consider (§ 707)**

10
11 Following receipt of the probation officer's report and any other relevant evidence,
12 the court may order that the youth be transferred to the jurisdiction of the criminal
13 court if the court finds by clear and convincing evidence each of the following:

- 14
15 (1) The youth was 16 years or older at the time of any alleged felony offense, or
16 the youth was 14 or 15 years of age at the time of an alleged felony offense
17 listed in section 707(b) and was not apprehended prior to the end of juvenile
18 court jurisdiction;
19
20 (2) The youth should be transferred to the jurisdiction of the criminal court based
21 on an evaluation of all the criteria in section 707(a)(3)(A)–(E) as provided in
22 that section; ~~and The court must state on the record the basis for its decision,~~
23 ~~including how it weighed the evidence and identifying the specific factors on~~
24 ~~which the court relied to reach its decision.~~
25
26 (3) The youth is not amenable to rehabilitation while under the jurisdiction of the
27 juvenile court.

28
29 **(c) Basis for order of transfer**

30
31 If the court orders a transfer of jurisdiction to the criminal court, the court must
32 recite the basis for its decision in an order entered on the minutes. The court must
33 state on the record the basis for its decision, including how it weighed the evidence
34 and identifying the specific factors on which the court relied to reach its decision.
35 This statement must include the reasons supporting the court's finding that the
36 minor is not amenable to rehabilitation while under the jurisdiction of the juvenile
37 court.

38
39 **(d)–(h) * * ***

40
41 **Advisory Committee Comment**

1
2 **Subdivision (b).** This subdivision reflects changes to section 707 as a result of the passage of
3 Senate Bill 382 (Lara; Stats. 2015, ch. 234), ~~and~~ Proposition 57, the Public Safety and
4 Rehabilitation Act of 2016, and Assembly Bill 2361 (Bonta; Stats. 2022, ch. 330). SB 382 was
5 intended to clarify the factors for the juvenile court to consider when determining whether a case
6 should be transferred to criminal court by emphasizing the unique developmental characteristics
7 of children and their prior interactions with the juvenile justice system. Proposition 57 provided
8 that its intent was to promote rehabilitation for juveniles and prevent them from reoffending, and
9 to ensure that a judge makes the determination that a youth should be tried in a criminal court.
10 Consistent with this intent, the committee urges juvenile courts—when evaluating the statutory
11 criteria to determine if transfer is appropriate—to look at the totality of the circumstances, taking
12 into account the specific statutory language guiding the court in its consideration of the criteria.

13
14 ~~Under subdivision (b)(2), the court must state on the record the basis for its decision. The~~
15 ~~statement of decision must fully explain the court’s reasoning to allow for meaningful appellate~~
16 ~~review. See, e.g., *C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009.~~

17
18 **Subdivision (c).** The court must state on the record the basis for its decision. The statement of
19 decision must fully explain the court’s reasoning to allow for meaningful appellate review. See,
20 e.g., *C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009.

21
22 While this rule and section 707 only require the juvenile court to recite the basis for its decision
23 when the transfer motion is granted, the advisory committee believes that juvenile courts should,
24 as a best practice, state the basis for their decisions on these motions in all cases so that the parties
25 have an adequate record from which to seek subsequent review.
26

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.v3.101722.cz
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 Welfare and Institutions Code 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 clear and convincing evidence that the youth is not amenable to rehabilitation while under the jurisdiction of the juvenile court and 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 (Welfare and Institutions Code 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 _____

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: December 8, 2022

Rules Committee action requested [Choose from drop down menu below]:

Submit to JC (without circulating for comment)

Title of proposal: Juvenile Law: Technical Changes to Juvenile Rules and Forms

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

Amend forms JV 100, JV-101(A), and JV-110; revise forms JV- 121 and JV-642

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Hon. Stephanie E. Hulseley, Cochair

Hon. Amy M. Pellman, Cochair

Staff contact (name, phone and e-mail): Sarah Namnama Saria, 916-643-7078, Sarah.Saria@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: New item 1w. Legislative Changes from the 2022 Legislative Session: SB 1085

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.

w. Legislative Changes from the 2022 Legislative Session: SB 1085

Prohibits a child from being found to be a dependent of the juvenile court solely due to homelessness. or indigence or other conditions of financial difficulty, including, but not limited to, poverty or the inability to provide or obtain clothing, home or property repair, or childcare.

Ongoing agenda item #13: Develop rule and form changes as necessary to correct technical errors meeting the criteria of rule 10.22(d)(2); "a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy...." if those forms are being revised for other reasons.

