



RULES COMMITTEE

MINUTES OF OPEN MEETING

February 16, 2023

12:10 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 and Mr. Maxwell Pritt

Staff Present: Anne Ronan and Benita Downs

Others Present: James Barolo, Audrey Fancy, Sarah Fleischer-Ihn, Michael Giden, Hon. Stephanie E. Hulsey Tracy Kenny, Stephanie Lacambra, Eric Long, Kara Portnow, and Daniel Richardson

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:11 p.m., and Ms. Downs took roll call.

Approval of Minutes

- With one abstention (Commissioner Mondo), the advisory body reviewed and approved the minutes of the December 8, Rules Committee meeting.
 - With one abstention (Commissioner Mondo), the advisory body reviewed and approved the minutes of the December 13, Rules Committee meeting.
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DISCUSSION AND ACTION ITEMS (ITEMS 01-06)

Item 01

Jury Instructions: Criminal Jury Instructions (2023 Edition)

The committee reviewed a recommendation from the Advisory Committee on Criminal Jury Instructions recommending approval for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. The changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2023 edition of the Judicial Council of California Criminal Jury Instructions (CALCRIM).

Action: *The committee unanimously approved the Advisory Committee on Criminal Jury Instructions recommendation, which is to go to the Judicial Council for action at the March council meeting.*

Item 02

Rules and Forms: Technical Form Changes to Reflect Federal Poverty Guidelines

The committee reviewed a recommendation from Judicial Council staff to revise four Judicial Council forms containing figures based on the federal poverty guidelines to reflect the changes in those guidelines recently published by the federal government. Staff also recommended, at the same time, one of the forms also be revised to reflect recent additions to the qualifying public benefits listed in the fee waiver statute, Government Code section 68632(a).

Action: *The committee unanimously approved the Judicial Council staff's recommendation, which is to go to the Judicial Council for action at the March council meeting.*

Item 03

Rules Committee–Action Only

The committee reviewed a request from the Criminal Law Advisory Committee to add two projects to its annual agenda: 1) developing forms to implement the Racial Justice Act (RJA) (Assembly Bill 2542; Stats. 2020, ch. 317) and Assembly Bill 256 (Stats. 2022, ch. 739, and 2) revising the felony plea form to incorporate a waiver of the right to a trial on aggravating factors that can be used to sentence the defendant to the upper term of a criminal offense or enhancement. Because these projects will incorporate current law, the committee requested to add them to its 2023 annual agenda.

Action: *The committee unanimously approved the Criminal Law Advisory Committee's request to add two new projects to its annual agenda.*

Item 04

Juvenile Law: Secure Youth Treatment Facility Offense-Based Classification Matrix

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee to adopt a rule of court to implement Welfare and Institutions Code section 875(h), which requires the council to develop and adopt a matrix of offense-based classifications to be used by all juvenile courts when setting baseline terms for youth committed to a Secure Youth Treatment Facility (SYTF) disposition. The statute calls for the matrix to assign a baseline term of years to each offense for which a youth can be committed to an SYTF. The offenses are to be grouped into offense categories that are linked to a standard baseline term of years for each offense category. The proposed matrix in the rule will include four total offense categories, with each category assigned a range of years as the standard baseline term. To assist the court in determining a baseline term for each youth within the range, the rule sets forth criteria for the court to weigh in making its decision

Action: *The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, and recommended that it be placed on the Judicial Council discussion agenda for action at the March council meeting.*

Item 05

Miscellaneous: Technical Amendment Report

The committee reviewed a recommendation from Judicial Council staff to amend California Rules of Court, rules 8137, 8.406, 8.416, 8.730, 8.805, and 8.837; and revise forms AT-138/EJ-125, CR-290, CR-292, and JV-469. The revisions are needed as a result from typographical errors, and minor changes needed to conform to recent legislation or previous council actions. The corrections are necessary to ensure the rules and forms conform to law and to avoid causing confusion for court users, clerks, and judicial officers.

Action: *The committee unanimously approved the Judicial Council staff's recommendation, which is to go to the Judicial Council for action at the March council meeting.*

Item 06

Jury Instructions: Public Access and Publication

The Rules Committee considered comments and a final recommendation to revise California Rules of Court, rule 2.1050, to remove any implicit references to copyright and to express the council's continued interest in both free public access to its civil and criminal jury instructions and having publishers accurately publish the instructions, properly attribute the council as the source of the instructions, and not claim copyright in them. The proposal originated with a suggestion from a nonprofit organization after a change in copyright law that impacts government bodies, and was directed to the Rules Committee by the council.

Action: *The committee unanimously approved the recommendation, which is to go to the Judicial Council for action at the March council meeting.*

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:40 p.m.

Approved by the advisory body on enter date.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Judicial Branch Administration: Procedures for Submitting Contentions Regarding Administration of the Courts of Appeal

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt rule 10.1014

Committee or other entity submitting the proposal:
 Administrative Presiding Justices Advisory Committee (APJAC)

Staff contact (name, phone and e-mail): Laura Speed, 916-323-3235, laura.speed@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
 Annual agenda approved by Rules Committee on (date): N/A. In December 2022, the Hon. Tani Cantil-Sakuye referred to the APJAC for its consideration the recommendation for a proposed rule from the Appellate Caseflow Workgroup Report to the Chief Justice (December 6, 2022).
 Project description from annual agenda: N/A. The recommendation in the Appellate Caseflow Workgroup Report to the Chief Justice (December 6, 2022) was that the APJAC recommend to the Judicial Council a new or amended rule authorizing the administrative presiding justices to collectively review and address contentions that an administrative presiding justice or presiding justice has not properly managed an important matter.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*
 The APJAC concluded there is an urgent need for this rule and the new process it would introduce. It also concluded that implementation of the new process for submitting and considering contentions regarding the improper administration of a court of appeal should be effected at the earliest possible date. Moreover, because it is the administrative presiding justices themselves who will be responsible for administering the new process, there was no need to delay the effective date of the proposed rule until January 1, 2024, and possible if harm if it were not made effective at an earlier date. For these reasons, the committee recommends that following circulation for comment, and any appropriate revisions, the proposal should be submitted to the Judicial Council at its July 20-21, 2023 meeting and become effective on July 22, 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

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INVITATION TO COMMENT

SPR23-01

Title

Judicial Branch Administration: Procedures
for Submitting Contentions Regarding
Administration of the Courts of Appeal

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 10.1014

Proposed by

Administrative Presiding Justices Advisory
Committee
Hon. Patricia Guerrero, Chair

Action Requested

Review and submit comments by
May 12, 2023

Proposed Effective Date

July 22, 2023

Contact

Laura Speed, Director
916-323-3235
laura.speed@jud.ca.gov

Executive Summary and Origin

The Administrative Presiding Justices Advisory Committee is proposing a new rule to establish procedures for submitting to administrative presiding justices contentions that an administrative presiding justice or presiding justice has not properly addressed or managed an important matter related to the administration of a Court of Appeal or a division of a Court of Appeal. This proposal is based on a recommendation from the Appellate Caseflow Workgroup and would advance the efficient, effective, and just administration of the Courts of Appeal.

Background

In June 2022, Chief Justice Tani G. Cantil-Sakauye formed the Appellate Caseflow Workgroup in response to findings issued by the Commission on Judicial Performance concerning case delays in the Third Appellate District of the Court of Appeal. The workgroup was directed to review the policies, procedures, and management and administrative practices of the Courts of Appeal and to recommend measures to promote transparency, accountability, and efficiency in issuing timely judgments. Chief Justice Cantil-Sakauye also directed the workgroup to recommend measures for these courts to report metrics on case delays. The workgroup delivered a final report on December 6, 2022, that included 22 recommendations. One of the recommendations is that the Chief Justice urge the Administrative Presiding Justices Advisory

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.

Committee to recommend that the Judicial Council adopt a new rule or amend an existing rule to authorize the administrative presiding justices to collectively review and address contentions that an administrative presiding justice or presiding justice has not properly managed an important matter.¹ This proposal is intended to fulfill that recommendation.

The Proposal

The Administrative Presiding Justices Advisory Committee recommends that the Judicial Council adopt new rule 10.1014 to:

- Provide a procedure by which any person may submit a contention to the administrative presiding justices regarding an administrative presiding justice or presiding justice related to the administration of a Court of Appeal or a division of a Court of Appeal;
- Provide authority for the administrative presiding justices to collectively review and address such contentions;
- Require the cooperation of justices who are the subject of a contention under review; and
- Address the confidentiality of submitted contentions.

Purpose of the rule

Subdivision (a) of the proposed rule states its purpose. Specifically, it states that the rule would advance the objective that administrative presiding justices and presiding justices are accountable for the efficient, effective, and just administration of the Courts of Appeal and each division of the Courts of Appeal.

Procedures for submitting a contention

Subdivision (b) of the proposed rule would provide procedures for submitting a contention that an administrative presiding justice or presiding justice has not properly addressed or managed an important matter related to the administration of a Court of Appeal or a division of a Court of Appeal. Although contentions would be submitted to the administrative presiding justices collectively, any administrative presiding justice who is the subject of a contention would be recused from reviewing the contention. In addition, any administrative presiding justice or presiding justice who is the subject of such a contention would be required to cooperate with the administrative presiding justices responsible for reviewing that contention.

Under the proposed rule, anyone may submit such a contention. As noted in the advisory committee comment, the term “any person” is intended to be construed broadly and would include a judicial officer, court employee, attorney, litigant, or member of the public.

¹ Appellate Caseflow Workgroup, *Report to the Chief Justice* (Dec. 6, 2022), p. 35, https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report_Final.pdf.

The contentions that could be submitted to the administrative presiding justices under the proposed rule would be only those that relate to the *administration* of a Court of Appeal district or a division of a Court of Appeal. Contentions related to the adjudication of a specific case or the decision in a specific case would not be subject to the procedures in the proposed rule, as these are matters governed by other existing legal procedures, for example, motions and writ petitions filed in a court.

Following the receipt and review of a contention, the proposed rule would authorize the administrative presiding justices collectively to take appropriate remedial or other lawful action to address the contention. However, the rule would not require the administrative presiding justices to take any action in response to a contention. Examples of actions that the administrative presiding justices could take include recommending amendments to the California Rules of Court or operational policies of the Courts of Appeal, referring a contention to the Commission on Judicial Performance (CJP), mediation, and informal discussions with those who submitted the contention and a justice who is the subject of the contention. These are examples only and would not limit the categories of actions the administrative presiding justices could take. The proposed rule, however, would not authorize administrative presiding justices to take actions that are within the sole purview of the Supreme Court or the CJP, for example, the removal, censure, or admonishment of a justice.

Information on how to submit a contention would be posted on the judicial branch website. The committee considered it important that this information be publicly available, but did not consider it appropriate to provide more detail in the rule. This will allow the administrative presiding justices greater flexibility in determining how the information is made available. It is not intended to limit the administrative presiding justices from making the information available in ways other than posting on the judicial branch website.

Presiding justices in districts with more than one division

Generally, the administrative presiding justice of an appellate district “is responsible for leading the court, establishing policies, promoting access to justice for all members of the public, providing a forum for the fair and expeditious resolution of disputes, and maximizing the use of judicial and other resources.”²

In the three Court of Appeal districts with only one division (i.e., the Third, Fifth, and Sixth Appellate Districts), the presiding justice acts as the administrative presiding justice.³ In the three Court of Appeal districts with more than one division (i.e., the First, Second, and Fourth Appellate Districts), the Chief Justice designates a presiding justice to act as administrative presiding justice.⁴ Each division in a multidivision district is comprised of at least two associate

² Cal. Rules of Court, rule 10.1004(b). All further references to rules are to the California Rules of Court unless otherwise indicated.

³ Rule 10.1004(a)(3).

⁴ Rule 10.1004(a)(1).

justices and a presiding justice.⁵ The office of presiding justice is distinct from the office of associate justice, subject to separate appointment and confirmation.⁶

Administrative presiding justices of Courts of Appeal with more than one division in the same city and the presiding justices of all other Courts of Appeal are generally responsible for ensuring that all appellate records and briefs are promptly filed, which is important for assuring the progress of appellate matters in each district.⁷ The justices therefore have a number of duties related to applications for extensions of time for filings and to noncompliance with the California Rules of Court.⁸ The presiding justices in each division also have the responsibility to report to the CJP a justice's "[s]ubstantial failure to perform judicial duties, including any habitual neglect of duty."⁹ Presiding justices in divisions that are geographically separate¹⁰ have additional administrative responsibilities, subject to the oversight of the administrative presiding justice.¹¹

Subdivision (c) of the proposed rule is intended to be consistent with this existing governance structure and the oversight responsibilities of administrative presiding justices in districts with more than one division. The committee therefore proposes that before a person submits a contention under (b)(1) of the rule about a presiding justice of a district with more than one division, including those in geographically separate divisions, that person must first submit the contention to the administrative presiding justice of the district in which the division is located. This will provide an opportunity for the contention to be addressed by that administrative presiding justice before it is elevated to the administrative presiding justices collectively and will

⁵ Article VI, section 3 of the California Constitution provides that "[e]ach division consists of a presiding justice and 2 or more associate justices." In practice, these divisions all consist of three associate justices and a presiding justice.

⁶ See Cal. Const., art. VI, §§ 2, 3 (distinguishing the Chief Justice and presiding justice offices from the other offices of a reviewing court); Elec. Code, § 13109(i) (same; election ballot).

⁷ Rule 10.1012(a).

⁸ Rule 10.1012(b):

Notwithstanding any other rule, the administrative presiding justices and presiding justices referred to in (a) may:

- (1) Grant or deny applications to extend the time to file records, briefs, and other documents, except that a presiding justice may extend the time to file briefs in conjunction with an order to augment the record;
- (2) Order the dismissal of an appeal or any other authorized sanction for noncompliance with these rules, if no application to extend time or for relief from default has been filed before the order is entered; and
- (3) Grant relief from default or from a sanction other than dismissal imposed for the default.

⁹ Rule 10.1016(a).

¹⁰ Division Six of the Second Appellate District (in Ventura County) and Divisions Two and Three of the Fourth Appellate District (in Riverside and Orange Counties).

¹¹ Rule 10.1004(d):

Under the general oversight of the administrative presiding justice, the presiding justice of a geographically separate division:

- (1) Generally directs and supervises all of the division's court employees not assigned to a particular justice;
- (2) Has authority to act on behalf of the division regarding day-to-day operations;
- (3) Administers the division budget for day-to-day operations, including expenses for maintenance of facilities and equipment; and
- (4) Operates, maintains, and assigns space in all facilities used and occupied by the division.

allow for a prompt, efficient resolution of a contention by the administrative presiding justice who is likely to be in the best position to address the contention. If the person submitting the contention is dissatisfied with how the administrative presiding justice addresses the contention, or if the contention concerns an administrative presiding justice, the rule allows for the person to submit the contention to the administrative presiding justices collectively to address.

To assure that this procedure for an individual administrative presiding justice to accept and address contentions works, the proposed rule would require presiding justices in districts with more than one division, including those in geographically separate divisions, to cooperate with the administrative presiding justice of the district in which the division is located when the administrative presiding justice is carrying out oversight responsibilities under the rule. This requirement would parallel the responsibilities of presiding justices to cooperate in subdivision (b)(2) and is consistent with the existing oversight authority of administrative presiding justices over presiding justices in districts with more than one division.

Confidentiality

Subdivision (d) would make confidential any communication with the administrative presiding justices regarding a contention submitted under the proposed rule, or the investigation or resolution of such a contention. As noted in the advisory committee comment, providing a process for persons to submit contentions under this rule for consideration and action by administrative presiding justices, either individually or collectively, will advance the efficient, effective, and just administration of the Courts of Appeal and each division of the Courts of Appeal. Establishing the confidentiality of this procedure would be critical to encouraging persons to submit contentions with candor. The necessity for preserving the confidentiality of these procedures and communications with administrative presiding justices would outweigh the necessity for disclosure in the interest of justice. This proposed confidentiality would be consistent with the confidentiality of complaints against judges provided in rule 10.500(f)(7) of the California Rules of Court and rule 102 of the Rules of the Commission on Judicial Performance.

Alternatives Considered

The committee considering making no recommendation. For the reasons stated in the Appellate Caseflow Workgroup's report, however, enhanced oversight by the administrative presiding justices collectively, and a procedure for submitting and considering contentions about the administration of the Courts of Appeal, will help to address issues early, improve the efficient, effective, and just management of the Courts of Appeal, and strengthen confidence in the judicial branch.

Fiscal and Operational Impacts

The proposal is not expected to result in any additional costs. Although it may require some additional work by the administrative presiding justices and their staff, the committee anticipates that the work can be accomplished without additional resources.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Cal. Rules of Court, rule 10.1014, at pages 7–8

DRAFT

Rule 10.1014 of the California Rules of Court would be adopted, effective July 22, 2023, to read:

1 **Rule 10.1014. Oversight of administrative presiding justices and presiding justices**

2
3 **(a) Purpose**

4
5 Administrative presiding justices and presiding justices are accountable for the efficient,
6 effective, and just administration of the Courts of Appeal and each division of the Courts
7 of Appeal. This rule is intended to advance that objective.
8

9 **(b) Contention procedure**

- 10
11 (1) Any person who contends that an administrative presiding justice or presiding
12 justice has not properly addressed or managed an important matter related to
13 the administration of a Court of Appeal or a division of a Court of Appeal
14 may submit that contention to the administrative presiding justices
15 collectively for them to review, subject to (c)(1).
16
17 (2) Any administrative presiding justice or presiding justice who is the subject of
18 a contention under this paragraph must cooperate with the administrative
19 presiding justices responsible for reviewing that contention.
20
21 (3) Any administrative presiding justice who is the subject of a contention under
22 this paragraph is recused from reviewing the contention.
23
24 (4) Following receipt and review of a contention, the administrative presiding
25 justices collectively may take appropriate remedial or other lawful action to
26 address the contention.
27
28 (5) Information on how to submit a contention will be posted on the judicial
29 branch website.
30

31 **(c) Presiding justices in districts with more than one division**

- 32
33 (1) Before a person submits a contention under (b)(1) about a presiding justice of
34 a district with more than one division, including those in geographically
35 separate divisions, that person must first submit the contention to the
36 administrative presiding justice of the district in which the division is located
37 to provide an opportunity for the contention to be addressed by that
38 administrative presiding justice.
39
40 (2) Presiding justices in districts with more than one division, including those in
41 geographically separate divisions, must cooperate with the administrative
42 presiding justice of the district in which the division is located when the

Rule 10.1014 of the California Rules of Court would be adopted, effective July 22, 2023, to read:

1 administrative presiding justice is carrying out oversight responsibilities
2 under this rule.

3
4 **(d) Confidentiality**

5
6 Any communication with the administrative presiding justices regarding a
7 contention submitted under this rule, or the investigation or resolution of such a
8 contention, is confidential.

9
10 **Advisory Committee Comment**

11
12 **Subdivision (b).** Subdivision (b) provides a procedure by which any person may submit a contention to the
13 administrative presiding justices regarding an administrative presiding justice or presiding justice related to
14 the administration of a Court of Appeal or a division of a Court of Appeal.

15
16 **Subdivision (b)(1).** The term “any person” is intended to be construed broadly and would include a judicial
17 officer, court employee, attorney, litigant, or member of the public.

18
19 The contentions that may be submitted to the administrative presiding justices under the procedures
20 authorized by this rule are those that relate to the administration of a Court of Appeal district or a division
21 of a Court of Appeal. Contentions related to the adjudication of a specific case or the decision in a specific
22 case are not subject to the procedures in this rule.

23
24 **Subdivision (b)(4).** This paragraph authorizes the administrative presiding justices collectively to take
25 appropriate remedial or other lawful action to address the contentions submitted under the procedures in
26 this rule. However, the rule does not require the administrative presiding justices to take any action in
27 response to a contention. Examples of actions that the administrative presiding justices may take include
28 recommending amendments to the California Rules of Court or operational policies of the Courts of
29 Appeal, referring a contention to the Commission on Judicial Performance, mediation, and informal
30 discussions with those who submitted the contention and a justice who is the subject of the contention. This
31 paragraph does not authorize administrative presiding justices to take actions that are within the sole
32 purview of the Supreme Court or the Commission on Judicial Performance, for example, the removal,
33 censure, or admonishment of a justice.

34
35 **Subdivision (c).** This subdivision is intended to be consistent with an administrative presiding justice’s
36 broad oversight authority under rule 10.1004(d).

37
38 **Subdivision (d).** Providing a process for persons to submit contentions under this rule for consideration
39 and action by administrative presiding justices, either individually or collectively, will advance efficient,
40 effective, and just administration of the Courts of Appeal and each division of the Courts of Appeal.
41 Establishing the confidentiality of this procedure is critical to encouraging persons to submit contentions
42 with candor. The necessity for preserving the confidentiality of these procedures and communications with
43 administrative presiding justices outweighs the necessity for disclosure in the interest of justice. This
44 confidentiality is consistent with the confidentiality of complaints against judges provided in the California
45 Rules of Court, rule 10.500(f)(7) and the Rules of the Commission on Judicial Performance, rule 102.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

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

Title of proposal: Trial Courts: Exceptional Criminal Case Reporting

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Repeal Standard 2.2.(m)

Committee or other entity submitting the proposal:
Court Executives Advisory Committee

Staff contact (name, phone and e-mail): Leah Rose-Goodwin, 415-865-7708, leah.rose-goodwin@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): Annual agenda approved by Executive and Planning Committee on 11/28/2022.

Project description from annual agenda: CEAC Judicial Branch Statistical Information System Subcommittee: Repeal California Standards of Judicial Administration, Standard 2.2 (m)

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

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)

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- **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

SPR23-02

Title

Trial Courts: Exceptional Criminal Case Reporting

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Stds. Jud. Admin., standard 2.2

Proposed Effective Date

January 1, 2024

Proposed by

Court Executives Advisory Committee
Rebecca Fleming, Chair
Judicial Branch Statistical Information System Subcommittee
Jake Chatters, Chair

Contact

Leah Rose-Goodwin, 415-865-7708
leah.rose-goodwin@jud.ca.gov

Executive Summary and Origin

The Court Executives Advisory Committee proposes that the Judicial Council amend standard 2.2 of the California Standards of Judicial Administration to repeal subdivision (m). Standard 2.2(m) recommends that trial courts report exceptional criminal case aging in the Judicial Branch Statistical Information System (JBSIS). Currently, most courts do not follow this recommendation, because JBSIS does not allow for such reports. Because the resources required to ensure courts could follow the standard would be substantial, and potential gains of doing so appear to be limited, the committee proposes that the subdivision should be repealed.

The Proposal

Standard 2.2(m) of the California Standards of Judicial Administration advises trial courts to report exceptional criminal case aging in JBSIS. At present, the judicial branch reporting process does not follow this recommendation, and the components necessary to do so do not currently exist. No clear definition of an “exceptional criminal case” is given in the standard or elsewhere in the California Rules of the Court. Additionally, JBSIS criminal reports are not structured to receive exceptional criminal case aging data. To ensure that subdivision (m) could be followed would require Judicial Council and trial court resources. The benefits of expending these resources, though, appear to be minimal. Subdivision (m) does not include a reason for why

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exceptional criminal cases should be tracked separately from nonexceptional criminal cases or how exceptional criminal case aging statistics would be used for assessment or performance evaluation. For these reasons, the Court Executives Advisory Committee recommends amending standard 2.2 to repeal subdivision (m).

Standard 2.2: Case disposition time goals

Standard 2.2 of the California Standards of Judicial Administration provides guidance on trial court case disposition time goals. Subdivisions of this section establish time standards for unlimited civil, limited civil, small claims, unlawful detainer, felony, and misdemeanor cases. For example, subdivisions (f), (j), and (k) recommend that courts establish case management practices to dispose of all civil cases within two years, all felony cases within one year, and all misdemeanor cases within 120 days, respectively. Other subdivisions of standard 2.2 advise courts to track the aging of different case types. This tracking can then be used to evaluate adherence to the established time standards.

Subdivision (m) of standard 2.2 recommends that courts track the age of exceptional criminal cases, stating:

An exceptional criminal case is not exempt from the time goal in (j), but case progress should be separately reported under the Judicial Branch Statistical Information System (JBSIS) regulations.
(Cal. Stds. Jud. Admin., std. 2.2(m).)

This subdivision references the time goal in subdivision (j), which recommends that all felony cases be disposed of within one year of arraignment. Subdivision (m) affirms that exceptional criminal cases should also be disposed of within one year of arraignment. It asserts, though, that the age of exceptional and nonexceptional criminal cases should be tracked separately.

Subdivision (m) also recommends that the age of exceptional criminal cases be tracked in JBSIS. This subdivision is the only subdivision of standard 2.2 that explicitly recommends courts to track a type of case aging in JBSIS. Other subdivisions do not mention JBSIS reporting. Despite this advisement, exceptional criminal case aging has not been reportable in any version of JBSIS—and is not reportable in its current version, JBSIS 3.0. Although the subdivision was adopted in 2004, no case type has been designated in JBSIS to specifically record exceptional criminal cases. Additionally, no data rows have been created to track exceptional criminal case aging within existing case types.

The committee notes that subdivision 2.2 (g) (which the committee is not recommending any changes to) has similar provisions relating to exceptional civil case aging. That subdivision, however, includes a clear definition of what cases are considered in that category, as well as establishing a purpose for tracking their aging—to ensure they are disposed of under the different timeline recommended for them. More importantly, the JBSIS system includes a way to report the exceptional civil cases, although it does not do so for the exceptional criminal cases.

Alternatives Considered

As an alternative to proposing the repeal of the subdivision (m), the Court Executives Advisory Committee considered the necessary steps for ensuring that subdivision (m) is fulfilled. The Judicial Council would need to adopt a rule or standard defining an exceptional criminal case. Judicial Council staff would need to update the JBSIS data infrastructure and JBSIS manual to allow for reporting and aging such cases. Trial courts would need to review criminal cases and apply exceptional criminal case designations within their case management systems, databases, and/or statistical tools. The completion of these steps would require advisory committee time and effort to develop recommendations for a new rule or standard, Judicial Council staff time to update JBSIS, trial courts staff time to update their business and reporting procedures, and, for some trial courts, case management system vendor updates. The committee found that, because subdivision (m) provides no stated purpose, it is unclear how the expenditure of these resources would benefit the judicial branch, and so concluded that subdivision should be repealed.

Fiscal and Operational Impacts

Because the judicial branch is not currently following the recommendations in standard 2.2(m) of the California Standards of Judicial Administration, repealing that subdivision would have no fiscal or operational impacts.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

Cal. Stds. Jud. Admin., std. 2.2, at page 5

Standard 2.2. Trial court case disposition time goals

~~(a)-(l)~~ * * *

~~(m)~~ **Exceptional criminal cases**

~~An exceptional criminal case is not exempt from the time goal in (j), but case progress should be separately reported under the Judicial Branch Statistical Information System (JBSIS) regulations.~~

~~(n)(m)~~ * * *

~~(o)(n)~~ * * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/29/2023

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

Title of proposal: Appellate Procedure: Time for Electing and Filing an Appendix

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

Amend Cal. Rules of Court, rules 8.124 and 8.845; revise forms APP-001-INFO, APP-010, APP-101-INFO, and APP-110; revoke forms APP-011 and APP-111

Committee or other entity submitting the proposal:

Appellate Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, 415-865-7694, christy.simons@jud.ca.gov; Kendall Hannon, 415-865-7653, kendall.hannon@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: Consider amending rule 8.124 and revising form APP-010. Currently, rule 8.124 requires the respondent to elect an appendix within 10 days of the filing of the notice of appeal, the same deadline for the appellant to file their notice designating the record. The respondent's notice designating the record (form APP-010) is due 10 days after the appellant's notice is filed. Consider changing the deadline for the respondent to elect an appendix to be the same as the deadline for the respondent's notice designating the record. The current rule may not be well-known, and more time will likely result in more appendices being elected, which may save litigants money and courts time.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-03

Title

Appellate Procedure: Time for Electing and Filing an Appendix

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 8.124 and 8.845; revise forms APP-001-INFO, APP-010, APP-101-INFO, and APP-110; revoke forms APP-011 and APP-111

Proposed Effective Date

January 1, 2024

Contact

Christy Simons, 415-865-7694

christy.simons@jud.ca.gov

Kendall W. Hannon, 415-865-7653

kendall.hannon@jud.ca.gov

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Executive Summary and Origin

The Appellate Advisory Committee proposes amending the rules regarding appendixes to allow appellants to file an appendix before filing the opening brief and to allow respondents to elect an appendix when their other record designations are due. The changes are intended to assist courts and litigants by permitting earlier filing of an appendix, which could assist with briefing and courts' consideration of petitions for writ of supersedeas, and to provide respondents the opportunity to elect an appendix after receiving notice that the appellant has designated a clerk's transcript. The committee proposes revising several forms to reflect the rule changes and revoking two forms that would no longer be necessary. The proposal originated with suggestions from an appellate attorney in Berkeley and a bar association in San Diego.

Background

California Rules of Court, rules 8.124 and 8.845¹ authorize the use of an appendix as the record of documents from the trial court in the Court of Appeal and the superior court appellate

¹ All further rule references are to the California Rules of Court.

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.

division, respectively.² The respondent may elect an appendix as the record of documents if the appellant does not have a fee waiver for a clerk’s transcript and if the respondent’s election is timely. The rules currently require the respondent to elect an appendix within 10 days of the filing of the notice of appeal, the same time period within which the appellant must file its designation of the record. For other record designations, such as requesting additional proceedings in the reporter’s transcript, the respondent’s designation is due 10 days after the appellant’s designation is filed.

The Proposal

Respondent’s election of an appendix

Rule 8.124(a)(1)(B) allows a respondent in a civil appeal to elect to use an appendix instead of a clerk’s transcript if (1) the respondent serves and files the notice of election “within 10 days after the notice of appeal is filed”; and (2) the appellant is not granted a fee waiver for a clerk’s transcript. The respondent’s election governs—even if the appellant chooses a clerk’s transcript—unless the superior court orders otherwise. The respondent’s notice electing an appendix is due the same day as the appellant’s notice designating the record on appeal. Rule 8.845(a)(1)(B) contains identical provisions for limited civil appeals.

This proposal would amend the rules to allow respondents additional time to elect an appendix. Specifically, the deadline for respondents to elect an appendix would be changed to “within 10 days after the appellant’s notice designating the record on appeal is filed.” This is the same deadline for filing the respondent’s notice designating the record on appeal. Under the rule change, the respondent would learn whether the appellant has designated a clerk’s transcript and would then have the opportunity to elect an appendix instead.

This rule change is intended to reduce the likelihood that respondents miss their opportunity to elect an appendix; relieve superior court clerks of the burden of compiling some clerk’s transcripts, reducing their workload; and expedite appeals by eliminating the time it takes for superior court clerks to compile the clerk’s transcript. It is also consistent with the Judicial Council’s interest in finding ways to reduce appellate delays.

Respondents may prefer to proceed by an appendix rather than clerk’s transcript, particularly when they would like the appellate process to move faster. Respondents may want an appeal to proceed more quickly if, for example, the appeal was taken early in the litigation (e.g., from an order denying a petition to compel arbitration) or if they want the litigation to end sooner (e.g., they were awarded damages at trial). Respondents may also prefer to use an appendix if the record is large and they do not yet know what documents to include in the clerk’s transcript or if they do not want to incur the cost of a clerk’s transcript.

² Rule 8.845 was adopted by the Judicial Council and took effect January 1, 2021. It is modeled on rule 8.124 and mirrors it closely.

Some attorneys, however, may be unaware that respondents must elect an appendix by the same deadline that appellants must file their designation notice—just 10 days after the notice of appeal is filed and 10 days earlier than respondents’ other record designations. They may be surprised when an appellant elects a clerk’s transcript and then they learn that it is too late to elect an appendix instead. Some respondents may be unable to secure appellate counsel to be properly advised during this short time period. As a result, respondents may miss their opportunity to elect an appendix. This can have a significant impact on the length of the appeals process, given the amount of time it can take superior courts to compile the clerk’s transcript.

This rule change would impact the briefing schedule in some cases in which an appendix has been elected and no reporter’s transcript is designated. Under rule 8.212(a), if an appendix is being used and a reporter’s transcript has not been designated, an appellant in the Court of Appeal must file and serve its opening brief within 70 days after the filing of the election to use an appendix. Similarly, under rule 8.882(a), if an appendix is being used and a reporter’s transcript has not been designated, an appellant in the appellate division must file and serve its opening brief within 60 days after the filing of the election to use an appendix. Currently the rules require both parties to elect an appendix within 10 days of the filing of the notice of appeal. Under the rule change, the respondent’s election would be due 10 days later and the appellant’s time to file its opening brief would run from this later date. The committee requests feedback on this effect, or any others, of the proposed rule changes.

Rules 8.124(e)(2) and 8.845(e)(2) require a joint appendix or an appellant’s appendix to be served and filed “with the appellant’s opening brief.” The corresponding advisory committee comments to both rules explain that this requirement—that the appendix be filed with the brief—means that any extension of time to file the brief includes the same extension of time to file the appendix.

This proposal would amend the rules to allow the filing of an appendix “before or together with the appellant’s opening brief.” A clerk’s transcript is always filed before the appellant’s opening brief. Similarly allowing an appendix to be filed before the appellant’s opening brief would facilitate the preparation of the parties’ briefs in complex civil cases and assist the courts’ consideration of petitions for writ of supersedeas. The rule change would not affect the automatic extension of time for filing an appendix if the appellant has an extension of time to file the opening brief.

Forms for respondents to designate the record

Respondents in the Court of Appeal can use *Respondent’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) to request that additional documents be included in a clerk’s transcript or additional oral proceedings be included in a reporter’s transcript. To elect an appendix, respondents can use *Respondent’s Notice Electing to Use an Appendix (Unlimited Civil Case)* (form APP-011). Under the proposed rule change to allow respondents more time to elect an appendix, respondents’ choices regarding the record on appeal would all be due at the same time, obviating the need for a separate form to elect an appendix. The committee proposes revising item 1 on form APP-010 by adding a check box for respondents to indicate their election

of an appendix and adding content advising respondents that if the appellant obtains a fee waiver they cannot elect an appendix and prompting them, should their election of an appendix not be given effect, to designate any additional documents and exhibits for the clerk's transcript. Form APP-011 would be revoked.

The committee proposes making the same changes to the corresponding form for limited civil cases, *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110) and revoking *Respondent's Notice Electing to Use an Appendix (Limited Civil Case)* (form APP-111).

Information sheets

The committee also proposes revisions to two information sheets to reflect the rule changes. *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) would be revised at items 14a and 16 to indicate that a joint appendix or an appellant's appendix may be filed "before or together" with the appellant's opening brief. The form would also be revised to add a paragraph in item 25a advising the respondent that if the appellant chooses a clerk's transcript but does not have a waiver of the fee for a clerk's transcript, the respondent can choose an appendix instead of a clerk's transcript; and to choose an appendix, the respondent can fill out and file *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) within 10 days after the appellant's notice designating the record on appeal is filed.

The same changes are proposed for *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO), but with reference to *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110); see items 13b, 15, and 24d.

The committee would appreciate feedback on the proposed revisions to forms and whether separate forms to elect an appendix should be retained.

Alternatives Considered

The committee considered the alternative of not taking any action but concluded that the amendments would benefit courts, by saving time, and litigants, by saving time and expense.

The committee also considered retaining separate forms for the respondent to elect an appendix and is requesting feedback on this alternative.

Fiscal and Operational Impacts

The committee expects that fiscal and operational impacts would be minimal, but, as noted above, would like feedback on the impact of allowing respondents more time to elect an appendix. Training for court staff and changes to case management systems would likely be necessary.

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?
- Allowing the respondent more time to elect an appendix can extend the time for filing the appellant's opening brief if no reporter's transcript is being used. Is this problematic?
- Are any other record preparation or briefing procedures affected by allowing respondents more time to elect an appendix?
- Should separate forms for the respondent to elect an appendix be retained?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 8.124 and 8.845, at pages 6–9
2. Forms APP-001-INFO, APP-010, APP-011, APP-101-INFO, APP-110, and APP-111, at pages 10–51

Rules 8.124 and 8.845 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Title 8. Appellate Rules**

2
3 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

4
5 **Chapter 2. Civil Appeals**

6
7 **Article 2. Record on Appeal**

8
9 **Rule 8.124. Appendixes**

10
11 **(a) Notice of election**

- 12
13 (1) Unless the superior court orders otherwise on a motion served and filed
14 within 10 days after the notice of election is served, this rule governs if:
15
16 (A) The appellant elects to use an appendix under this rule in the notice
17 designating the record on appeal under rule 8.121; or
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19 (B) The respondent serves and files a notice in the superior court electing to
20 use an appendix under this rule within 10 days after the appellant's
21 notice of appeal designating the record on appeal is filed and no waiver
22 of the fee for a clerk's transcript is granted to the appellant. If the
23 appellant has a fee waiver, the respondent cannot elect an appendix
24 instead of a clerk's transcript.
25
26 (2) When a party files a notice electing to use an appendix under this rule, the
27 superior court clerk must promptly send a copy of the register of actions, if
28 any, to the attorney of record for each party and to any unrepresented party.
29
30 (3) The parties may prepare separate appendixes or they may stipulate to a joint
31 appendix.

32
33 **(b)–(d) * * ***

34
35 **(e) Service and filing**

- 36
37 (1) A party preparing an appendix must:
38
39 (A) Serve the appendix on each party, unless otherwise agreed by the
40 parties or ordered by the reviewing court; and
41
42 (B) File the appendix in the reviewing court.

Rules 8.124 and 8.845 of the California Rules of Court would be amended, effective January 1, 2024, to read:

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- (2) A joint appendix or an appellant’s appendix must be served and filed before or together with the appellant’s opening brief.
- (3) A respondent’s appendix, if any, must be served and filed with the respondent’s brief.
- (4) An appellant’s reply appendix, if any, must be served and filed with the appellant’s reply brief.

(f)–(g) * * *

Advisory Committee Comment

Subdivision (a). * * *
Subdivision (b). * * *
Subdivision (d). * * *

Subdivision (e). Subdivision (e)(2) requires a joint appendix to be filed with the appellant’s opening brief or before the filing of the appellant’s opening brief. The provision is intended to improve the briefing process by enabling the appellant’s opening brief to include citations to the record and, by allowing earlier filing of the appendix, to assist courts in considering petitions for supersedeas. To provide for the case in which a respondent concludes in light of the appellant’s opening brief that the joint appendix should have included additional documents, subdivision (b)(5) permits such a respondent to present in an appendix filed with its respondent’s brief (see subd. (e)(3)) any document that could have been included in the joint appendix.

Under subdivision (e)(2)–(4) an appendix is required to be filed, at the latest, “with” the associated brief. This provision is intended to clarify that an extension of a briefing period ipso facto extends the filing period of an appendix associated with the brief.

Subdivision (g). * * *

Division 4. Rules Relating to the Superior Court Appellate Division
Chapter 2. Appeals and Records in Limited Civil Cases
Article 2. Record in Civil Appeals

Rules 8.124 and 8.845 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 8.845. Appendixes**

2
3 **(a) Notice of election**

4
5 (1) Unless the superior court orders otherwise on a motion served and filed
6 within 10 days after the notice of election is served, this rule governs if:

7
8 (A) The appellant elects to use an appendix under this rule in the notice
9 designating the record on appeal under rule 8.831; or

10
11 (B) The respondent serves and files a notice in the superior court electing to
12 use an appendix under this rule within 10 days after the appellant's
13 notice of appeal designating the record on appeal is filed, and no waiver
14 of the fee for a clerk's transcript is granted to the appellant. If the
15 appellant has a fee waiver, the respondent cannot elect an appendix
16 instead of a clerk's transcript.