A technical change is recommended for Initial Appearance Hearing—Juvenile Delinquency (form JV-642). JV-642 was revised by the council at its meeting on October 1, 2021, with an effective date of the same day. In that proposal, line 32 was changed to "The child is placed in a short-term residential therapeutic program. A hearing to review the placement under Welfare and Institutions Code section 727.12 will be set or is set for (date)." Rather than renumbering the remaining items on the form, this new addition inadvertently replaced the existing item 32, which is the finding that "Reasonable efforts to prevent or eliminate the need for detention of the child have have not been made." The removal of this finding was an oversight and was not addressed in the report to the Judicial Council. The finding is required to be considered at an initial appearance hearing under Welfare and Institutions Code section 636 (see subdivision (d)(2)(B)).

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

This proposal would make technical changes to 5 juvenile forms to (1) implement new legislation that necessitates changes to the alternative mandatory Juvenile Dependency Petition forms and attachment forms, and (2) corrects an error by restoring a finding that is required to be considered at an initial appearance hearing under Welfare and Institutions Code section 636 (see subdivision (d)(2)(B)).

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-056

For business meeting on January 19–20, 2023

Title

Juvenile Law: Technical Changes to Juvenile Rules and Forms

Agenda Item Type

Action Item

Rules, Forms, Standards, or Statutes Affected

Revise forms JV-100, JV-101(A), JV-110, JV-121, and JV-642

Effective Date

February 1, 2023

Date of Report

November 30, 2022

Recommended by

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Contact

Sarah Namnama Saria, 916-643-7078
Sarah.Saria@jud.ca.gov
Daniel Richardson, 415-865-7619
Daniel.Richardson@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee proposes revising four forms to conform to recent statutory changes to section 300 of the Welfare and Institutions Code enacted by Senate Bill 1085 (Kamlager; Stats. 2022, ch. 832). The committee also has identified an error that is technical in nature in a form recently updated in a proposal implementing the federal Family First Prevention Services Act. The committee recommends that these revisions go into effect as soon as possible, without prior circulation, because they are minor, nonsubstantive changes unlikely to create controversy that merely make the forms conform to statute.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective February 1, 2023:

1. Revise *Juvenile Dependency Petition (Version One)* (form JV-100), in item 1a, to renumber the “(b)(2)” check box to “(b)(4)” to correct the statutory reference to Welfare and Institutions Code section 300(b)(4);

2. Revise *Additional Children Attachment* (form JV-101(A)), in items 4a and 5a, to renumber the “(b)(2)” check boxes to “(b)(4)” to correct the statutory reference to Welfare and Institutions Code section 300(b)(4);
3. Revise *Juvenile Dependency Petition (Version Two)* (form JV-110), in item 1b, to renumber all the “(b)(2)” check boxes to “(b)(4)” to correct the statutory reference to Welfare and Institutions Code section 300(b)(4), and by deleting the extra space between “legal” and “services” in the last text box on page 2;
4. Revise *Failure to Protect* (form JV-121) to renumber the heading “§ 300(b)(2)” to “§ 300(b)(4)” to correct the statutory reference to Welfare and Institutions Code section 300(b)(4); and
5. Revise *Initial Appearance Hearing—Juvenile Delinquency* (JV-642) to add back a finding at item 33 that was inadvertently removed, and renumber the remaining items on the form.

The revised forms are attached at pages 5–15.

Relevant Previous Council Action

The Judicial Council has acted on forms JV-100, JV-101(A), JV-110 and JV-121 previously, but this proposal only involves minor corrections that are unrelated to prior council action.

Initial Appearance Hearing—Juvenile Delinquency (form JV-642) was adopted by the council effective January 1, 2006. The original version of the form adopted by the council included the reasonable efforts finding that is the subject of this report. Recently, the form was revised by the council at its meeting on October 1, 2021, with an effective date of the same day. The form was again revised by the council in September 2022 with an effective date of January 1, 2023. Both revisions were made as part of a proposal impacting numerous forms implementing the federal Family First Prevention Services Act (FFPSA).¹ Assembly Bill 153 (Stats. 2021, ch. 86) implemented FFPSA in California and required that the juvenile court review each placement of a foster youth in a short-term residential therapeutic program (STRTP) placement. Because this review is required for an initial placement in an STRTP, forms related to detention (including JV-642) and disposition hearings were amended to indicate when the hearing on the STRTP placement was held or will be held under Welfare and Institutions Code sections 361.22 or 727.12.