17
18 (2) When a party files a notice electing to use an appendix under this rule, the
19 superior court clerk must promptly send a copy of the register of actions, if
20 any, to the attorney of record for each party and to any unrepresented party.

21
22 (3) The parties may prepare separate appendixes or they may stipulate to a joint
23 appendix.

24
25 **(b)–(d) * * ***

26
27 **(e) Service and filing**

28
29 (1) A party preparing an appendix must:

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31 (A) Serve the appendix on each party, unless otherwise agreed by the
32 parties or ordered by the reviewing court; and

33
34 (B) File the appendix in the reviewing court.

35
36 (2) A joint appendix or an appellant's appendix must be served and filed before
37 or together with the appellant's opening brief.

38
39 (3) A respondent's appendix, if any, must be served and filed with the
40 respondent's brief.

41

Rules 8.124 and 8.845 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 (4) An appellant’s reply appendix, if any, must be served and filed with the
2 appellant’s reply brief.

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4 **(f)–(g) * * ***

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Advisory Committee Comment

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8 **Subdivision (a). * * ***

9

10 **Subdivision (b). * * ***

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12 **Subdivision (d). * * ***

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14 **Subdivision (e).** Subdivision (e)(2) requires a joint appendix to be filed with the appellant’s
15 opening brief or before the filing of the appellant’s opening brief. The provision is intended to
16 improve the briefing process by enabling the appellant’s opening brief to include citations to the
17 record and, by allowing earlier filing of the appendix, to assist courts in considering petitions for
18 supersedeas. To provide for the case in which a respondent concludes in light of the appellant’s
19 opening brief that the joint appendix should have included additional documents, subdivision
20 (b)(5) permits such a respondent to present in an appendix filed with its respondent’s brief (see
21 subd. (e)(3)) any document that could have been included in the joint appendix.

22

23 Under subdivision (e)(2)–(4) an appendix is required to be filed, at the latest, “with” the
24 associated brief. This provision is intended to clarify that an extension of a briefing period ipso
25 facto extends the filing period of an appendix associated with the brief.

26

27 **Subdivision (g). * * ***

APP-001-INFO Information on Appeal Procedures for Unlimited Civil Cases**GENERAL INFORMATION****1 What does this information sheet cover?**

This information sheet tells you about appeals in unlimited civil cases. These are civil cases in which the amount of money claimed is more than \$25,000, as well as other types of cases, such as those filed in family court, probate court, and juvenile court.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read "Information for the Appellant," starting on page 3. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read "Information for the Respondent," starting on page 13.

This information sheet does not cover everything you may need to know about appeals in unlimited civil cases. It gives you a general idea of the appeal process. To learn more:

- Read [rules 8.100–8.278](#) of the California Rules of Court, which set out the procedures for unlimited civil appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.
- Read the local rules and find out about self-help resources for the district in which you filed your appeal at www.courts.ca.gov/courtsofappeal.htm.
- Visit the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-appeals.htm.
- Review the counties included in each appellate district at www.courts.ca.gov/documents/appdistmap.pdf.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in the superior court. In an unlimited civil case, the court hearing the appeal is the Court of Appeal for the district in which the superior court is located. The lower court—called the "trial court" in this information sheet—is the superior court.

It is important to understand that **an appeal is NOT a new trial**. The Court of Appeal will not consider new evidence, such as the testimony of new witnesses or new exhibits.

The appellate court's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made.

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#))
- *Information on Appeal Procedures for Infractions* (form [CR-141-INFO](#))
- *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#))

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

3 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person's guardian or conservator).

4 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. [Code of Civil Procedure section 904.1](#) lists a few types of orders in an unlimited civil case that can be appealed right away. These include orders that:

- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum.
- Grant a new trial or deny a motion for judgment notwithstanding the verdict.
- Discharge or refuse to discharge an attachment or grant a right to attach.
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction. Note: Injunctions include restraining orders.
- Appoint a receiver.
- Are made after final judgment in the case.



- Are made appealable by the Family Code or the Probate Code.

You should consult with a lawyer or a court self-help center to determine if your order is final and appealable. Go to www.courts.ca.gov/selfhelp-selfhelpcenters.htm to find information about the self-help center in your county.

(You can view [Code of Civil Procedure section 904.1](#) using the link below:

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>.)

5 What does the appellant need to prove to win on appeal?

The appellant must prove that an error in the trial court proceedings was made and that the error affected the outcome of the court's or jury's decision. An error that affected the outcome of the case is called a "prejudicial error."

An error can include things like errors made by the judge about the law, errors or misconduct by the lawyers or by the jury, incorrect instructions given to the jury, or insufficient evidence to support the judgment, order, or other decision being appealed. Note: This is not a complete list of all possible errors.

When the appellant argues that the error was based on insufficient evidence to support the judgment or other decision being appealed, the Court of Appeal will determine whether there was "substantial evidence" to support the judgment, order, or other decision being appealed. But in conducting its review, the Court of Appeal only looks to see if there was evidence that reasonably supports the decision.

The Court of Appeal generally will not reconsider the jury's or the trial court's conclusions about which side had more or stronger evidence or whether witnesses were believable. It only determines whether the evidence is sufficient to support the judgment, order, or other decision.

The Court of Appeal will generally not overturn the judgment, order, or other decision being appealed unless the record shows a prejudicial error was made. The winning party does not have to prove that the judgment, order, or other decision was correct. Instead, it is up to the appellant to prove that the error was made and that the error affected the outcome of the case.

6 Do I need a lawyer to represent me in an appeal?

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court.

However, if you need to keep your contact information private (for instance, in an appeal involving a domestic violence restraining order), you may give a different mailing address instead. But if you use a different address, be sure to check it regularly to stay informed about your case and about your obligations regarding your case.

You must keep the Court of Appeal, the trial court (if the trial court proceedings continue or are expected to continue), and the other parties in your case informed of any change in your contact information for service of notices and other documents relating to the appeal.

For your trial court case, you may complete *Notice of Change of Address or Other Contact Information* ([form MC-040](#)), file it in the trial court, and have it served on the parties in the case.

For your case in the Court of Appeal, you may refer to form MC-040 as an example of the information that you need to include in a notice regarding the change in your contact information. That notice must be filed in the Court of Appeal and served on the parties in the appellate case.

7 Where can I find a lawyer to help me with my appeal?

You have to hire your own lawyer if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm in the Getting Started section.



INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in an unlimited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 13 of this information sheet.

8 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* (form APP-002) to prepare a notice of appeal in an unlimited civil case. You can get form APP-002 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

9 How do I “serve and file” the notice of appeal?

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or send (by mail or electronically) the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court.

Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

10 Is there a deadline to serve and file my notice of appeal?

Yes. Generally, in an unlimited civil case, the notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court within **60 days** after the trial court clerk or a party serves either (1) a document called a “Notice of Entry” of the trial court judgment or appealable order or (2) a file-stamped copy of the judgment or appealable order.

If the clerk or a party served neither of these documents, the notice of appeal must be filed within 180 days after entry of judgment or appealable order (generally, the date the judgment or appealable order is file-stamped).

This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the Court of Appeal will not be able to consider your appeal.

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a “cross-appeal.”

To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later. A party that wishes to cross-appeal may use *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* (form APP-002) to file this notice in an unlimited civil case.

11 Do I have to pay a fee to file a notice of appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in an unlimited civil case in the current Statewide Civil Fee Schedule at www.courts.ca.gov/7646.htm (see the “Appeal and Writ Related Fees” section near the end of the schedule).



If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

12 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money, deliver property to another party, or comply with child custody or visitation orders (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at www.leginfo.legislature.ca.gov/faces/codes.xhtml). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request or some other procedure authorizes a stay (such as filing a bond in appropriate cases).

In most cases, if the trial court denies your request for a stay, you can apply to the Court of Appeal for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

13 What do I need to do after I file my notice of appeal?

Within 15 days after the trial court clerk mails a notice that a notice of appeal has been filed in an unlimited civil case, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form [APP-004](#)), attaching a copy of the judgment or appealed order that shows the date it was entered. See [rules 8.100](#) and [8.104](#) of the California Rules of Court.

In addition, since the Court of Appeal justices were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the Court of Appeal for its review.

Within 10 days of filing the notice of appeal, the appellant must tell the trial court in writing (designate) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. You will need to designate all parts of the record that the Court of Appeal will need to decide the issues you raised in the appeal.

You can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to designate the record in an unlimited civil case. You can get form APP-003 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. “Serving and filing” this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or send (by mail or electronically) the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.



You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

14 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of the documents filed in the trial court (other than exhibits);
- A record of what was said in the trial court (this is called the “oral proceedings”); and
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court.

Read below for more information about these parts of the record.

a. Record of the documents filed in the trial court

The first part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the Court of Appeal:

- A *clerk’s transcript* or an *appendix*,
- The original *trial court file*, or
- An *agreed statement*.

Read below for more information about these options.

(1) Clerk’s transcript or appendix

Description: A clerk’s transcript is a compilation of the documents filed in the trial court that is prepared by the trial court clerk. An appendix is a compilation of these documents prepared by a party. (Cal. Rules of Court, [rule 8.124](#).)

Contents: Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in [rule 8.122\(b\)](#) and [rule 8.124\(b\)](#) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)).

Clerk’s transcript. If you want any documents other than those listed in [rule 8.122\(b\)](#) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form [APP-003](#) to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you (the appellant) request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk’s transcript.

Cost: The appellant is responsible for paying for preparing a clerk’s transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk’s transcript.

You must do one of the following three things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm. The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the clerk’s transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk’s transcript to the Court of Appeal for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.



Appendix: If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk’s transcript, that appendix must include all of the documents and be prepared in the form required by [rule 8.124](#) of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. The appellant’s appendix or a joint appendix must be served and filed **before or together** with the appellant’s opening brief. See **16** for information about the brief.

(2) Trial court file

When available: If the Court of Appeal has a local rule allowing this, and the parties agree, the clerk can send the Court of Appeal the original trial court file instead of a clerk’s transcript as a record of documents filed in the trial court (see [rule 8.128](#) of the California Rules of Court).

Cost: As with a clerk’s transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost.

You must do one of the following things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.court.ca.gov/forms. The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will number the pages and send the file and a list of the documents in the file to the Court of Appeal. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order and number the pages.

(3) Agreed statement

Description: An agreed statement is a summary of the trial court proceedings agreed to by the parties. (See [rule 8.134](#) of the California Rules of Court.)

When available: If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter’s transcript, if it is available.

Contents: An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal has “jurisdiction”), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a “stipulation”) that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.



b. Record of what was said in the trial court (the “oral proceedings”)

***Important!* The type of record of the oral proceedings that you choose, including a reporter’s transcript or a settled statement, should be carefully considered, as it may affect your appeal. You should consult with a lawyer to determine the best option in your case.**

The second part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the “oral proceedings”). You do not *have* to send the Court of Appeal a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the Court of Appeal to consider what was said in the trial court, the Court of Appeal will need a record of those oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the Court of Appeal will presume there was substantial evidence unless it has a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the Court of Appeal. **If the Court of Appeal does not receive this record, you may forfeit your arguments on appeal, or the Court of Appeal may make presumptions in favor of the judgment or order.**

In an unlimited civil case, you can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to tell the trial court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form [APP-003](#) at any courthouse or county law library or online at www.courts.ca.gov/forms.

There are three ways in which a record of the oral proceedings can be prepared for the Court of Appeal:

- If you or the other party arranged to have a court reporter present during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- You can use an *agreed statement*.
- You can use a *settled statement*.

Read below for more information about these options.

(1) Reporter’s transcript

Description: A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. [Rule 8.130](#) of the California Rules of Court establishes the requirements for reporter’s transcripts.

When available: If a court reporter was present in the trial court and made a record of the oral proceedings, you can choose (elect) to have the court reporter prepare a reporter’s transcript for the Court of Appeal. But a court reporter might not have been present unless you or another party in your case had made specific arrangements to have a court reporter present. If you are unsure, check with the trial court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want to be included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#))—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed



without a reporter's transcript, however, the respondent may not designate a reporter's transcript without first getting an order from the Court of Appeal.

Cost: The appellant is responsible for paying for preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.130 with the trial court clerk within 10 days after this notice is sent. (See [rule 8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#rtf.

If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a settled statement, which are described below.

Completion and delivery: After the cost of preparing the reporter's transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the Court of Appeal and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter's transcript will also be mailed to the respondent.

(2) Agreed statement

Description: An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. See [rule 8.134](#) of the California Rules of Court.

When available: If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter's transcript, if it is available.

Contents: An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a "stipulation") that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.

(3) Settled statement

Description: A settled statement is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners, referees, hearing officers, and temporary judges).

When available: Under [rule 8.137](#) of the California Rules of Court, you can choose (elect) to use a settled statement as the record of the oral



proceedings if (1) the trial court proceedings were not recorded by a court reporter or (2) if you have an order waiving your court fees and costs. Please note that it may take more of your time to prepare a settled statement than to use a reporter's transcript, if it is available.

If you want to use a settled statement as the record of the oral proceedings for reasons other than the two previously mentioned, you must file a motion to ask the trial court for an order. You may use *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) for this purpose. Read [rule 8.137](#) about the requirements of your motion or request for order.

Contents: A settled statement must include:

- A statement of the points you (the appellant) are raising on appeal;
- A condensed narrative of the oral proceedings that you specified in the notice designating the record on appeal or motion. The condensed narrative is a summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal; and
- A copy of the judgment or order you are appealing attached to the settled statement.

Preparing a proposed settled statement: If you elect to use a settled statement, you must prepare a proposed settled statement. You may use *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form [APP-014](#)) to prepare your proposed statement. You can get the form at any courthouse or county law library or online at www.courts.ca.gov/forms.

(See rule 8.137 of the California Rules of Court for more information about what must be included in a settled statement and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Serving and filing a proposed settled statement: You must serve and file the proposed statement within 30 days after filing your notice electing to use a settled statement or within 30 days after the trial court clerk sends, or a party serves, the order granting the motion to use a settled statement. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the proposed settled statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed settled statement has been served. This record is called a "proof of service." *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed settled statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.



Respondent’s review: The respondent has 20 days from the date you serve your proposed settled statement to serve and file either:

- Proposed changes (called “amendments”) to the proposed statement; or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that the respondent is electing to provide a reporter’s transcript instead of proceeding with a settled statement.

Review of appellant’s proposed settled statement: If the respondent proposes changes, the trial court judge then reviews both your proposed statement and the respondent’s proposed amendments. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal. For more information, see [rule 8.137\(f\)](#) of the California Rules of Court. See also [rule 8.140](#), which explains the consequences for a party’s failure to make corrections that are ordered to be made to the proposed statement.

Request for hearing to review proposed settled statement: No later than 10 days after the respondent files proposed amendments, or the time to do so has expired, a party may request a hearing to review and correct the proposed statement. No hearing will be held unless ordered by the trial court judge. A judge will not ordinarily order a hearing unless there is a factual dispute about a material aspect of the trial court proceeding. If there is a hearing, see [rule 8.137](#) for more information.

Additional review procedures: If there is no hearing after the respondent proposes changes to the settled statement, and if the judge makes any

corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review.

If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. See [rule 8.140](#), which explains the consequences for a party’s failure to make corrections to the proposed statement.

If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file proposed amendments or objections to the statement. The judge then reviews the modified or corrected statement and any proposed modifications. If the judge decides that further corrections or modifications are necessary, the review process described above takes place again.

Completion and certification: If the judge does not order any corrections or modifications to the proposed statement, the judge must promptly certify the statement as an accurate summary of the evidence and testimony of each witness relevant to the issues you indicated you are raising on appeal.

Alternatively, the parties may serve and file a stipulation (agreement) that the statement as originally served or corrected or modified is correct. Such a stipulation is equivalent to the judge’s certification of the statement.

Sending settled statement to the Court of Appeal: Once the trial court judge certifies the statement or the trial court receives the parties’ stipulation, the trial court clerk will send the statement to the Court of Appeal as required under [rule 8.150](#) of the California Rules of Court.



c. Exhibits

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk's transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the Court of Appeal at the time briefs are filed. (See [rule 8.224](#) for more information about this procedure and see below for information about briefs.)

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk's transcript or sent to the Court of Appeal, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

You should read [rules 8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

Contents and format of briefs: If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain the legal errors you believe were made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Each brief must be no longer than 14,000 words if produced on a computer, including footnotes. A brief produced on a typewriter must not be longer than 50 pages. The brief must contain a table of contents and a table of authorities. The cover of appellant’s opening brief filed in paper form must be green. For other content and formatting requirements for the brief, read [rules 8.40](#) and [8.204](#) of the California Rules of Court.

Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

Serving and filing: You must serve and file your opening brief within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant chooses to proceed with no reporter’s transcript under [rule 8.124](#). “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

15 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal for the district in which the trial court is located. When the Court of Appeal receives the record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

16 What is a brief?

Description: A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself.



- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk’s transcript, the appellant’s appendix or a joint appendix must be served and filed **before or together** with the appellant’s opening brief.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see [rule 8.212\(b\)](#) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension (see [rule 8.63](#) for information about extensions of time). You can use *Application for Extension of Time to File Brief (Civil Case)* (form [APP-006](#)) to ask the court for an extension.

If you do not file your brief by the deadline set by the Court of Appeal, the court may dismiss your appeal.

17 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent must respond by serving and filing a respondent’s brief. Within 20 days after the respondent’s brief was filed, you may, but are not required to, file another brief replying to the respondent’s brief. This is called a “reply brief.”

18 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

19 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in [rule 8.256](#) of the California Rules of Court and online at www.courts.ca.gov/12421.htm.

20 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

21 What should I do if I want to give up my appeal?

If you do not want to continue with your appeal, you must notify the court. If the record has not yet been filed in the Court of Appeal, file *Abandonment of Appeal (Unlimited Civil Case)* (form [APP-005](#)) in the superior court.

If the record has already been filed in the Court of Appeal, file *Request for Dismissal of Appeal (Civil Case)* (form [APP-007](#)) in the Court of Appeal.



INFORMATION FOR THE RESPONDENT

This part of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in an unlimited civil case. The information may also be helpful to the appellant.

22 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything, but there may be consequences if you do nothing. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

23 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* (form [APP-002](#)) to file this notice in an unlimited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 3 of this information sheet, if you are considering filing a cross-appeal.

24 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 60 days after service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 20 days after the clerk of the trial court serves notice of the first appeal, whichever is later.

25 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything, but there may be consequences if you do nothing. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the Court of Appeal. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record;
- Participate in preparing the record; *or*
- Ask for a copy of the record.

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question **14** above. Then read below for what your options are when the appellant has chosen that form of the record.

a. Clerk's transcript or appendix

Clerk’s transcript: If the appellant is using a clerk’s transcript, you have the option of asking the clerk to include additional documents in the clerk’s transcript. To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk’s transcript. You may use *Respondent’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-010](#)) for this purpose.



Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent.

If you cannot afford to pay this cost, you can ask the trial court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The trial court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit payment for the cost or obtain a fee waiver.

Appendix: If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent's appendix. See pages 5–6 for more information about preparing an appendix.

If the appellant chooses a clerk's transcript but does not have a waiver of the fee for a clerk's transcript, you can choose an appendix instead of a clerk's transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) within 10 days after the appellant's notice designating the record on appeal is filed.

b. Reporter's transcript

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript. You may use *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-010](#)) for this purpose.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by [rule 8.130](#) with the trial court clerk within 10 calendar days after this notice is sent. (See [rule 8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#trf.

The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or provide one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

c. Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 40 days after the appellant files its notice of appeal. See [rule 8.134](#) of the California Rules of Court.

d. Settled statement

If the appellant elects to use a settled statement (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed settled statement to review. You will have 20 days from the date the appellant served you this proposed statement to serve and file either:



- Suggested changes (called “amendments”) that you think are needed to make sure that the settled statement provides an accurate summary of the evidence and testimony of each witness relevant to the issues the appellant is raising on appeal (see page 10 of this form and [rule 8.137\(e\)–\(h\)](#) for more information about the amendment process); or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that you are choosing to provide a reporter’s transcript, at your expense, instead of proceeding with a settled statement (see [rule 8.137\(e\)\(2\)](#) for the requirements for choosing to provide a reporter’s transcript).

Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

26 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal. When the Court of Appeal receives this record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself.

You should read [rules 8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

The appellant serves and files the first brief, called an “appellant’s opening brief.” You must respond by serving and filing a “respondent’s brief” within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record.



The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see rule 8.212(b) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension. You can use *Application for Extension of Time to File Brief (Unlimited Civil Case)* (form [APP-006](#)) to ask the court for an extension.

If you do not file a respondent's brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

If you file a respondent's brief, the appellant then has an opportunity to serve and file another brief within 20 days to reply to your brief.

27 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

28 What is "oral argument"?

"Oral argument" is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to "waive" oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in [rule 8.256](#) of the California Rules of Court and online at www.courts.ca.gov/12421.htm.

29 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal's decision.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT 03/09/2023 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER PARENT/PARTY:		
RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)		
Re: Appeal filed on (date):		SUPERIOR COURT CASE NUMBER: COURT OF APPEAL CASE NUMBER (if known):

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

The appellant has chosen to use a clerk's transcript under rule 8.122. (You must check a or b):

- a. I agree to a clerk's transcript. (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents in item 2.)
- b. If the appellant has not been granted a waiver of the fee for a clerk's transcript, I choose an appendix as the record of documents under rule 8.124 instead of a clerk's transcript. (If the appellant has been granted a waiver of the fee for a clerk's transcript, you may not choose an appendix; a clerk's transcript will be used. If a clerk's transcript is used and you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents in item 2.)

2. CLERK'S TRANSCRIPT

The parties will use a clerk's transcript under rule 8.122.

- a. **Additional documents.** In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents from the superior court proceedings. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		

See additional pages. (Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 2(a)," and start with number (8).)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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2. b. **Additional exhibits.** In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. *(For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Rule 8.122(a)(3).))*

Exhibit Number	Description	Admitted (Yes/No)
(1)		
(2)		
(3)		
(4)		

See additional pages. *(Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 2(b)," and start with number (5).)*

- c. **Copy of clerk's transcript.** I request a copy of the clerk's transcript. *(Check (1) or (2).)*
- (1) I will pay the superior court clerk for this transcript when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, I will not receive a copy.
- (2) I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record *(check (a) or (b))*:
- (a) An order granting a waiver of court fees and costs under rules 3.50–3.58; or
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58. *(Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)*

3. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

The appellant has chosen to use a reporter's transcript under rule 8.130.

- a. **Designation of additional proceedings.** *(If you want any oral proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.)*
- (1) In addition to the proceedings designated by the appellant, I request that the following proceedings in the superior court be included in the reporter's transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)*

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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3. a. (1) *(continued)*

	Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(a)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)						<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. *(Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 3a(1)," and start with letter (h).)*

(2) Deposit for additional proceedings.

I have *(check a, b, c, or d)*:

- (a) Deposited with the superior court clerk the approximate cost of preparing the additional proceedings by including the deposit with this notice as provided in rule 8.130(b)(1).
- (b) Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) Attached the reporter's written waiver of a deposit under rule 8.130(b)(3)(A) for *(check either (i) or (ii))*:
 - (i) All of the designated proceedings.
 - (ii) Part of the designated proceedings.
- (d) Attached a certified transcript under rule 8.130(b)(3)(C).

b. Copy of reporter's transcript.

- (1) I request a copy of the reporter's transcript.
- (2) I request that the reporters provide *(check (a), (b), or (c))* :
 - (a) My copy of the reporter's transcript in electronic format.
 - (b) My copy of the reporter's transcript in paper format.
 - (c) My copy of the reporter's transcript in electronic format and a second copy of the reporter's transcript in paper format.

(Code Civ. Proc., § 271.)

Date:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF RESPONDENT OR ATTORNEY)
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ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

PLAINTIFF/PETITIONER:
DEFENDANT/RESPONDENT:

**RESPONDENT'S NOTICE ELECTING TO USE AN APPENDIX
(UNLIMITED CIVIL CASE)**

SUPERIOR COURT CASE NUMBER:

RE: Appeal filed on (*date*):

COURT OF APPEAL CASE NUMBER (*if known*):

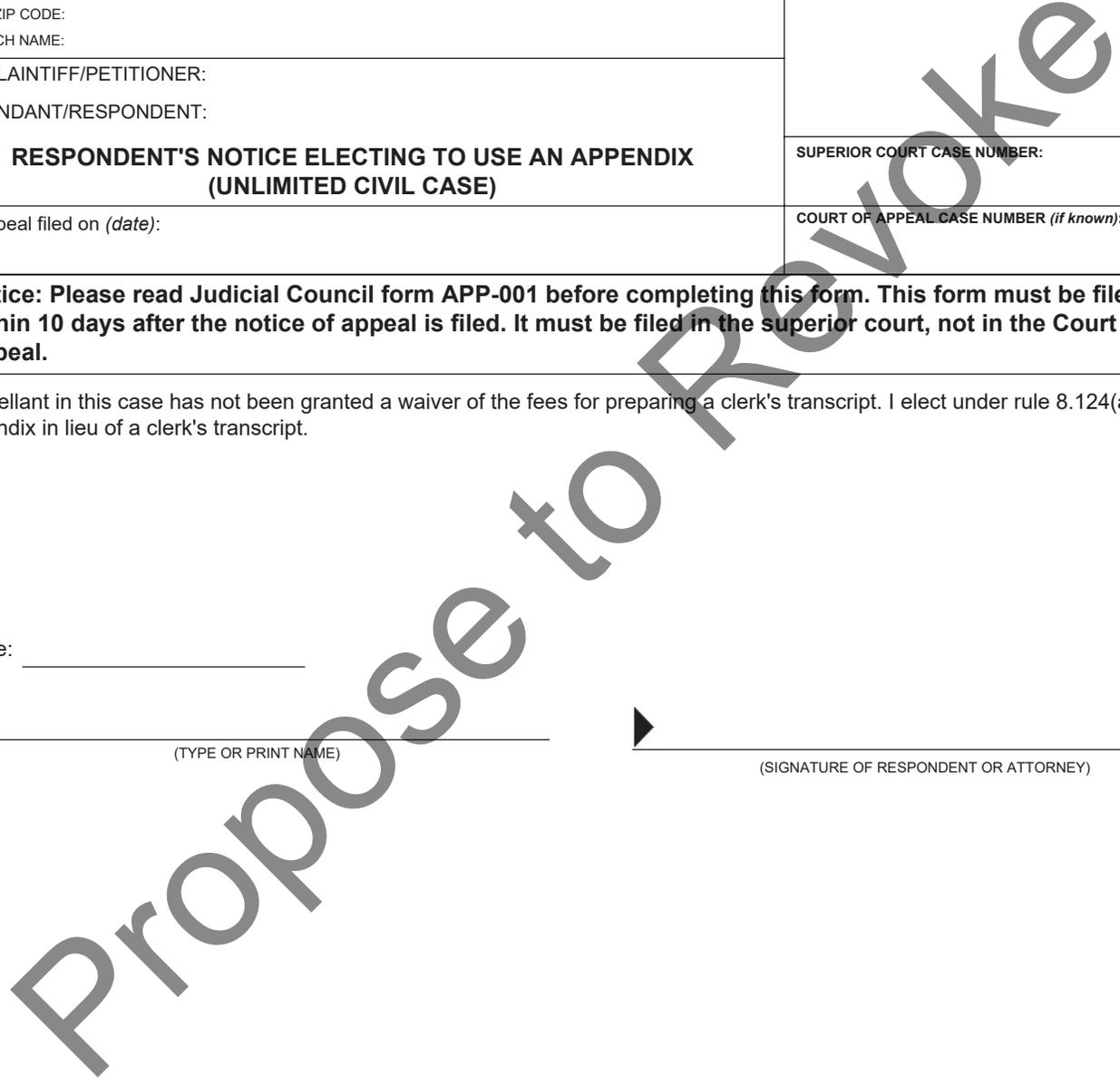
Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed within 10 days after the notice of appeal is filed. It must be filed in the superior court, not in the Court of Appeal.

The appellant in this case has not been granted a waiver of the fees for preparing a clerk's transcript. I elect under rule 8.124(a) to use an appendix in lieu of a clerk's transcript.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF RESPONDENT OR ATTORNEY)



GENERAL INFORMATION**1 What does this information sheet cover?**

This information sheet tells you about appeals in limited civil cases. These are civil cases in which the amount of money claimed is \$25,000 or less.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read Information for the Appellant, starting on page 2. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read Information for the Respondent, starting on page 11.

This information sheet does not cover everything you may need to know about appeals in limited civil cases. It is meant only to give you a general idea of the appeal process. To learn more, you should read rules 8.800–8.843 and 8.880–8.891 of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. **In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made:

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001)
- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”).

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the jury's or trial court's conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.

3 Do I need a lawyer to represent me in an appeal?

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

4 Where can I find a lawyer to help me with my appeal?

You have to hire your own attorney if you want one. You can get information about finding an attorney on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm in the Getting Started section.

INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 11 of this information sheet.

5 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person’s guardian or conservator).

6 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. Code of Civil Procedure section 904.2 lists a few types of orders in a limited civil case that can be appealed right away. These include orders that:

- Change or refuse to change the place of trial (venue)
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum
- Grant a new trial or deny a motion for judgment notwithstanding the verdict
- Discharge or refuse to discharge an attachment or grant a right to attach
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction
- Appoint a receiver
- Are made after final judgment in the case

(You can get a copy of Code of Civil Procedure section 904.2 at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.)

7 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to prepare a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or online at www.courts.ca.gov/forms.

8 How do I “serve and file” the notice of appeal?

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally

delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or mail the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

9 Is there a deadline to file my notice of appeal?

Yes. In a limited civil case, except in the very limited circumstances listed in rule 8.823, you must file your notice of appeal within **30 days** after the trial court clerk or a party serves either a document called a “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within 90 days after entry of the judgment, whichever is earlier.

This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.

10 Do I have to pay to file an appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in a limited civil case in the current Statewide Civil Fee Schedule linked at www.courts.ca.gov/7646.htm (note that the “Appeal and Writ Related Fees” section is near the end of this schedule and that there are different fees for limited civil cases depending on the amount demanded in the case). If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

11 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money or to deliver property to another party (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at www.leginfo.legislature.ca.gov/faces/codes.xhtml). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. In most cases, other than unlawful detainer cases in which the trial court’s judgment gives a party possession of the property, if the trial court denies your request for a stay, you can apply to the appellate division for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

12 What do I need to do after I file my notice of appeal?

You must ask the clerk of the trial court to prepare and send the official record of what happened in the trial court in your case to the appellate division.

Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the appellate division for its review. You can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. "Serving and filing" this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or mail the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

13 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of what was said in the trial court (this is called the "oral proceedings")
- A record of the documents filed in the trial court (other than exhibits)
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

Read below for more information about these parts of the record.

a. Record of what was said in the trial court (the "oral proceedings")

The first part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the "oral proceedings"). You do not *have* to send the appellate division a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of those oral proceedings. For example, if you are claiming that there was not evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what was said in the trial court and it may dismiss your appeal.**

In a limited civil case, you can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form APP-103

at any courthouse or county law library or online at www.courts.ca.gov/forms.

There are four ways in which a record of the oral proceedings can be prepared for the appellate division:

- If you or the other party arranged to have a court reporter there during the trial court proceedings, the reporter can prepare a record, called a “reporter’s transcript.”
- If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the court has a local rule permitting this and you and the other party agree (“stipulate”) to this, you can use the *official electronic recording* itself instead of a transcript.
- You can use an agreed statement.
- You can use a statement on appeal.

Read below for more information about these options.

(1) **Reporter’s transcript**

Description: A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule 8.834 of the California Rules of Court establishes the requirements relating to reporter’s transcripts.

When available: If a court reporter was there in the trial court and made a record of the oral proceedings, you can choose (“elect”) to have the court reporter prepare a reporter’s transcript for the appellate division. In most limited civil cases, however, a court reporter will not have been there unless you or another party in your case made specific arrangements to have a court reporter there. Check with the court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed without a reporter’s transcript, however, the respondent may not designate a reporter’s transcript without first getting an order from the appellate division.

Cost: The appellant is responsible for paying for preparing a reporter’s transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter’s transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk’s transcript, the court cannot waive the fee for preparing a reporter’s transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#rtf. If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a statement on appeal, which are described below.

Completion and delivery: After the cost of preparing the reporter’s transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter’s transcript will also be mailed to the respondent.

(2) Official electronic recording or transcript

When available: In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. If your case was officially recorded, you can choose (“elect”) to have a transcript prepared from the recording. Check with the trial court to see if the oral proceedings in your case were officially electronically recorded before you choose this option. If the court has a local rule permitting this and all the parties agree (“stipulate”), a copy of an official electronic recording itself can be used as the record, instead of preparing a transcript. If you choose this option, you must attach a copy of this agreement (“stipulation”) to your notice designating the record on appeal.

Contents: If you elect to use a transcript of an official electronic recording, you must identify by date (this is called “designating”) what proceedings you want included in the transcript. You can use the same form you used to tell the court you wanted to use a transcript of an official electronic recording—*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

Cost: The appellant is responsible for paying the court for the cost of either (a) preparing a transcript *or* (b) making a copy of the official electronic recording.

(a) If you elect to use a transcript of an official electronic recording, you will need to deposit the estimated cost of preparing the transcript with the trial court clerk and pay the trial court a \$50 fee. There are two ways to determine the estimated cost of the transcript:

- You can use the amounts listed in rule 8.130(b)(1)(B) for each full or half day of court proceedings to estimate the cost of making a transcript of the proceeding you have designated in your notice designating the record on appeal. Deposit this estimated amount and the \$50 fee with the trial court clerk when you file your notice designating the record on appeal.

- You can ask the trial court clerk for an estimate of the cost of preparing a transcript of the proceedings you have designated in your notice designating the record on appeal. You must deposit this amount and the \$50 fee with the trial court within 10 days of receiving the estimate from the clerk.

(b) If the court has a local rule permitting the use of a copy of the electronic recording itself, rather than a transcript, and you have attached your agreement with the other parties to do this (“stipulation”) to the notice designating the record on appeal that you filed with the court, the trial court clerk will provide you with an estimate of the costs for this copy of the recording. You must pay this amount to the trial court.

If you cannot afford to pay the cost of preparing the transcript, the \$50 fee, or the fee for the copy of the official electronic recording, you can ask the court to waive these costs. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.

Completion and delivery: After the estimated cost of the transcript or official electronic recording has been paid or waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared and the rest of the record is complete, the clerk will send it to the appellate division.

(3) Agreed statement

Description: An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. (See rule 8.836 of the California Rules of Court.)

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose (“elect”) to use an agreed statement as the record of the oral proceedings (please note that it

may take more of your time to prepare an agreed statement than to use either a reporter's transcript or official electronic recording, if they are available).

Contents: An agreed statement must explain what the trial court case was about, describe why the appellate division is the right court to consider an appeal in this case (why the appellate division has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file the agreed statement with your notice designating the record on appeal or, if you and the other parties need more time to work on the statement, you can file a written agreement with the other parties (called a "stipulation") stating that you are trying to agree on a statement. If you file this stipulation, within the next 30 days you must either file the agreed statement or tell the court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

(4) Statement on appeal

Description: A statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners and temporary judges).

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose ("elect") to use a statement on appeal as the record of the oral proceedings (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter's transcript or official electronic recording, if they are available).

Contents: A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;

- A summary of the trial court's rulings and judgment; and
- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule 8.837 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Preparing a proposed statement: If you elect to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Limited Civil Case)* (form APP-104) to prepare your proposed statement. You can get form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file the proposed statement with the trial court within 20 days after you file your notice designating the record. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed statement has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you

file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

Review and modifications: The respondent has 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the respondent. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Completion and certification: If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review. If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes or orders you to make any additional corrections to the statement, and certifies the statement as an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Sending statement to the appellate division: Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with any record of the documents filed in the trial court.

b. Record of the documents filed in the trial court

The second part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the appellate division:

- *A clerk’s transcript or an appendix*
- The original *trial court file* or
- *An agreed statement*

Read below for more information about these options.

(1) Clerk’s transcript or appendix

Description: A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court. An appendix is a record of these documents prepared by a party. (See rule 8.845 of the California Rules of Court.)

Contents: Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in rule 8.832(a) and rule 8.845(b) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103).

Clerk’s transcript: If you want any documents other than those listed in rule 8.832(a) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form APP-103 to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you—the appellant—request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other

documents the respondent wants included in the clerk's transcript.

Cost: The appellant is responsible for paying for preparing a clerk's transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk's transcript. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the clerk's transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk's transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.

Appendix: If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by rule 8.845 of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the appellate division has ordered otherwise) and file the appendix in the appellate division. The appellant's appendix or a joint appendix must be served and filed **before or together** with the appellant's opening brief. See (15) for information about the brief.

(2) Trial court file

When available: If the court has a local rule allowing this, the clerk can send the appellate division the original trial court file instead of a clerk's transcript (see rule 8.833 of the California Rules of Court).

Cost: As with a clerk's transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.

(3) Agreed statement

When available: If you and the respondent have already agreed to use an agreed statement as the record of the oral proceedings (see a(3) above) and agree to this, you can use an agreed statement instead of a clerk’s transcript. To do this, you must attach to your agreed statement all of the documents that are required to be included in a clerk’s transcript.

c. Exhibits

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103), includes a space for you to make this request. You also can ask the trial court to send original exhibits to the appellate division at the time briefs are filed (see rule 8.843 for more information about this procedure and see below for information about briefs).

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk’s transcript or sent to the appellate division, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

14 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send you a notice telling you when you must file your brief in the appellate division.

15 What is a brief?

Description: A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

Contents: If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division or 60 days from the date the appellant chooses to proceed with no reporter’s transcript under rule 8.845. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk's transcript, the appellant's appendix or a joint appendix must be served and filed **before or together** with the appellant's opening brief.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You can use *Application for Extension of Time to File Brief (Limited Civil Case)* (form APP-106) to ask the court for an extension.

If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.

16 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent may, but is not required to, respond by serving and filing a respondent's brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent files a brief, within 20 days after the respondent's brief was filed, you may, but are not required to, file another brief replying to the respondent's brief. This is called a "reply brief."

17 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the appellate division will notify you of the date for oral argument in your case.

18 What is "oral argument"?

"Oral argument" is the parties' chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to "waive" oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

19 What happens after oral argument?

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

20 What should I do if I want to give up my appeal?

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called "abandoning") your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form APP-107) to file this notice in a limited civil case. You

can get form APP-107 at any courthouse or county law library or online at www.courts.ca.gov/forms.

INFORMATION FOR THE RESPONDENT

This section of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

21 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything. The notice of appeal simply tells you that another party is appealing the trial court's decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

22 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to file this notice in a limited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 2 of this information sheet, if you are considering filing a cross-appeal.