Analysis/Rationale

Jurisdictional forms. Senate Bill 1085 reorganized Welfare and Institutions Code section 300(b). The bill added a new subpart (b)(2) (prohibiting courts from finding a child to be described by Welfare and Institutions Code section 300(b) solely due to homelessness or

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.

indigence or other conditions of financial difficulty, including but not limited to poverty, the inability to provide or obtain clothing, home or property repair, or childcare) and renumbered the remaining subparagraphs. What was previously codified in section 300(b)(2) pertaining to sexually trafficked children is now codified in section 300(b)(4). The renumbering of the subparagraph on sexually trafficked children requires the renumbering of check boxes and a heading on forms JV-100, JV-101(A), JV-110, and JV-121.

Initial Appearance Hearing—Juvenile Delinquency (form JV-642). As noted above, JV-642 was revised by the council at its meeting on October 1, 2021, with an effective date of the same day. In that proposal, line 32 was changed to “The child is placed in a short-term residential therapeutic program. A hearing to review the placement under Welfare and Institutions Code section 727.12 will be set or is set for *(date)*.” Rather than renumbering the remaining items on the form, this new addition inadvertently replaced the then-existing item 32, which was the finding that “Reasonable efforts to prevent or eliminate the need for detention of the child have have not been made.”² The removal of this finding was an oversight (and therefore was not addressed in the report to the Judicial Council at the time of the prior revision). The finding is required to be considered at an initial appearance hearing under Welfare and Institutions Code section 636 (see subdivision (d)(2)(B)). As noted above, the council had previously approved that item on this form, and it was on the form for 15 years before being inadvertently removed. It is proposed that the finding be put back in the form as item 33 and renumbered in light of other updates made to the form. This is essentially the same position it was in before, and will keep the finding in sequential order with other required title IV-E findings.

Policy implications

The proposal furthers the policy that Judicial Council forms conform to current law. The renumbering of check boxes and a heading on the revised forms reflects the reorganization of Welfare and Institutions Code section 300(b), not substantive changes to the law, and will have no effect on policy. As to form JV-642, adding back the reasonable efforts finding will ensure that courts who use the form will make this critical finding required (and previously approved by the council) to ensure that the child’s foster care placement will be eligible for title IV-E federal funding.

Comments

The recommended revisions contained in this proposal have not circulated for public comment because the proposal satisfies the requirement of rule 10.22(d)(2) that allows the council to approve proposals without circulation (minor substantive changes unlikely to create controversy). In light of that, and the fact that the relevant statutory renumbering goes into effect

² The reasonable efforts to prevent removal finding is a critical finding for federal foster care funding eligibility. If the finding is not made within 60 days of the child’s removal from the home of the parent or guardian, the case will not be eligible for federal funding. 45 C.F.R. § 1356.21(b)(1)(ii).

February 1, 2023, the committee recommends that the council adopt the recommended revisions so they can go into effect quickly.

Alternatives considered

The committee did not consider any alternatives to the recommended actions because the renumbering of the statutory reference makes the forms consistent with the statute and the change to form JV-642 is a necessary correction of an inadvertent error.

Fiscal and Operational Impacts

Although implementation of SB 1085 may necessitate training and reprogramming of case management systems for child welfare agencies and the courts, this forms proposal should not have any fiscal or operational impact on courts or litigants other than the costs of replacing outdated forms. In implementing the revised forms, courts will incur standard reproduction costs. The proposal does not have any fiscal or operational impacts unrelated to the underlying legislation. The correction to JV-642 will likewise have no fiscal or operational impact on courts or litigants.

Attachments and Links

1. Forms JV-100, JV-101(A), JV-110, JV-121, JV-642, at pages 5–15
2. Link A: Sen. Bill 1085,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1085

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-100.v2.112222.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
JUVENILE DEPENDENCY PETITION (VERSION ONE) (Welf. & Inst. Code, § 300 et seq.) <input type="checkbox"/> § 300—Original <input type="checkbox"/> § 342—Subsequent <input type="checkbox"/> § 387—Supplemental	CASE NUMBER: RELATED CASE (if any):

1. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (check applicable boxes; see attachment 1a for concise statements of facts): <input type="checkbox"/> (a) <input type="checkbox"/> (b)(1) <input checked="" type="checkbox"/> (b)(4) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)			
b. Child's name:		c. Age:	d. Date of birth:
e. Gender:			
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
j. Prior to intervention, child resided with <input type="checkbox"/> parent (name): <input type="checkbox"/> parent (name): <input type="checkbox"/> guardian (name): <input type="checkbox"/> Indian custodian (name): <input type="checkbox"/> other (state name, address, and relationship to child):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (address): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other		

2. Indian Child Welfare Act Inquiry (check one):

- a. I have asked as to whether the child is or may be a member of an Indian tribe or eligible for membership and the biological child of a member and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
- b. On information and belief, I am aware that inquiry has been completed by (insert name) and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.