23 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 30 days after mailing or service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 10 days after the clerk of the trial court mails notice of the first appeal, whichever is later.

24 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the appellate division. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record
- Participate in preparing the record *or*
- Ask for a copy of the record

Look at the appellant's notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question 13 above. Then read below for what your options are when the appellant has chosen that form of the record.

(a) Reporter's transcript

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit this

amount (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#trf. The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

If the appellant elects not to use a reporter's transcript, you may not designate a reporter's transcript without first getting an order from the appellate division.

(b) Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files its notice designating the record.

(c) Statement on appeal

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed statement to review. You will have 10 days from the date the appellant sent you this proposed statement to serve and file suggested changes (called "amendments") that you think are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues the appellant indicated the appellant is raising on appeal. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed amendments have been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

(d) Clerk's transcript or appendix

Clerk's transcript: If the appellant is using a clerk's transcript, you have the option of asking the clerk to include additional documents in the clerk's transcript.

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk's transcript. You may use *Respondent's Notice Designating Record on*

Appeal (Limited Civil Case) (form APP-110) for this purpose.

Whether or not you ask for additional documents to be included in the clerk’s transcript, you must pay a fee if you want a copy of the clerk’s transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk’s transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk’s notice was sent.

If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk’s transcript for you unless you deposit payment for the cost or obtain a fee waiver.

Appendix: If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent’s appendix. See pages 8–9 for more information about preparing an appendix.

If the appellant chooses a clerk’s transcript but does not have a waiver of the fee for a clerk’s transcript, you can choose an appendix instead of a clerk’s transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110) within 10 days after the appellant’s notice designating the record on appeal is filed.

25 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about

the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

The appellant serves and files the first brief, called an “appellant’s opening brief.” You may, but are not required to, respond by serving and filing a respondent’s brief within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed. You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an

extension). You can use *Application for Extension of Time to File Brief (Limited Civil Case)* (form APP-106) to ask the court for an extension.

If you do not file a respondent's brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

If you file a respondent's brief, the appellant then has an opportunity to serve and file another brief within 20 days replying to your brief.

26 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date for oral argument in your case.

“Oral argument” is the parties' chance to explain their arguments to appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide the appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in the appeal or ask the judges if they have any questions you could answer.

After oral argument is held (or the scheduled date passes if all parties waive argument), the judges of the appellate division will make a decision about the appeal. The appellate division has 90 days after oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

Respondent's Notice Designating Record on Appeal (Limited Civil Case)

Clerk stamps date here when form is filed.

DRAFT**03/09/2023****Not approved by the Judicial Council****Instructions**

- This form is only for choosing (“designating”) the record on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) or on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order that is being appealed. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of respondent (the party who is responding to an appeal filed by another party):

Name: _____

- b. Respondent’s contact information (*skip this if the respondent has a lawyer for this appeal*):

Street address: _____
Street City State ZipMailing address (*if different*): _____
Street City State Zip

Phone: _____ Email: _____

- c. Respondent’s lawyer (*skip this if the respondent does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (*if different*): _____
Street City State Zip

Phone: _____ Email: _____

Fax: _____

Information About the Appeal

- 2** On (*fill in the date*): _____ another party filed a notice of appeal in the trial court case identified in the box on page 1 of this form.



3 On (fill in the date): _____ the appellant filed an appellant’s notice designating the record on appeal.

Record of the Documents Filed in the Trial Court

4 The appellant elected (chose) to use a clerk’s transcript under rule 8.832 as the record of the documents filed in the trial court. (You must check a or b):

a. I agree to a clerk’s transcript. (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk’s transcript, you must identify those documents in item 5.)

b. If the appellant has not been granted a waiver of the fee for a clerk’s transcript, I elect (choose) to use an appendix as the record of documents under rule 8.845 instead of a clerk’s transcript. (If the appellant has been granted a waiver of the fee for a clerk’s transcript, you may not choose an appendix; a clerk’s transcript will be used. If a clerk’s transcript is used and you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk’s transcript, you must identify those documents in item 5.)

Clerk's Transcript

5 The parties will use a clerk’s transcript.

a. **Additional documents and exhibits.**

I understand that if I do not identify any additional documents or exhibits below, only the documents and exhibits designated by the appellant will be included in the clerk’s transcript.

(1) **Documents**

In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents that were filed in the trial court. (Identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

Document Title and Description	Date of Filing
(a)	
(b)	
(c)	
(d)	

Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write “APP-110, item 5a(1).”

(2) **Exhibits**

In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the trial court. (For each exhibit, give the exhibit number (such as Plaintiff’s #1 or Defendant’s A) and a brief description of the exhibit and indicate whether or not the court admitted the exhibit into evidence. If the trial court has returned a designated exhibit to a party, the party who has that exhibit must deliver it to the trial court clerk as soon as possible.)



5 a. (2) (continued)

Exhibit Number	Description	Admitted Into Evidence	
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-110, item 5a(2)."

- b. **Copy of clerk's transcript.** I request a copy of the clerk's transcript. (Check and complete (1) or (2).)
- (1) I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of the transcript.
- (2) I am asking that a copy of the clerk's transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b) and submit the checked document):
- (a) An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

Record of Oral Proceedings in the Trial Court

6 The appellant elected to use the following record of what was said in the trial court proceedings (check and complete **only one** of the following below—a, b, or c):

- a. **Reporter's Transcript.** The appellant elected to use a reporter's transcript under rule 8.834 as the record of the oral proceedings in the trial court.
- (1) **Designation of additional proceedings to be included in the reporter's transcript.** (If you want any proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.)

In addition to the proceedings designated by the appellant, I request that the following proceedings in the trial court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Description	Reporter's Name	Prev. prepared?
(a)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)				<input type="checkbox"/> Yes <input type="checkbox"/> No

Check here if you need more space to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write "APP-110, item 6a(1)."



- 6 a. *(continued)* **Copy of reporter’s transcript.** I request a copy of the reporter’s transcript.
- (2) **Certified transcripts.** I have attached to this *Respondent’s Notice Designating Record on Appeal* an original certified transcript of all the proceedings I have designated in (1). The transcript complies with the format requirements in rule 8.144 of the California Rules of Court.
- (3) **Copy of reporter’s transcript.** I request a copy of the reporter’s transcript. *(Check and complete (a) or (b).)*
- (a) I will pay for the reporter’s transcript. Within 10 days of receiving the reporter’s estimate of the cost of the transcript, I will *(check and complete (i) or (ii))*:
- (i) Deposit an amount equal to the estimated cost of the transcript with the trial court, and a fee of \$50 for the trial court to hold this deposit in trust. I understand that if I do not comply with this requirement, I will not receive a copy of the transcript.
- (ii) Pay the reporter directly and file with the trial court a copy of the written waiver of deposit signed by the reporter. I understand that if I do not comply with this requirement, I will not receive a copy of the transcript.
- (b) I am unable to afford the cost of the reporter’s transcript and am therefore applying to the Transcript Reimbursement Fund to pay for this transcript. Within 10 days of receiving the reporter’s estimate of the cost of the transcript, I will file with the trial court a copy of my application to the Court Reporters Board for payment or reimbursement from the Transcript Reimbursement Fund. I understand that within 90 days of filing my application, I must file with the trial court a copy of the provisional approval of my application or pay for the reporter’s transcript as provided in (a). I understand that if I do not comply, I will not receive a copy of the transcript.
- (4) **Format of reporter’s transcript.** I request that the reporter provide my copy of the transcript in:
- (a) Electronic format only.
- (b) Paper format only.
- (c) Electronic format and a second copy of the reporter’s transcript in paper format.

OR

- b. **Transcript From Official Electronic Recording.** The appellant elected to use the transcript from an official electronic recording as the record of the oral proceedings in the trial court under rule 8.835(b).
- (1) **Designation of additional proceedings to be included in the transcript.** *(If you want any proceedings in addition to the proceedings designated by the appellant to be included in the transcript, you must identify those proceedings here.)*

In addition to the proceedings designated by the appellant, I request that the following proceedings in the trial court be included in the transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings, and if you know it, the name of the electronic recording monitor who recorded the proceedings.)*

6 b. (1) (continued)

Date	Department	Description	Electronic Monitor's Name
(a)			
(b)			
(c)			

Check here if you need more space to describe any proceeding or to list other proceedings and attach a separate page describing or listing those proceedings. At the top of each page, write "APP-110, item 6b(1)."

(2) **Copy of the transcript from an official electronic recording.** I request a copy of this transcript. (Check and complete (a) or (b).)

(a) I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the cost of the transcript. I understand that if I do not pay for the transcript, I will not receive a copy.

(b) I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record. (Check (i) or (ii) and submit the appropriate document):

(i) An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).

(ii) An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

OR

c. **Copy of Official Electronic Recording.** The appellant and I have agreed to use the official electronic recording itself as the record of the oral proceedings in the trial court under rule 8.835(a). I request a copy of this recording. (Check and complete (1) or (2).)

(1) I will pay the trial court clerk for this copy of the recording myself when I receive the clerk's estimate of the costs of this copy.

(2) I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record. (Check (a) or (b) and submit the appropriate document):

(a) An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).

(b) An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

Date: _____

Type or print your name

Signature of respondent or attorney

Respondent's Notice Electing to Use an Appendix (Limited Civil Case)

Clerk stamps date here when form is filed.

Instructions

- This form is only for choosing (“electing”) to use an appendix as the record of the documents filed in the trial court on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You must serve and file this form **no later than 10 days** after the notice of appeal is filed.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) or on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order that is being appealed. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of respondent (the party who is responding to an appeal filed by another party):

Name: _____

- b. Respondent’s contact information (*skip this if the respondent has a lawyer for this appeal*):

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____ E-mail: _____

- c. Respondent’s lawyer (*skip this if the respondent does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Number: _____

Trial Court Case Name: _____

Information About the Appeal

- ② On *(fill in the date)*: _____ another party filed a notice of appeal in the trial court case identified in the box on page 1 of this form.
- ③ On *(fill in the date)*: _____ the appellant filed an appellant’s notice designating the record on appeal.

Record of the Documents Filed in the Trial Court

- ④ The appellant has not been granted a waiver of the fees for a clerk’s transcript. I elect under rule 8.845(a) to use an appendix instead of a clerk’s transcript under rule 8.832 as the record of the documents filed in the trial court.

Propose to Revoke

Date: _____

Type or print your name

▶ _____
Signature of respondent or attorney

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Appellate Procedure: Remote Appearances at Oral Argument in the Appellate Division

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

Amend Cal. Rules of Court, rules 8.885 and 8.929

Committee or other entity submitting the proposal:

Appellate Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, (415) 865-7694, christy.simons@jud.ca.gov; Kendall W. Hannon, (415) 865-7653, kendall.hannon@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: Consider amending rules 8.885 and 8.929 to remove outdated provisions that are inconsistent with Code of Civil Procedure section 367.75 and to facilitate remote appearances. Updating these rules has been a priority for the committee for several years; the project was deferred while emergency rules regarding remote appearances were in place. It is the understanding of the committee that efforts to facilitate remote appearances remain a priority for the judicial branch. Origin: Superior Court of Riverside County and AAC member

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-04

Title

Appellate Procedure: Remote Appearances at Oral Argument in the Appellate Division

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 8.885 and 8.929

Proposed Effective Date

January 1, 2024

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Contact

Christy Simons, 415-865-7694

christy.simons@jud.ca.gov

Kendall W. Hannon, 415-865-7653

kendall.hannon@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes updating the rules regarding oral argument in the appellate division to reflect modern videoconferencing technology and facilitate remote appearances. The current rules narrowly provide for videoconferencing at different courts to accommodate appellate division judges who would have to travel to attend oral argument in the same location. Parties are required to appear in person at the court that issued the order or judgment being appealed unless a local rule or appellate division order permits otherwise. This proposal would replace the videoconferencing provisions with broader authorization for remote appearances. The proposal originated with a suggestion from a committee member.

Background

Rule 8.885 governs oral argument in misdemeanor and limited civil appeals. The corresponding rule for infraction appeals is rule 8.929. Effective January 1, 2010, rules 8.885 and 8.929 were amended to authorize oral argument by videoconference. The proposal followed a successful program involving the Superior Courts of Lassen, Modoc, Plumas, and Sierra Counties in which one judge was selected from each county to sit on a regional appellate division. When a matter came before the regional appellate division, it was heard by a panel of the judges from the other three counties. The program utilized videoconferencing to enable the judges to participate from

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.

their home courts rather than spend the time traveling long distances to one courthouse. This innovation saved travel costs for the courts and facilitated scheduling, reducing delay for the parties.

The 2010 amendments authorize appellate divisions to provide videoconferencing on order of the court's presiding judge or the presiding judge's designee or, if permitted, by a local rule. If oral argument will be conducted by videoconference, each judge must participate at either the court that issued the order or judgment being appealed or from another court. Unless otherwise allowed, all parties must participate from the court that issued the order or judgment being appealed. The oral argument must be open to the public at the court that issued the judgment or order being appealed; public attendance may also be allowed at a court from which a judge is participating. The rules contain provisions requiring individuals who speak to be visible, audible, and identified by name, and prohibiting participation by unauthorized persons. Parties may not be charged a fee to attend oral argument by videoconference in the court that issued the judgment or order or in another court from which a judge is participating.

The Proposal

This proposal would authorize remote appearances in the appellate division. As noted, the current rules were primarily intended to address the challenges of regional appellate divisions with judges having to travel long distances to appear together in person at one court; the rules provide similar benefits in large counties with appellate division judges located in distant courthouses. However, in the years since the 2010 amendments took effect, videoconferencing technology has advanced to the point that remote video appearances using a computer, smart phone, or tablet are now possible from wherever one is located and need not be limited to courthouses. Videoconferencing also no longer needs to be limited to the panel judges.

Under the proposed amendments, the videoconferencing provisions would be replaced by a subdivision regarding remote appearances at oral argument using remote technology. "Remote technology" is defined as follows: "technology that provides for the transmission of video and audio signals or audio signals alone. This phrase is meant to be interpreted broadly and includes a computer, tablet, telephone, cellphone, or other electronic or communications device." This definition matches the definition of "remote technology" in rule 3.672, the rule regarding remote proceedings in civil cases.

Consistent with the current rules authorizing videoconferencing, this proposal would allow appellate divisions to conduct oral argument in whole or in part through the use of remote technology if either a local rule authorizes it or a court orders it on the court's own motion or on application of a party. An application from a party requesting to appear remotely at oral argument must be filed within 10 days after the court sends notice of oral argument.

Provisions regarding fees again parallel those in rule 3.672. Parties who by statute are not charged court fees may not be charged a videoconference fee under Government Code section 70630. Parties with a fee waiver may not be charged a fee for remote appearances.

Updating the rules for oral argument in the appellate division would provide significant cost savings and efficiencies. Remote appearances expand access to justice by allowing parties and their attorneys to appear remotely from locations of their choosing, saving travel time and costs. During times of public emergencies, they also enable courts to perform their required functions and keep their calendars moving while protecting the health and safety of court users, court staff, and judicial officers.

Alternatives Considered

The committee considered simply deleting the outdated videoconferencing provisions that were added to the rules in 2010 but decided that expanding and updating them was a better approach. The proposed amendments would continue to authorize oral argument by videoconference but, more broadly, would authorize remote appearances by remote technology, consistent with modern business and court practices.

The committee also considered taking no action to amend the videoconferencing rules but concluded that the rules are not only outdated, but also could hinder remote appearances by parties and their attorneys. The rules regarding videoconferencing currently require parties to appear in person at the court that issued the judgment or order that is being appealed unless otherwise allowed by court order or local rule. This default to in-person appearances, with remote appearances available only by exception, no longer makes sense within the current technological landscape.

Fiscal and Operational Impacts

The rule amendments would not impose any fiscal impacts on the courts. They do not require courts to allow videoconferencing and do not require the purchase of any equipment or provider platform. Courts may choose to incur costs related to videoconferencing service providers or platforms (and may charge some parties a videoconference fee as provided by statute), or remote appearances more generally, but the committee expects that any costs would be offset by the time and cost savings and efficiencies discussed above.

Implementation impacts on courts may include the need for training, changes to case management systems, and changes to procedures for oral argument. The committee believes these operational impacts are outweighed by the benefits to courts and court users of facilitating remote appearances.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should the rules regarding remote appearances at oral argument in the appellate division include any other provisions or procedures? If so, please specify.

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, rules 8.885 and 8.929, at pages 5–11

Rules 8.885 and 8.929 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 8.885. Oral argument**

2
3 **(a) Calendaring and sessions**

4
5 (1) Unless otherwise ordered, and except as provided in (2), all appeals in which
6 the last reply brief was filed or the time for filing this brief expired 45 or
7 more days before the date of a regular appellate division session must be
8 placed on the calendar for that session by the appellate division clerk. By
9 order of the presiding judge or the division, any appeal may be placed on the
10 calendar for oral argument at any session.

11
12 (2) Oral argument will not be set in appeals under *People v. Wende* (1979) 25
13 Cal.3d 436 where no arguable issue is raised.

14
15 ~~**(b) Oral argument by videoconference**~~

16
17 ~~(1) Oral argument may be conducted by videoconference if:~~

18
19 ~~(A) It is ordered by the presiding judge of the appellate division or the~~
20 ~~presiding judge's designee on application of any party or on the court's~~
21 ~~own motion. An application from a party requesting that oral argument~~
22 ~~be conducted by videoconference must be filed within 10 days after the~~
23 ~~court sends notice of oral argument under (c)(1); or~~

24
25 ~~(B) A local rule authorizes oral argument to be conducted by~~
26 ~~videoconference consistent with these rules.~~

27
28 ~~(2) If oral argument is conducted by videoconference:~~

29
30 ~~(A) Each judge of the appellate division panel assigned to the case must~~
31 ~~participate in the entire oral argument either in person at the superior~~
32 ~~court that issued the judgment or order that is being appealed or by~~
33 ~~videoconference from another court.~~

34
35 ~~(B) Unless otherwise allowed by local rule or ordered by the presiding~~
36 ~~judge of the appellate division or the presiding judge's designee, all the~~
37 ~~parties must appear at oral argument in person at the superior court that~~
38 ~~issued the judgment or order that is being appealed.~~

39
40 ~~(C) The oral argument must be open to the public at the superior court that~~
41 ~~issued the judgment or order that is being appealed. If provided by local~~
42 ~~rule or ordered by the presiding judge of the appellate division or the~~

1 presiding judge’s designee, oral argument may also be open to the
2 public at any of the locations from which a judge of the appellate
3 division is participating in oral argument.
4

5 ~~(D) The appellate division must ensure that:~~

6
7 ~~(i) During oral argument, the participants in oral argument are~~
8 ~~visible and their statements are audible to all other participants,~~
9 ~~court staff, and any members of the public attending the oral~~
10 ~~argument;~~

11
12 ~~(ii) Participants are identified when they speak; and~~

13
14 ~~(iii) Only persons who are authorized to participate in the proceedings~~
15 ~~speak.~~

16
17 ~~(E) A party must not be charged any fee to participate in oral argument by~~
18 ~~videoconference if the party participates from the superior court that~~
19 ~~issued the judgment or order that is being appealed or from a location~~
20 ~~from which a judge of the appellate division panel is participating in~~
21 ~~oral argument.~~

22
23 **(b) Remote appearance**

24
25 (1) Definitions

26
27 (A) “Remote appearance” or “appear remotely” means the appearance of a
28 party at oral argument through the use of remote technology.

29
30 (B) “Remote technology” means technology that provides for the
31 transmission of video and audio signals or audio signals alone. This
32 phrase is meant to be interpreted broadly and includes a computer,
33 tablet, telephone, cellphone, or other electronic or communications
34 device.

35
36 (2) Oral argument may be conducted in whole or in part through the use of
37 remote technology if:

38
39 (A) It is ordered by the presiding judge of the appellate division or the
40 presiding judge’s designee on application of any party or on the court’s
41 own motion. An application from a party requesting to appear remotely
42 at oral argument must be filed within 10 days after the court sends
43 notice of oral argument under (c); or

1
2 (B) A local rule authorizes remote appearances consistent with these rules.

3
4 (3) Remote appearance fees

5
6 (A) Parties who, by statute, are not charged filing fees or fees for court
7 services may not be charged a videoconference fee under Government
8 Code section 70630 or otherwise.

9
10 (B) Parties with a fee waiver may not be charged fees for remote
11 appearances.

12
13 (i) To obtain remote appearance services without payment of a fee
14 from a vendor or a court that provides such services, a party must
15 advise the vendor or the court that they have received a fee
16 waiver from the court. If a vendor requests, the party must
17 transmit a copy of the order granting the fee waiver to the vendor.

18
19 (ii) If a party, based on a fee waiver, receives remote appearance
20 services under this rule without payment of a fee, the vendor or
21 court that provides the remote appearance services has a lien on
22 any judgment, including a judgment for costs, that the party may
23 receive, in the amount of the fee that the party would have paid
24 for the remote appearance. There is no charge for filing the lien.

25
26 (c) **Notice of argument**

27
28 (1)—Except for appeals covered by (a)(2), as soon as all parties' briefs are filed or
29 the time for filing these briefs has expired, the appellate division clerk must send a
30 notice of the time and place of oral argument to all parties. The notice must be sent
31 at least 20 days before the date for oral argument. The presiding judge may shorten
32 the notice period for good cause; in that event, the clerk must immediately notify
33 the parties by telephone or other expeditious method.

34
35 (2)—~~If oral argument will be conducted by videoconference under (b), the clerk~~
36 ~~must specify, either in the notice required under (1) or in a supplemental~~
37 ~~notice sent to all parties at least 5 days before the date for oral argument, the~~
38 ~~location from which each judge of the appellate division panel assigned to the~~
39 ~~case will participate in oral argument.~~

40
41 (d)–(e) * * *

42
43 **Advisory Committee Comment**

1
2 **Subdivision (a).** * * *

3
4 **Subdivision (b)(3).** Statutes currently provide that courts are not to charge fees to certain types of
5 parties, such as governmental entities; representatives of tribes in cases covered by the Indian
6 Child Welfare Act; and parties in certain types of cases, such as juvenile cases or actions to
7 prevent domestic violence. This rule would preclude courts from charging videoconference fees
8 to such parties as well.

9
10
11 **Rule 8.929. Oral argument**

12
13 **(a) Calendaring and sessions**

14
15 Unless otherwise ordered, all appeals in which the last reply brief was filed or the
16 time for filing this brief expired 45 or more days before the date of a regular
17 appellate division session must be placed on the calendar for that session by the
18 appellate division clerk. By order of the presiding judge or the appellate division,
19 any appeal may be placed on the calendar for oral argument at any session.

20
21 ~~**(b) Oral argument by videoconference**~~

22
23 ~~(1) Oral argument may be conducted by videoconference if:~~

24
25 ~~(A) It is ordered by the presiding judge of the appellate division or the~~
26 ~~presiding judge's designee on application of any party or on the court's~~
27 ~~own motion. An application from a party requesting that oral argument~~
28 ~~be conducted by videoconference must be filed within 10 days after the~~
29 ~~court sends notice of oral argument under (c)(1); or~~

30
31 ~~(B) A local rule authorizes oral argument to be conducted by~~
32 ~~videoconference consistent with these rules.~~

33
34 ~~(2) If oral argument is conducted by videoconference:~~

35
36 ~~(A) Each judge of the appellate division panel assigned to the case must~~
37 ~~participate in the entire oral argument either in person at the superior~~
38 ~~court that issued the judgment or order that is being appealed or by~~
39 ~~videoconference from another court.~~

40
41 ~~(B) Unless otherwise allowed by local rule or ordered by the presiding~~
42 ~~judge of the appellate division or the presiding judge's designee, all of~~

1 the parties must appear at oral argument in person at the superior court
2 that issued the judgment or order that is being appealed.

3
4 ~~(C) The oral argument must be open to the public at the superior court that
5 issued the judgment or order that is being appealed. If provided by local
6 rule or ordered by the presiding judge of the appellate division or the
7 presiding judge's designee, oral argument may also be open to the
8 public at any of the locations from which a judge of the appellate
9 division is participating in oral argument.~~

10
11 ~~(D) The appellate division must ensure that:~~

12
13 ~~(i) During oral argument, the participants in oral argument are
14 visible and their statements are audible to all other participants,
15 court staff, and any members of the public attending the oral
16 argument;~~

17
18 ~~(ii) Participants are identified when they speak; and~~

19
20 ~~(iii) Only persons who are authorized to participate in the proceedings
21 speak.~~

22
23 ~~(E) A party must not be charged any fee to participate in oral argument by
24 videoconference if the party participates from the superior court that
25 issued the judgment or order that is being appealed or from a location
26 from which a judge of the appellate division panel is participating in
27 oral argument.~~

28
29 **(b) Remote appearance**

30
31 **(1) Definitions**

32
33 **(A) "Remote appearance" or "appear remotely" means the appearance of a**
34 **party at oral argument through the use of remote technology.**

35
36 **(B) "Remote technology" means technology that provides for the**
37 **transmission of video and audio signals or audio signals alone. This**
38 **phrase is meant to be interpreted broadly and includes a computer,**
39 **tablet, telephone, cellphone, or other electronic or communications**
40 **device.**

41
42 **(2) Oral argument may be conducted in whole or in part through the use of**
43 **remote technology if:**

1
2 (A) It is ordered by the presiding judge of the appellate division or the
3 presiding judge’s designee on application of any party or on the court’s
4 own motion. An application from a party requesting to appear remotely
5 at oral argument must be filed within 10 days after the court sends
6 notice of oral argument under (c); or

7
8 (B) A local rule authorizes remote appearances consistent with these rules.

9
10 (3) Remote appearance fees

11
12 (A) Parties who, by statute, are not charged filing fees or fees for court
13 services may not be charged a videoconference fee under Government
14 Code section 70630 or otherwise.

15
16 (B) Parties with a fee waiver may not be charged fees for remote
17 appearances.

18
19 (i) To obtain remote appearance services without payment of a fee
20 from a vendor or a court that provides such services, a party must
21 advise the vendor or the court that they have received a fee
22 waiver from the court. If a vendor requests, the party must
23 transmit a copy of the order granting the fee waiver to the vendor.

24
25 (ii) If a party, based on a fee waiver, receives remote appearance
26 services under this rule without payment of a fee, the vendor or
27 court that provides the remote appearance services has a lien on
28 any judgment, including a judgment for costs, that the party may
29 receive, in the amount of the fee that the party would have paid
30 for the remote appearance. There is no charge for filing the lien.

31
32 (c) **Notice of argument**

33
34 (1)—As soon as all parties’ briefs are filed or the time for filing these briefs has
35 expired, the appellate division clerk must send a notice of the time and place of oral
36 argument to all parties. The notice must be sent at least 20 days before the date for
37 oral argument. The presiding judge may shorten the notice period for good cause;
38 in that event, the clerk must immediately notify the parties by telephone or other
39 expeditious method.

40
41 (2)—~~If oral argument will be conducted by videoconference under (b), the clerk~~
42 ~~must specify, either in the notice required under (1) or in a supplemental~~
43 ~~notice sent to all parties at least 5 days before the date for oral argument, the~~

1 location from which each judge of the appellate division panel assigned to the
2 case will participate in oral argument.

3
4 **(d)–(e)** * * *

5
6 **Advisory Committee Comment**

7
8 **Subdivision (a).** * * *

9
10 **Subdivision (b)(3).** Statutes currently provide that courts are not to charge fees to certain types of
11 parties, such as governmental entities; representatives of tribes in cases covered by the Indian
12 Child Welfare Act; and parties in certain types of cases, such as juvenile cases or actions to
13 prevent domestic violence. This rule would preclude courts from charging videoconference fees
14 to such parties as well.
15

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Appellate Procedure: Attachment of Trial Court's Order to Petition for Review of Summary Denial of Writ Petition

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

Amend Cal. Rules of Court, rule 8.504

Committee or other entity submitting the proposal:

Appellate Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, 415-865-7653, kendall.hannon@jud.ca.gov; Heather Anderson, 415-865-7803, 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): November 1, 2022

Project description from annual agenda: Consider amending rule 8.504 to allow for attachment of the entire trial court order to a petition for review of a writ petition summarily denied by the Court of Appeal. Under the current rule, the trial court order being challenged may be attached only if it does not exceed 10 pages. Attaching the entire trial court order may assist the Supreme Court's review of a summary denial of a writ petition below. Although the rule allows for attachment of the Court of Appeal order, that may be uninformative, and the review analysis may focus on the trial court order. Origin: AAC member

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

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

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

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

This proposal:

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

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

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

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

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



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INVITATION TO COMMENT

SPR23-05

Title

Appellate Procedure: Attachment of Trial Court's Order to Petition for Review of Summary Denial of Writ Petition

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 8.504

Proposed Effective Date

January 1, 2023

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Contact

Heather Anderson, 415-865-7803
heather.anderson@jud.ca.gov

Kendall W. Hannon, 415-865-7653
kendall.hannon@jud.ca.gov

Executive Summary and Origin

To facilitate review on the merits and streamline procedures, the Appellate Advisory Committee proposes amending the rule governing petitions for review in the Supreme Court to provide for attachment of the entire trial court order when petitioner seeks review of a Court of Appeal summary denial of a writ petition. Under the current rule, attachments to petitions for review may not exceed 10 pages. The proposal originated with a suggestion from an advisory committee member.

The Proposal

Rules 8.500–8.552 of the California Rules of Court govern proceedings in the Supreme Court. Rule 8.504 governs the form and contents of petitions for review, answers, and replies, including attachments. If a petition seeks review of a Court of Appeal opinion or order, that opinion or order must be attached. (Rule 8.504(e)(1)(A).)¹ In addition, the rule permits attachment of “exhibits or orders of a trial court or Court of Appeal that the party considers unusually significant” and “copies of relevant local, state, or federal regulations or rules, out-of-state

¹ The rule also provides for attaching an unpublished opinion that is required to be attached under rule 8.1115(c). (Rule 8.504(e)(1)(D).)

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.

statutes, or other similar citable materials that are not readily accessible.” (Rule 8.504(e)(1)(B), (C).) The permissible attachments under subdivision (e)(1)(B)–(C) must not exceed a combined total of 10 pages. (Rule 8.504(e)(2).)

Under rule 8.504(a), except as otherwise provided, petitions for review must also comply with format provisions in rule 8.204, the rule addressing the contents and format of briefs in the Court of Appeal. As under rule 8.504, rule 8.204(d) provides that attachments to briefs are limited to 10 pages, but also provides that “on application the presiding justice may permit additional pages of attachments for good cause.”

The Appellate Advisory Committee proposes amending rule 8.504(b) to provide for the attachment of the trial court order, regardless of its length, to a petition for review of a Court of Appeal order summarily denying a writ petition. When a Court of Appeal summarily denies a writ petition, it does not issue an opinion or address the merits of the trial court’s order. Rather, a summary denial is just that—a brief order indicating that the petition is denied. Currently, the rule requires a party seeking Supreme Court review of a summary denial to attach the Court of Appeal order and permits attachment of the trial court’s order only if it does not exceed 10 pages. However, the Supreme Court’s review of the matter would focus on the trial court’s reasoning and decision. Attachment of the complete trial court order would assist the Supreme Court in addressing the merits of the petition for review. It would also assist both the court and parties in expediting the matter, eliminating the need for an application or motion to allow attachment of a trial court order exceeding 10 pages.

Specifically, the committee proposes a new subdivision (b)(6):

If the petition seeks review of a Court of Appeal order summarily denying a writ petition, a copy of the underlying trial court order showing the date it was entered must be bound at the back of the original petition and each copy filed in the Supreme Court or, if the petition is not filed in paper form, attached.

This language mirrors the provisions of subdivisions (b)(4) and (5) providing for attachment of the Court of Appeal opinion or order that is the subject of the petition.

Alternatives Considered

The committee considered whether the rule should require attachment of the trial court’s order or merely permit it. Based on the benefits of including the complete order, including facilitating the Supreme Court’s review and streamlining procedures for the court and litigants, the committee concluded that requiring attachment was the better option. Requiring attachment of the trial court order is consistent with the rule’s requirement that the opinion or order under review be attached. Typically, that opinion or order contains the lower court’s analysis and reasoning; review of a summary denial instead focuses on the trial court’s order.

The committee also considered taking no action but concluded that there were clear benefits to amending the rule.

Fiscal and Operational Impacts

Other than training for court staff to advise them of the rule change, the committee anticipates no fiscal or operational impacts.

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 attachment of the trial court's order be permitted rather than required?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 8.504, at page 4

Rule 8.504 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 8.504. Form and contents of petition, answer, and reply**

2
3 (a) * * *

4
5 (b) **Contents of a petition**

6
7 (1)–(5) * * *

8
9 (6) If the petition seeks review of a Court of Appeal order summarily denying a
10 writ petition, a copy of the underlying trial court order showing the date it
11 was entered must be bound at the back of the original petition and each copy
12 filed in the Supreme Court or, if the petition is not filed in paper form,
13 attached.

14
15 ~~(6)~~(7) The title of the case and designation of the parties on the cover of the petition
16 must be identical to the title and designation in the Court of Appeal opinion
17 or order that is the subject of the petition.

18
19 ~~(7)~~(8) Rule 8.508 governs the form and content of a petition for review filed by the
20 defendant in a criminal case for the sole purpose of exhausting state remedies
21 before seeking federal habeas corpus review.

22
23 (c)–(d) * * *

24
25 (e) **Attachments and incorporation by reference**

26
27 (1) No attachments are permitted except:

28
29 (A) An opinion or order required to be attached under (b)~~(4) or (5)~~(4)–(6);

30
31 (B)–(D) * * *

32
33 (2) The attachments under (1)~~(B)–(C)~~(B) and (C) must not exceed a combined
34 total of 10 pages.

35
36 (3) * * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Appellate Procedure: Forms for Extension of Time

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms APP-006, APP-106, CR-126, JV-816, JV-817

Committee or other entity submitting the proposal:
 Appellate Advisory Committee

Staff contact (name, phone and e-mail): Christy Simons, (415) 865-7694, christy.simons@jud.ca.gov; Kendall W. Hannon, (415) 865-7653, kendall.hannon@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: To assist the appellate projects in managing their workload and effectively representing their clients, and to provide information that may assist the courts in responding to these requests, consider revising forms APP-006, CR-126, JV-816, and JV-817 to include space for the applicant to describe work performed on the appeal to date, to increase the space for narrative justification for an extension, to update the forms to facilitate electronic service, and to revise form CR-126 to remove the requirement that a copy of a request for an extension of time (EOT) be served on the District Attorney and the defendant. The Courts of Appeal are not requiring service of a request for an EOT on the District Attorney and the defendant, and the rules of court do not require it. Consider other suggestions for revisions to the forms. Origin: AAC member, two appellate projects, and Appellate Practice Section of the San Diego County Bar Association

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

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

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

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

This proposal:

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

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

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

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

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



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INVITATION TO COMMENT

SPR23-06

Title

Appellate Procedure: Forms for Extension of Time

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Revise forms APP-006, APP-106, CR-126, JV-816, JV-817

Proposed Effective Date

January 1, 2024

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Contact

Christy Simons, 415-865-7694

christy.simons@jud.ca.gov

Kendall W. Hannon, 415-865-7653

kendall.hannon@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes revising the forms used to request an extension of time to file a brief in the Court of Appeal and the appellate division of the superior court. The revisions would add space for the applicant to indicate the work done to date on the appeal and would correct the item on one form regarding who must be served with the application. On the civil forms, an item indicating that the case has calendar preference would be added. Finally, the item on the forms for the applicant to explain why an extension of time should be granted would be revised to require the applicant to address the relevant factors a court will use to determine whether good cause exists. The proposal originated with suggestions from the Chief Justice's Appellate Caseflow Workgroup, an appellate project, a county bar association, and a member of the Judicial Council.

The Proposal

California Rules of Court, rules 8.212, 8.360, 8.412, 8.416, and 8.417, permit parties to apply to the Court of Appeal for an extension of time to file a brief in civil, criminal, and juvenile appeals. Extensions of time to file a brief in the appellate division are permitted by rule 8.882.

This proposal would revise five optional forms that may be used to request an extension of time to file a brief:

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.

- *Application for Extension of Time to File Brief (Civil Case)* (form APP-006), in unlimited civil cases in the Court of Appeal
- *Application for Extension of Time to File Brief (Limited Civil Case)* (form APP-106), in limited civil cases in the appellate division
- *Application for Extension of Time to File Brief (Criminal Case)* (form CR-126), in criminal cases
- *Application for Extension of Time to File Brief (Juvenile Delinquency Case)* (form JV-816), in juvenile justice cases
- *Application for Extension of Time to File Brief (Juvenile Dependency Case)* (form JV-817), in juvenile dependency cases

Proof of service

The Appellate Advisory Committee proposes the proof of service statement on form CR-126 be revised to match the other applications for extension of time. Currently, item 11 on form CR-126 provides: “A proof of service of this application on all those entitled to receive a copy of the brief under rule 8.360(d)(1), (2), and (3) is attached (see rule 8.360(d).)”

However, the rule regarding extensions of time does not require service on “all those entitled to receive a copy of the brief.” Rather, it requires service on “all parties.” (See rule 8.60(c).) The forms for requesting an extension of time in civil, juvenile dependency, and juvenile justice appeals all require service on “all other parties,” not those entitled to receive a copy of the brief. Moreover, there appears to be no reason for this different service provision. The proposed revisions correct this item on the form, making it consistent with the other forms for requesting an extension of time to file a brief and relieving applicants of the burden of service on nonparties.

In addition to this change, the proposal would also revise the item requiring that a proof of service on all other parties be attached to the application on the forms used in the Court of Appeal. Forms APP-006, CR-126, JV-816, and JV-817 currently cite the rules permitting a reviewing court to order an extension of time to file a brief. The rule that requires proof of service of an extension request in the Court of Appeal (rule 8.60(c)) is better authority for this item.

Amount of work completed on the appeal

The committee proposes that all five forms include an item for the applicant to state the amount of work that has been completed on the appeal at the time of the request for an extension of time to file a brief. Providing this information would assist both the courts in considering these applications and the appellate projects in supervising the work of panel attorneys. The committee requests specific comments on this item.

Calendar preference

For civil cases in the Court of Appeal, rule 8.240 governs calendar preference: “A party seeking calendar preference must promptly serve and file a motion for preference in the reviewing court. As used in this rule, ‘calendar preference’ means an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument.” The advisory committee comment to the rule explains:

Rule 8.240 requires a party claiming preference to file a motion for preference in the reviewing court. The motion requirement relieves the reviewing court of the burden of searching the record to determine if preference should be ordered. The requirement is not intended to bar the court from ordering preference without a motion when the ground is apparent on the face of the appeal, e.g., in appeals from judgments of dependency (Welf. & Inst. Code, § 395).

The rule is broad in scope: it includes motions for preference on the grounds (1) that a statute provides for preference in the reviewing court (e.g., Code Civ. Proc., §§ 44 [probate proceedings, contested elections, libel by public official], 45 [judgment freeing minor from parental custody]); (2) that the reviewing court should exercise its discretion to grant preference when a statute provides for trial preference (e.g., *id.*, §§ 35 [certain election matters], 36 [party over 70 and in poor health; party with terminal illness; minor in wrongful death action]; see *Warren v. Schecter* (1997) 57 Cal.App.4th 1189, 1198–1199); and (3) that the reviewing court should exercise its discretion to grant preference on a nonstatutory ground (e.g., economic hardship).