(See important notice on page 2.)

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

2. c. Inquiry about whether the child is or may be a member of an Indian tribe or eligible for membership and the biological child of a member has not yet been completed for the reasons set out below. I am aware of the ongoing duty to complete this inquiry and will complete the *Indian Child Inquiry Attachment* (form ICWA-010(A)) and submit it to the court as soon as possible.

3. Petitioner requests that the court find these allegations to be true.

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 PETITIONER)

Address and telephone number *(if different person signing than listed in caption above)*:

Number of pages attached: _____ Other children are listed on *Additional Children Attachment* (form JV-101(A))

— NOTICE —

TO PARENT

Your parental rights may be permanently terminated. To protect your rights, you must appear in court and answer this petition.

**TO PARENTS OR OTHERS LEGALLY RESPONSIBLE
FOR THE SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for you or your child by a public defender or other attorney, and the cost of supervision of your child by order of the juvenile court.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

4. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (check applicable boxes; see attachment 3a for concise statements of facts):
 (a) (b)(1) (b)(4) (c) (d) (e) (f) (g) (h) (i) (j)

b. Child's name:	c. Age:	d. Date of birth:	e. Gender:
------------------	---------	-------------------	------------

Information is the same as that given for the child in item 1. (If not the same, provide different information below.)

f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.
j. Prior to intervention, child resided with <input type="checkbox"/> parent (name): <input type="checkbox"/> parent (name): <input type="checkbox"/> guardian (name): <input type="checkbox"/> Indian custodian (name): <input type="checkbox"/> other (state name, address, and relationship to child):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (address): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other

5. a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (check applicable boxes; see attachment 3a for concise statements of facts):
 (a) (b)(1) (b)(4) (c) (d) (e) (f) (g) (h) (i) (j)

b. Child's name:	c. Age:	d. Date of birth:	e. Gender:
------------------	---------	-------------------	------------

Information is the same as that given for the child in item 1. (If not the same, provide different information below.)

f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.
j. Prior to intervention, child resided with <input type="checkbox"/> parent (name): <input type="checkbox"/> parent (name): <input type="checkbox"/> guardian (name): <input type="checkbox"/> Indian custodian (name): <input type="checkbox"/> other (state name, address, and relationship to child):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (address): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

6. Indian Child Welfare Act Inquiry (*check one*):

- a. I have asked as to whether the child is or may be a member of an Indian tribe or eligible for membership and the biological child of a member, and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
- b. On information and belief, I am aware that inquiry has been completed by (*insert name*) and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
- c. Inquiry about whether the child is or may be a member of an Indian tribe or eligible for membership and the biological child of a member has not yet been completed for the reasons set out below. I am aware of the ongoing duty to complete this inquiry and will complete the *Indian Child Inquiry Attachment* (form ICWA-010(A)), and submit it to the court as soon as possible.

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-110.v3.112222.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
JUVENILE DEPENDENCY PETITION (VERSION TWO) (Welf. & Inst. Code, § 300 et seq.) <input type="checkbox"/> § 300—Original <input type="checkbox"/> § 342—Subsequent <input type="checkbox"/> § 387—Supplemental	CASE NUMBER: RELATED CASE (if any):

1. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (check applicable subdivisions for each child; see attachment 1a for concise statements of facts):																															
b. <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Child's name</th> <th style="text-align: left;">Age</th> <th style="text-align: left;">Date of birth</th> <th style="text-align: left;">Gender</th> <th style="text-align: left;">Section 300 subdivisions (check all that apply):</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> <td></td> <td> <input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j </td> </tr> <tr> <td>2.</td> <td></td> <td></td> <td></td> <td> <input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j </td> </tr> <tr> <td>3.</td> <td></td> <td></td> <td></td> <td> <input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j </td> </tr> <tr> <td>4.</td> <td></td> <td></td> <td></td> <td> <input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j </td> </tr> <tr> <td>5.</td> <td></td> <td></td> <td></td> <td> <input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j </td> </tr> </tbody> </table>		Child's name	Age	Date of birth	Gender	Section 300 subdivisions (check all that apply):	1.				<input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	2.				<input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	3.				<input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	4.				<input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j	5.				<input type="checkbox"/> a <input type="checkbox"/> b(1) <input checked="" type="checkbox"/> b(4) <input type="checkbox"/> c <input type="checkbox"/> d <input type="checkbox"/> e <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/> j
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c. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	d. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged																														
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g. Prior to intervention, child resided with <input type="checkbox"/> parent (name): <input type="checkbox"/> parent (name): <input type="checkbox"/> guardian (name): <input type="checkbox"/> Indian custodian (name): <input type="checkbox"/> other (state name, address, and relationship to child):	h. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (address): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other																														

(See important notice on page 2.)