(Cal. Rules of Court, rule 8.240, Advisory Com. com., italics added.)

Thus, the Court of Appeal may order calendar preference on motion of a party, or without a motion, when the ground is apparent on the face of the appeal.

The committee proposes adding an item to forms APP-006 and APP-106, the forms that may be used to request an extension of time in unlimited and limited civil cases, respectively, to allow the applicant to indicate whether the appeal is eligible for calendar preference or priority. The item would direct the applicant to cite authority (such as a statute that gives the appeal preference or priority) or to explain why the appeal should be given preference or priority. This information would assist courts in considering whether to grant an extension.

Statement of reasons for extension

The committee proposes revising forms APP-006 and CR-126 to enable courts to better evaluate whether an applicant has demonstrated good cause. Currently, all of the extension of time forms provide the applicant an open-ended prompt to state the reasons that an extension is needed. The prompt is followed by a parenthetical instruction that states that California Rules of Court, rule 8.63 (rule 8.811(b) on form APP-106) lists the factors used in determining whether an extension should be granted.

The proposal would revise the parenthetical on these forms to direct the applicant to address the factors contained in the relevant rule, including prejudice to the parties (forms APP-006, APP-106, and JV-817), defendant (form CR-126), or juvenile (form JV-816). Additionally, the committee proposes revising the parenthetical at item 10 of JV-816 to note that an exceptional showing of good cause is required in cases subject to rule 8.417.

Other corrections and additions

The proposal would correct a typographical error on form APP-106, item 4, to reflect the 15-day window for filing a brief on receipt of a notice under rule 8.882(c).

The proposal would also correct the reference to form APP-001-INFO in the notice at the top of form APP-006.

The proposal would revise item 1 on forms APP-006, CR-126, JV-816, and JV-817 and item 2 on form APP-106 to add an option for the party to seek an extension of time to file a “supplemental or other brief.” Because an extension could be sought for such a brief after the filing of the reply brief or a supplemental brief, options were added for “ARB” and “Other” to item 5 on form APP-006; item 4 on forms CR-126, JV-816, and JV-817; and item 10 on form APP-106.

The proposal would revise item 2 on forms APP-006, CR-126, JV-816, and JV-817, and item 4 on APP-106 to add the word “default” before “notice.” The committee believes that identifying the notice as a “default notice” would clarify this item.

The proposal would revise the items on the civil forms for explaining why the party is requesting an extension rather than filing a stipulation. A check box would be added to item 4 on form APP-006 and item 6 on form APP-106 for the applicant to indicate that “[t]he maximum stipulated time has already been used.”

The proposal would revise item 7 on form CR-126 to change “jury verdict” to “jury or court trial” to include convictions resulting from a court trial.

Finally, the proposal would make three nonsubstantive revisions to the forms to conform with Judicial Council style guidelines: (1) replacing the parentheticals in the title with an em dash followed by a description of the case for which the form may be used; (2) replacing the term “juvenile delinquency case” with “juvenile justice case” on form JV-816; and (3) changing the term “e-mail” to “email.”

Alternatives Considered

The Appellate Advisory Committee considered increasing the amount of space on form CR-126 for the applicant to explain why an extension is needed. The committee declined to propose this change because the item provides for the attachment of a separate declaration if more space is needed. Adding more space would push the form onto three pages, which the committee decided was not desirable.

The committee also considered the alternative of removing the item on the forms, stating that proof of service is attached. As noted by the organization that submitted the suggestion, this item may no longer be necessary because most of these forms are filed electronically. In these instances, a proof of service is generated by the electronic filing service provider and is not “attached.” The committee declined to propose this change at this time. There is no indication that parties or courts are confused by it, and the forms may still be filed in paper form by some applicants. The committee concluded it would be better practice to look at the appellate forms more broadly in a future rules cycle and decide whether changes to the proof of service provision should be made and, if so, to make the changes at one time.

The committee considered whether the forms for requesting an extension of time should be mandatory, and it seeks specific comment on whether this option should be explored in a future proposal.

The committee considered not making any changes but rejected this option because the proposed revisions would make the forms more accurate and would be helpful to both appellate projects supervising panel attorneys and courts considering these applications.

Fiscal and Operational Impacts

The committee does not anticipate any fiscal or operational impacts on the courts as a result of the proposed revisions to forms. Applicants requesting an extension of time to file a brief would need to advise the court regarding the status of work completed on the appeal at the time of the request. Implementation requirements for courts would involve making judicial officers aware of the changes.

Request for Specific Comments

In addition to comments on the proposal as a whole, the Appellate Advisory Committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the committee explore making the extension of time application forms mandatory in a future proposal?
- Regarding the proposed new item on each form for the applicant to describe the work that has been completed on the appeal:
 - Should this item be worded differently?
 - Should this item be included on the civil forms as well as the criminal and juvenile forms?
 - Should it be combined with the following item on the forms in which the applicant describes the reasons for needing an extension?
- Should the application forms in criminal, juvenile, and limited civil cases include an item regarding calendar priority/preference?

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

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

Attachments and Links

1. Forms APP-006, APP-106, CR-126, JV-816, and JV-817, at pages 7–16

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER:		SUPERIOR COURT CASE NUMBER:
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):		<h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">03.08.2023</h2> <h2 style="margin: 0;">Not approved</h2> <h2 style="margin: 0;">by Judicial</h2> <h2 style="margin: 0;">Council</h2>
APPELLANT: RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF—CIVIL CASE		
Notice: Please read Judicial Council form APP-001-INFO before completing this form.		

1. I (name): _____ request that the time to file (check one):

appellant's opening brief (AOB)
 respondent's brief (RB)
 combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
 combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
 appellant's reply brief (ARB)
 supplemental or other brief

now due on (date): _____ be extended to (date): _____

2. I have have not received a rule 8.220 default notice.

3. I have received:

no previous extensions to file this brief.
 the following previous extensions:
 (number of extensions): _____ extensions by stipulation totaling (total number of days): _____
 (number of extensions): _____ extensions from the court totaling (total number of days): _____
 Did the court mark any previous extension "no further?" Yes No

4. I am unable to file a stipulation to an extension because

the other party is unwilling to stipulate to an extension.
 the maximum stipulated time has already been used.
 other reason (please specify): _____

5. The last brief filed by any party was: AOB RB RB and AOB ARB and RB ARB Other
 filed on (date): _____

6. The record in this case is:

	Volumes (#)	Pages (#)	Date filed
Appendix/Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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7. The trial court has ordered the proceedings in this case stayed until this appeal is decided.

8. This appeal is eligible for calendar preference/priority (cite authority or explain):

9. I have completed the following work on this appeal:

10. The reasons that I need an extension to file this brief are stated

below

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please address the Cal. Rules of Court, rule 8.63 factors, including possible prejudice to the parties):

11. For attorneys filing application on behalf of client, I certify that I have delivered a copy of this application to my client (Cal. Rules of Court, rule 8.60).

12. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.60(c)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

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

Date: _____

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____

Denied

Date: _____

▶ _____
(SIGNATURE OF PRESIDING JUSTICE)

Clerk stamps date here when form is filed.

**DRAFT
03.08.2023
Not approved
by Judicial
Council****Instructions**

- This form is only for requesting an extension of time to file a brief in an appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order that is being appealed:

Superior Court of California, County of

You fill in the number and name of the trial court case in which the judgment or order is being appealed::

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number:

Appellate Division Case Number:**1 Your Information**

- a. Name of party requesting extension of time to file brief:

- b. Party's contact information (
- skip this if the appellant has a lawyer for this appeal*
-):

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____

Email: _____

- c. Party's lawyer (
- skip this if the appellant does not have a lawyer for this appeal*
-):

Name: _____

State Bar number: _____

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____

Email: _____

Fax: _____



Case Name: _____

- 2 I am requesting an extension on the time to file:
 - Appellant’s opening brief, which is now due on (date): _____
 - Respondent’s brief, which is now due on (date): _____
 - Appellant’s reply brief, which is now due on (date): _____
 - Supplemental or other brief, which is now due on (date): _____
- 3 I am requesting that the time to file the brief identified in 2 be extended to (date): _____
- 4 I have have not received a default notice under rule 8.882(c) from the clerk that this brief must be filed within 15 days.
- 5 The time to file the brief: (check all that apply):
 - Has not been extended before.
 - Has been extended before by the stipulation of the parties. The parties stipulated to (number of extensions) _____ totaling (number of days) _____
 - Has been extended before by the court. The court granted (number of extensions) _____ totaling (number of days) _____
- 6 I am not able to stipulate to an extension to file this brief because (check one):
 - The other party is not willing to stipulate to an extension.
 - The maximum stipulated time has already been used.
 - Other reason (please describe the reason): _____
- 7 This appeal is eligible for calendar preference/priority because (cite authority or explain): _____
- 8 I have completed the following work on this appeal: _____
- 9 The reason I need an extension to file this brief is (describe the reason you need an extension; please address the rule 8.811(b) factors, including possible prejudice to the parties): _____
- 10 The last brief filed by any party in this case was:
 - The appellant’s opening brief, filed on (date): _____
 - The respondent’s brief, filed on (date): _____
 - The appellant’s reply brief, filed on (date): _____
 - A supplemental or other brief, filed on (date): _____
- 11 If this extension is being requested by a lawyer on behalf of a client, the lawyer must complete this item.
 - I certify that I have delivered a copy of this application to my client (rule 8.810(e)). I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

Signature of party or attorney

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:	
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:	
NAME:		DRAFT 03.08.2023 Not approved by Judicial Council	
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:		ZIP CODE:
TELEPHONE NO.:	FAX NO.:		
EMAIL ADDRESS:			
ATTORNEY FOR (name):			
APPELLANT:			
RESPONDENT:			
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— CRIMINAL CASE			

1. I (name): _____ request that the time to file (check one)

- appellant's opening brief (AOB)
- respondent's brief (RB)
- combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
- combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
- appellant's reply brief (ARB)
- supplemental or other brief

now due on (date): _____ be extended to (date): _____

2. I have have not received a rule 8.360(c)(5) default notice.

3. I have received

- no previous extensions to file this brief.
- the following previous extensions:

(number of extensions): _____ extensions from the court totaling (total number of days): _____

Did the court mark any previous extension "no further?" Yes No

4. The last brief filed by any party was: AOB RB RB and AOB ARB and RB ARB Other
 filed on (date): _____

5. The record in this case is:

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:			
Reporter's Transcript:			
Augmentation/Other:			

6. Defendant was convicted of (specify): _____

7. The conviction is based on a (check one):

- jury or court trial.
- plea of guilty or no contest.

APPELLANT: RESPONDENT	COURT OF APPEAL CASE NUMBER:
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8. The court imposed the following punishment:

9. The defendant is is not on bail pending appeal.

10. I have completed the following work on this appeal:

11. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please address the Cal. Rules of Court, rule 8.63 factors, including possible prejudice to the defendant):

12. A proof of service of this application on all other parties is attached (see rule 8.60(c)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

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

Date: _____

_____  _____
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____
 Denied

Date: _____

(SIGNATURE OF PRESIDING JUSTICE)

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:	SUPERIOR COURT CASE NUMBER(S):	
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:	DRAFT 03.08.2023 Not approved by Judicial Council	
EMAIL ADDRESS: ATTORNEY FOR (name):		
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE JUSTICE CASE		

1. I (name): _____ request that the time to file (check one)
 - appellant's opening brief (AOB)
 - respondent's brief (RB)
 - combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
 - combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
 - appellant's reply brief (ARB)
 - supplemental or other brief

now due on (date): _____ be extended to (date): _____
2. I have have not received a rule 8.412(d)(1) default notice.
3. I have received
 - no previous extensions to file this brief.
 - the following previous extensions:

(number of extensions): _____ extensions from the court totaling (total number of days): _____

 Did the court mark any previous extension "no further?" Yes No
4. The last brief filed by any party was: AOB RB RB and AOB ARB and RB ARB Other
filed on (date): _____
5. The record in this case is:

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:			
Reporter's Transcript:			
Augmentation/Other:			
6. The juvenile was adjudicated a ward of the court based on commission of the following offense(s): _____
7. The disposition followed (check one):
 - a contested hearing.
 - an admission.

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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8. The court imposed the following disposition:

9. I have completed the following work on this appeal:

10. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please address the Cal. Rules of Court, rule 8.63 factors, including possible prejudice to the juvenile. Note that an exceptional showing of good cause is required in cases subject to rule 8.417.)

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.60(c)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____
 Denied

Date: _____

(SIGNATURE OF PRESIDING JUSTICE)

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER(S):
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:		DRAFT 03.08.2023 Not approved by Judicial Council
EMAIL ADDRESS: ATTORNEY FOR (name):		
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE DEPENDENCY CASE		

1. I (name): _____ request that the time to file (check one)
 - appellant's opening brief (AOB)
 - respondent's brief (RB)
 - combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
 - combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
 - appellant's reply brief (ARB)
 - supplemental or other brief
 now due on (date): _____ be extended to (date): _____

2. I have have not received a rule 8.412(d)(1) default notice.

3. I have received
 - no previous extensions to file this brief.
 - the following previous extensions:
 - (number of extensions): _____ extensions from the court totaling (total number of days): _____
 - Did the court mark any previous extension "no further?" Yes No

4. The last brief filed by any party was: AOB RB RB and AOB ARB and RB ARB Other
filed on (date): _____

5. The record in this case is:

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:			
Reporter's Transcript:			
Augmentation/Other:			

6. The order appealed from was made under Welfare and Institutions Code (check all that apply):
 - a. section 360 (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
 - b. section 366.26
 - Termination of parental rights Appointment of guardian Planned permanent living arrangement

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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6. c. section 366.28
 d. Other appealable orders relating to dependency (*specify*):

7. I have completed the following work on this appeal:

8. The reasons that I need an extension to file this brief are stated:

- below.
 on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please address the Cal. Rules of Court, rule 8.63(b) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to rule 8.416.)

9. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.60(c)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

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

Date: _____

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

- Granted to (date): _____
 Denied

Date: _____

 (SIGNATURE OF PRESIDING JUSTICE)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/29/2023

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

Title of proposal: Appellate Procedure: Notice of Appeal Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise forms APP-002 and APP-102

Committee or other entity submitting the proposal:
Appellate Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, (415) 865-7653, kendall.hannon@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: Consider revising notice of appeal form APP-002 to include space for an attorney who intends to join the appeal. In *K.J. v. LA Unified School District* (2020) 8 Cal.5th 875, the Supreme Court held that the reviewing court must construe a notice of appeal from a sanctions order to include an omitted attorney when it is reasonably clear that the attorney intended to join in the appeal, and the respondent was not misled or prejudiced by the omission. Also, self-represented litigants often fail to include the date of the order or judgment appealed from in item 1. Consider revising the form to make this item more visible. Origin: Supreme Court opinion, Family Violence Appellate Project

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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INVITATION TO COMMENT

SPR23-07

Title	Action Requested
Appellate Procedure: Notice of Appeal Forms	Review and submit comments by May 12, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms APP-002 and APP-102	January 1, 2024
Proposed by	Contact
Appellate Advisory Committee Hon. Louis R. Mauro, Chair	Kendall W. Hannon, 415-865-7653 kendall.hannon@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes revising *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* (form APP-002) and *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to (1) include an item by which an attorney can join the appeal to challenge an order directing payment of sanctions by the attorney, (2) add an optional item by which the appellant can attach a copy of the judgment or order being appealed, and (3) on form APP-002 highlight the item requesting the date the order or judgment being appealed was entered so that it is not overlooked. This proposal originated in response to a recent California Supreme Court decision and suggestions by the Family Violence Appellate Project and committee members.

Background

Recent Supreme Court decision

In 2020, the Supreme Court in *K.J. v. Los Angeles Unified School District*¹ addressed whether a Court of Appeal has jurisdiction to review an order directing an attorney to pay sanctions when the notice of appeal only identifies the attorney's client as appellant. Relying on the rule of liberal construction of the notice of appeal,² the Supreme Court held that the Court of Appeal has appellate jurisdiction over the sanctions order, even if the attorney omitted themselves as an appellant on the notice of appeal, so long as it is "clear from the record that the omitted attorney

¹ (2020) 8 Cal.5th 875.

² Cal. Rules of Court, rule 8.100(a)(2).

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.

intended to participate in the appeal and the respondent was not misled or prejudiced by the omission.”³ The Court noted, however, that to avoid any unnecessary litigation on this question, the “better practice is for the attorney to file a notice of appeal that expressly identifies himself or herself as an appealing party.”⁴

Date of entry of order or judgment

Under rule 8.104(a)(1) of the California Rules of Court, a notice of appeal must be filed on or before the earliest of: “(A) 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled ‘Notice of Entry’ of judgment or a filed-endorsed copy of the judgment, showing the date either was served; [¶] (B) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled ‘Notice of Entry’ of judgment or a filed-endorsed copy of the judgment, accompanied by proof of service; or [¶] (C) 180 days after entry of the judgment.” A timely filed notice of appeal is a jurisdictional prerequisite to an appeal.⁵

The current version of form APP-002 has a field for the appellant to enter the date the judgment or order being appealed was entered. The committee has received feedback from the Family Violence Appellate Project that a significant number of pro per litigants with whom they interact overlook this item on the form and do not fill it out, making it more difficult to determine if the appeal is timely.

The Proposal

Addition of item for attorneys to indicate they are joining the appeal

This proposal would revise forms APP-002 and APP-102 to add items (item 1d on APP-002 and item 3c on APP-102) by which by which an attorney could indicate that the judgment or order being appealed directed the attorney to pay sanctions and that the attorney is joining the appeal. The committee believes these items would avoid the problem of an “omitted attorney” by expressly prompting the attorney to indicate whether they are joining the appeal. By encouraging the “better practice” of the attorney expressly identifying themselves as an appealing party, these items would help obviate the need for the Court of Appeal to divine the attorney’s intent from the record.

Optional item for appellant to attach the order or judgment being appealed

This proposal would revise forms APP-002 and APP-102 to add optional items by which an appellant could indicate that they were attaching a copy of the order or judgment from which they are appealing. The committee believes that encouraging an appellant to attach the judgment or order to the notice of appeal would aid the court in determining the scope of the appeal. Similarly, the committee believes that if a litigant is not sure how to properly classify the order

³ *K.J. v. Los Angeles Unified School Dist.*, *supra*, 8 Cal.5th at p. 878.

⁴ *Id.* at p. 889.

⁵ See, e.g., *Silverbrand v. County of Los Angeles* (2009) 46 Cal.4th 106, 113.

or judgment in item 2c (in form APP-002) or item 3b (in form APP-102), allowing the litigant to attach the order or judgment will prevent confusion.

Reformatting of item regarding date of entry of judgment or order

In its current form, item 1 of form APP-002 begins with a sentence that prompts the appellant to provide their name and the date on which the judgment or order being appealed was entered. The date field is at the end of this sentence and, as discussed above, some appellants may overlook this field.

To highlight the need to provide the date the judgment or order being appealed was entered (thus aiding the courts and parties in determining whether the appeal is timely), this proposal would reformat item 1 into subitems. In subitem a, appellants would provide their name. Subitem b asks for the date the order or judgment was entered. Subitem c is a list of statutes authorizing appeals from various orders and judgments, with check boxes for the appellant to indicate the type of order or judgment being appealed. Finally, item 1d, as discussed above, would permit attorneys to indicate that they are joining the appeal to challenge a judgment or order directing them to pay sanctions.

By having a separate subitem for the date of entry of the underlying judgment or order, the committee believes it will be more evident to appellants that this information must be provided.

Alternatives Considered

The committee considered taking no action, but rejected this option as it concluded the proposed revisions to form APP-002 and form APP-102 would aid both parties and the courts.