CHILD'S NAME:	CASE NUMBER:
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2. Indian Child Welfare Act Inquiry (*check one*):

- a. I have asked whether the child is or may be a member of an Indian tribe or eligible for membership and the biological child of a member, and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
- b. On information and belief, I am aware that inquiry has been completed by (*insert name*): and the *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
- c. Inquiry about whether the child is or may be a member of an Indian tribe or eligible for membership, and the biological child of a member has not yet been completed for the reasons set out below. I am aware of the ongoing obligation to complete this inquiry and will complete the *Indian Child Inquiry Attachment* (form ICWA-010(A)), and submit it to the court as soon as possible.

3. Petitioner requests that the court find these allegations to be true.

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 PETITIONER)

Address and telephone number (*if different person signing than listed in caption above*):

Number of pages attached: _____

— NOTICE —

TO PARENT

Your parental rights may be permanently terminated. To protect your rights, you must appear in court and answer this petition.

**TO PARENTS OR OTHERS LEGALLY RESPONSIBLE
FOR THE SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for you or your child by a public defender or other attorney, and the cost of supervision of your child by order of the juvenile court.

CHILD'S NAME:	CASE NUMBER:
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FAILURE TO PROTECT
§ 300(b)

§ 300(b)(1)

The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness

- as a result of the failure or inability of his or her parent or legal guardian to supervise or protect the child adequately.
- as a result of the willful or negligent failure of the child's parent or legal guardian to supervise or protect the child adequately from the conduct of the custodian with whom the child has been left.
- by the willful or negligent failure of the parent or legal guardian to provide the child with adequate food, clothing, shelter, or medical treatment.
- by the inability of the parent or legal guardian to provide regular care for the child due to the parent's or legal guardian's mental illness, developmental disability, or substance abuse.

§ 300(b)(4)

The child's parent or guardian has failed to, or was unable to, protect the child, and the child

- has been or is being sexually trafficked, as described in section 236.1 of the Penal Code.
- has been or is receiving food or shelter in exchange for, or who is paid to perform sexual acts described in section 236.1 or 11165.1 of the Penal Code.

(State supporting facts concisely and number them 1, 2, 3, etc.):

CHILD'S NAME:	CASE NUMBER:
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10. c. (3) the probation department 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 if a hearing is set to terminate parental rights, or if the child is in a foster care or preadoptive or adoptive placement because of 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.
- d. The court finds that the child is an Indian child and a member or a citizen of, or eligible for membership in the (specify tribe): _____ tribe.
11. The mother father legal guardian Indian custodian
 Other (specify): _____
- were provided with *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 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.

CHILD'S NAME:	CASE NUMBER:
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19. a. The following allegations are admitted and found to be true:

<u>Count number</u>	<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"/>	

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 19a.

c. The following allegations are dismissed:

<u>Count number</u>	<u>Statutory violation</u>
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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-Out 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 the probation department
 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.

CHILD'S NAME:	CASE NUMBER:
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- 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. Reasonable efforts to prevent or eliminate the need for detention of the child have have not been made.
- 34. The child is placed in a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 727.12 will be set or is set for (*specify date*): _____, which is a date within 45 days of the start of the placement.
- 35. The probation department is granted the authority to authorize medical, surgical, or dental care under Welf. & Inst. Code, § 739.
- 36. The probation department is ordered to provide services that will assist with reunification of the child and the family.
- 37. The child and the parent or 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.
- 38. The mother father legal guardian Indian Custodian is/are ordered to supply the names and contact information of adult relatives to the probation department so they can be notified of the child's removal and of their options to be included in the child's life.
- 39. The probation officer must file a case plan within 60 days.
- 40. The probation department is authorized to release the child at its discretion under the following circumstances:

- 41. The court accepts transfer from the County of:
- 42. Other orders:
- 43. Child Counsel waives time for (*check all that apply*)
 jurisdiction hearing disposition hearing Other:

44. **The next hearings will be**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

- 45. The child
 - a. is ordered to return to court on the above date(s) and time(s).
 - b. remains detained.
- 46. All prior orders not in conflict, including any terms and conditions of probation, remain in full force and effect.
- 47. All appointed counsel are relieved.

Date: _____

Judicial Officer

Countersignature for detention orders (*if necessary*): _____
 Date: _____

Judge

Item Deferred