Fiscal and Operational Impacts

The committee anticipates that fiscal and operational impacts of this proposal on courts will be minimal. Brief education of court staff and judicial officers on the revised forms may be required.

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 similar changes be made to other notice of appeal 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 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms APP-002 and APP-102, at page 5-8

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> <h2 style="margin: 0;">03.13.2023</h2> <h2 style="margin: 0;">Not approved</h2> <h2 style="margin: 0;">by Judicial</h2> <h2 style="margin: 0;">Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<input type="checkbox"/> NOTICE OF APPEAL <input type="checkbox"/> CROSS-APPEAL (UNLIMITED CIVIL CASE)	CASE NUMBER:

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that:

- a. (Name): _____ appeals from a judgment or order in this case.
- b. The order or judgment was entered on (date): _____
- c. The appeal is from the following order or judgment:
 - Judgment after jury trial
 - Judgment after court trial
 - Default judgment
 - Judgment after an order granting a summary judgment motion
 - Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.360, or 583.430
 - Judgment of dismissal after an order sustaining a demurrer
 - An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
 - An order or judgment under Code of Civil Procedure, § 904.1(a)(3)-(13)
 - Other (describe and specify code section that authorizes this appeal): _____
- d. The judgment or order being appealed directs payment of sanctions by an attorney for a party. The attorney (name): _____ appeals.

2. For cross-appeals only:

- a. Date notice of appeal was filed in original appeal:
- b. Date superior court clerk mailed notice of original appeal:
- c. Court of Appeal case number (if known):

3. The judgment or order being appealed is attached (optional).

Date:

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF PARTY OR ATTORNEY)

Clerk stamps date here when form is filed.

**DRAFT
03.13.2023
Not approved
by Judicial
Council****Instructions**

- This form is only for appealing in a **limited civil case**. You can get other forms for appealing in unlimited civil cases at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You must serve and file this form **no later than 30 days** after the trial court or a party serves a document called a Notice of Entry of the trial court judgment or a file-stamped copy of the judgment or 90 days after entry of judgment, whichever is earlier (see rule 8.823 of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, your appeal will be dismissed.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk's office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

The clerk will fill in the number below

Appellate Division Case Number:**1 Your Information**

- a. Name of appellant (the party who is filing this appeal):

 Check here if more than one appellant and attach a separate page or pages listing the other appellants and their contact information. At the top of each page, write "APP-102, item 1a."

- b. Appellant's contact information (
- skip this if the appellant has a lawyer for this appeal*
-):

Street address: _____

Mailing address (*if different*): _____
Street City State ZipPhone: _____ Email: _____
Street City State Zip

- c. Appellant's lawyer (
- skip this if the appellant does not have a lawyer for this appeal*
-):

Name: _____ State Bar number: _____

Street address: _____

Mailing address (*if different*): _____
Street City State ZipPhone: _____ Email: _____
Street City State Zip

Fax: _____



Trial Court Case Name: _____

2 This is (check a or b):

- a. The first appeal in this case.
- b. A cross-appeal (an appeal filed after the first appeal in this case (complete (1), (2), and (3))).
- (1) The notice of appeal in the first appeal was filed on (fill in the date that the other party filed its notice of appeal in this case): _____
- (2) The trial court clerk served notice of the first appeal on (fill in the date that the clerk served the notice of the other party's appeal in this case): _____
- (3) The appellate division case number for the first appeal is (fill in the appellate division case number of the other party's appeal, if you know it): _____

3 Judgment or Order You Are Appealing

I am/My client is appealing (check a or b):

- a. The final judgment in the trial court case identified in the box on page 1 of this form.
The date the trial court entered this judgment was (fill in the date): _____
- b. Other:
- (1) An order made after final judgment in the case.
The date the trial court entered this order was (fill in the date): _____
- (2) An order changing or refusing to change the place of trial (venue).
The date the trial court entered this order was (fill in the date): _____
- (3) An order granting a motion to quash service of summons.
The date the trial court entered this order was (fill in the date): _____
- (4) An order granting a motion to stay or dismiss the action on the ground of inconvenient forum.
The date the trial court entered this order was (fill in the date): _____
- (5) An order granting a new trial.
The date the trial court entered this order was (fill in the date): _____
- (6) An order denying a motion for judgment notwithstanding the verdict.
The date the trial court entered this order was (fill in the date): _____
- (7) An order granting or dissolving an injunction or refusing to grant or dissolve an injunction.
The date the trial court entered this order was (fill in the date): _____
- (8) An order appointing a receiver.
The date the trial court entered this order was (fill in the date): _____



Trial Court Case Name: _____

3 (continued)

(9) Other action (please describe and indicate the date the trial court took the action you are appealing):

c. The judgment or order being appealed directs payment of sanctions by an attorney for a party. The attorney (name): _____ appeals.

d. The order or judgment being appealed is attached (optional).

4 Record Preparation Election

Complete this section only if you are filing the first appeal in this case. If you are filing a cross-appeal, skip this section and go to the signature line.

If you are filing the first appeal in this case, you must serve and file a notice in the trial court designating the record on appeal. You may use Appellant’s Notice Designating Record on Appeal (Limited Civil Case) (form APP-103). Check a or b:

a. I will serve and file a notice designating the record on appeal together with this notice of appeal.

b. I will serve and file a notice designating the record on appeal later. I understand that I must file this notice in the trial court within 10 days of the date I file this notice of appeal, and that if I do not file the notice designating the record on time, the court may dismiss my appeal.

REMINDER: Except in the very limited circumstances listed in rule 8.823, you must serve and file this form no later than (1) 30 days after the trial court clerk or a party serves either a document called a Notice of Entry of the trial court judgment or a file-stamped copy of the judgment, or (2) within 90 days after entry of judgment, whichever is earlier. If your notice of appeal is late, your appeal will be dismissed.

Date: _____

Type or print your name

▶ _____
Signature of appellant/cross-appellant or attorney

Date: _____

Type or print your name

▶ _____
Signature of appellant/cross-appellant or attorney

Date: _____

Type or print your name

▶ _____
Signature of appellant/cross-appellant or attorney

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 4/5/2023

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 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: Develop proposals as appropriate to further the Ad Hoc Workgroup on Post-Pandemic Initiatives recommendation that settlement conferences be held more frequently in unlawful detainer cases, to encourage landlords and tenants to work on solutions not requiring trials. Courts are currently authorized to set mandatory settlement conferences under rule 3.1380 of the California Rules of Court, but are not required to hold them. Potential proposals may include requiring or encouraging settlement conferences in all unlawful detainer actions, amending the current rule to allow for less formal settlement conferences in such cases, or encouraging remote settlement conferences set for the day of trial. The committee may also propose a new Judicial Council form to facilitate and document settlement among the parties.

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

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

This proposal circulated for public comment during the winter comment cycle. The advisory committee has recommended changes to the form and rule and recommends recirculating the proposal for comment.

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

SPR23-08

Title

Unlawful Detainer: Opportunities for Settlement Before Trial

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

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

Proposed Effective Date

January 1, 2024

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 and form were previously circulated for comment between December 2022 and January 2023. The new rule states a policy favoring at least one opportunity for parties in all eviction cases to participate in some form of pretrial alternative dispute resolution process 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.

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.

Prior Circulation

A proposal for new rule 3.2005 and optional form UD-155, *Eviction Case (Unlawful Detainer) Stipulation* was previously circulated for comment from December 9, 2022, to January 20, 2023. The rule and form are being recirculated due to changes made in response to these comments.

Commenters suggested narrowing the scope of proposed new rule 3.2005, for example, by excluding mediation entirely and excluding for-cost mediation and ADR. Commenters also suggested limiting application of the rule to cases in which all parties are either represented by counsel or unrepresented. The committee has modified the proposal by revising the the advisory committee comment accompanying the proposed rule to acknowledge that the rule is not intended in any way to mandate for-cost mediation or alternative dispute resolution (ADR) processes. Other than that addition and a minor wording change, the committee presently does not intend to make substantive changes to the proposed rule. The committee will consider in full the comments already received when it considers any new comments on the proposed rule.

The committee received several comments from organizations and attorneys representing tenants. They suggested revisions to the form to make it more accessible, more comprehensive, and more even-handed in the terms presented. The committee is proposing significant revisions to proposed form UD-155 based on these comments. For example, the committee has added or revised items in proposed UD-155 relating to:

- The voluntary nature of agreeing to resolve a case by stipulation;
- Expanded information relating to the effects of a stipulated judgment and a conditional judgment;
- Options that allow the parties to identify terms of the agreement that will not result in eviction if a tenant fails to perform as agreed;
- More options concerning payment and attorney fees;
- Revised notice and hearing provisions that standardize the time frame for both defendants and plaintiffs to two court days' notice and an opportunity to respond at a hearing;
- An option to allow an opportunity to fix potential violations of the agreement;
- An option for a grace period; and
- Additional terms in the order, including retaining jurisdiction and calendaring the case for dismissal.

The Proposal

The Civil and Small Claims Advisory Committee proposes that the Judicial Council adopt a new rule—rule 3.2005—effective January 1, 2024, that would establish a policy favoring an opportunity for settlement before trial in eviction cases. The committee also proposes that the Judicial Council, effective January 1, 2024, 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 ADR programs for eviction cases 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 broad policy encouraging—in all unlawful detainer actions—an opportunity for participating in an 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 both (1) 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; and (2) that the rule is not intended in any way to mandate for-cost mediation or other ADR processes.

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 to the court a settlement agreement that they reach 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 other ADR 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 is intended to 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. As noted above, based on comments received during the prior circulation, the committee has made revisions to proposed form UD-155 that are intended to make the form clearer and more accessible. The committee also proposes inclusion of additional terms that are common to eviction case settlements. Proposed form UD-155 is intended to be fairly comprehensive, and the committee has tried to make the language as accessible as possible.

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 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.

The committee also considered revoking form UD-115. The committee does not recommend revoking that form at this time. It is not clear how frequently UD-115 is used or if the more streamlined entry of judgment form would be preferable to the new form in some subset of eviction cases. The committee will reconsider whether to recommend revoking UD-115 after form UD-155 has been approved and is in use.

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 terms or language in the proposed form that might be stated more plainly for self-represented litigants? If so, suggest alternative language for the committee to consider.
- 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 6
2. Form UD-155, at pages 7–12

Rule 3.2005 of the California Rules of Court would be adopted, effective January 1, 2024, to read:

Title 3. Civil Rules

Division 20. Unlawful Detainers

Rule 3.2005. Settlement opportunities

(a) Policy favoring an opportunity for resolution without trial

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

(b) Exemption for mandatory settlement conference statement deadline

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

Advisory Committee Comment

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

Subdivision (a). The committee notes that parties may choose but cannot be required to participate in for-cost mediation or alternative dispute resolution (ADR). This rule is not intended in any way to mandate for-cost mediation or ADR.

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

Clerk stamps date here when form is filed.

DRAFT

03/15/2023

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.
- Agreeing to resolve the case before trial is voluntary. If the parties do not reach an agreement, the case will go to trial and the judge will hear from both sides and decide if the tenant has to move out and pay money (if plaintiff asked for money in *Complaint—Unlawful Detainer* (UD-100)).
- If a party agrees to terms in a stipulation and then does not do everything agreed to, 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 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 (no judgment will be entered at this time). A Stipulation and Order can include, but is not required to, 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, such as entering an eviction judgment against the defendant. 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 Stipulated Judgment is approved, the court will enter a judgment against the defendant immediately. This will have the same effect as though the defendant lost the eviction case at a trial. The plaintiff will be able to ask the sheriff for a lockout. The eviction judgment against the defendant will become public.
- 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 property with conditions stated in this Stipulation.
- b. Defendant will stay in the property if defendant does everything that the parties agree is necessary to avoid an eviction judgment. *(Check one.)*
- (1) Everything in this Stipulation is necessary to avoid an eviction judgment.
- (2) Only some terms in this Stipulation may result in an eviction judgment. (See item 8i.)
- c. Defendant will move out of (vacate) the property with conditions stated in this Stipulation.
- d. Defendant has already moved out of (vacated) the property.
- e. 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:

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

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

- (1) This amount is all that defendant owes plaintiff as of the date of this Stipulation.
- (2) Plaintiff acknowledges receipt of defendant’s full payment.
- b. To follow 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) Other payment schedule *(state payment terms):* _____

_____ until paid in full.



- 6 c. To deliver payment to *(state delivery terms)*: _____

 and made payable to *(state name of person or entity)*: _____

- d. To move out of (vacate) the property no later than 11:59 p.m. on *(date)*: _____
- 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 that the parties agree is necessary to avoid an eviction judgment** *(Complete if the parties agree to this process.)*
- Defendant agrees that plaintiff can tell the court (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: Plaintiff will give 2 court days' notice to defendant at *(state how notice will be given)*: _____
- _____
- b. Hearing: Plaintiff will ask the court for a hearing in 6–10 days.
- c. Result *(check all that apply)*:
- (1) That defendant be ordered to do what was promised.
- (2) That defendant be ordered to move out (evicted) and locked out (immediate possession) of the property identified in ③.
- (3) That defendant be ordered to pay any amount of money still unpaid.
- (4) Cancellation of the rental agreement/forfeiture of the lease.
- (5) 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.
- d. The parties agree that plaintiff will not seek eviction without reasonable notice to defendant and an opportunity for defendant to fix (cure) a violation of the following items in ⑥ and ⑩ *(state all items by number and letter)*: _____
- _____

- 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 within _____ business days after defendant has done everything agreed to in ⑥.
- b. To request an immediate court order to enforce eviction (writ of possession) for the property identified in ③ but to wait to act (stay actual execution of such writ) until *(date)*: _____
- c. To waive all rent, late fees, and damages that were requested in the case.
- d. To make the payment plan interest/penalty free, and not to charge any fees or interest on the total amount agreed to in ⑥.
- e. To make the following repairs *(describe all repairs to the property)*: _____
- _____
- (1) The repairs will be completed by *(date)*: _____
- (2) Plaintiff agrees to temporarily relocate defendant at plaintiff's expense while the repairs are made.



- 8
- f. 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.
 - g. To pay \$ _____ in certified funds, in exchange for moving out as agreed to in item 6d. Payment will be made payable to _____, and delivered to _____ on or by _____. If plaintiff fails to make payment as agreed, then the defendant's move out (vacate) date will be extended by _____ days for each day that the payment is late.
 - h. To pay defendant's attorneys fees in the amount of \$ _____.
 - i. Not to request a court order to enforce eviction (writ of possession) for failure to comply with the following terms from 6 and 10 (state all items by number and letter): _____
 - j. To incorporate and comply with the General Provisions agreed to in 10.
 - k. 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 (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 court days' notice to plaintiff at (state how notice will be given): _____
 - b. Hearing: Defendant will ask the court for a hearing in 6–10 days.
 - c. Result (check all that apply):
 - (1) That plaintiff be ordered to do what was promised.
 - (2) That plaintiff be ordered to pay damages.
 - (3) That plaintiff be ordered to immediately make repairs.
 - (4) Other (describe any other order the defendant may request): _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 9" at the top.

- 10 **General Provisions** (Check all that the parties agree to.)
- a. There is a grace period of _____ days to do anything agreed to in this Stipulation.
 - b. Defendant states that all adults who live in the property are named as defendants in the documents that started this eviction case (the summons and complaint). No other adult lives in the property or has a right to live there.
 - c. Defendant states that all tenants have already moved out of the property. Plaintiff may lawfully take possession of the property effective immediately.
 - d. Defendant agrees to leave the property free of garbage and debris and all personal belongings. Any personal items left in the 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. Abandoned personal items left in the property will not be considered a breach of this agreement.



- 10 e. The parties request that the court bar access to the court record under Code of Civil Procedure section 1161.2(a)(2).
- f. 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.
- g. The parties agree to waive all attorney fees and costs associated with this eviction case.
- h. This agreement resolves the issue of possession only. The parties agree all other claims between them may be addressed by a new complaint filed in the appropriate division of the court. *(Check this item if the parties are agreeing to resolve only the issue of whether the tenant will stay or leave the property. All other issues in the case are being reserved.)*
- i. Plaintiff agrees to provide a neutral, or better, rental reference of defendant to any person who asks for a reference of defendant relating to housing.
- j. Plaintiff agrees they have not reported and will not report this action to any credit reporting agencies.
- k. 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 property.
- l. 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 property if all conditions are met that the parties agree are necessary to avoid an eviction judgment. Plaintiff will dismiss permanently (with prejudice) the eviction case that is currently pending within _____ business days after defendant has done everything agreed to in this Stipulation. But plaintiff may seek eviction and lockout (immediate possession of the property) if defendant does not do everything agreed to in this Stipulation that the parties agree is necessary to avoid eviction.
- 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 property and plaintiff will dismiss the action with prejudice. If defendant does not deliver the agreed-upon sum of money as stated in ⑥, then plaintiff may file a declaration regarding the nonpayment and may enforce *(check all that apply)*:
- (1) Eviction (writ of possession/defendant will be locked out).
 - (2) Cancellation of the rental agreement/forfeiture of the lease.
 - (3) A judgment for rent and damages.



- 11 a. (4) Defendant will have an eviction judgment entered against them and owe money to plaintiff, \$ _____ in attorney fees, and \$ _____ in court costs.
- (5) However, if defendant pays in full before judgment is entered, no judgment may be entered against defendant.
- 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. 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.
- d. The parties agree and accept the terms of the Stipulation, which is approved by the court. The case is calendared for dismissal or entry of judgment on (date): _____ at (time): _____ in Department: _____
- e. Judgment is entered.
- f. Other (specify any additional terms or modifications): _____

Date: _____



Signature of Judicial Officer

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/29/2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Form Revisions to Implement Senate Bill 1200

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

Revise forms EJ-190, EJ-195, JUD-100, MC-012, MC-013-INFO, SC-130, SC-200, SC-220, SC-223, SC-224; revoke SC-220-INFO

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, (415) 865-7653, kendall.hannon@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): 11/1/2022

Project description from annual agenda: Develop form recommendations as appropriate to implement SB 1200. The law provides that for certain money judgements the rate of interest will be 5% instead 10% and that such money judgements may only be renewed once. The law also provides additional time for judgment debtors to request that a judgment renewal be vacated.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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INVITATION TO COMMENT

SPR23-09

Title

Civil Practice and Procedure: Form
Revisions to Implement Senate Bill 1200

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Revise forms EJ-190, EJ-195, JUD-100,
MC-012, MC-013-INFO, SC-130, SC-200,
SC-220, SC-223, SC-224; revoke SC-220-
INFO

Proposed Effective Date

January 1, 2024

Contact

Kendall W. Hannon, 415-865-7653

kendall.hannon@jud.ca.gov

James Barolo, 415-865-8928

james.barolo@jud.ca.gov

Proposed by

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

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes the revision of nine Judicial Council forms, and revocation of one form, to implement statutory changes in Senate Bill 1200 (Stats. 2022, ch. 883), enacted September 30, 2022. SB 1200 limits the ability of a judgment creditor to renew or bring an action on a money judgment and lowers the applicable rate of postjudgment interest where the judgment and unsatisfied principal amount of the judgment meet certain criteria. The proposed revisions address these statutory changes.

In addition to these proposed revisions, two form revisions previously approved by the Judicial Council are being circulated for comment. On December 2, 2022, the Judicial Council approved revisions to *Application for and Renewal of Judgment* (form EJ-190) and *Notice of Renewal of Judgment* (form EJ-195) to address SB 1200's limitations on renewals of judgments. These revisions became effective on January 1, 2023. The council concluded that speedy revision was necessary, even before the forms were circulated for public comment, to ensure these forms conformed with the law when SB 1200 became effective on January 1, 2023. These revisions are being circulated for comment now. In addition, the committee is proposing further revision of form EJ-195..

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

Background

SB 1200 (see Link A) has changed the law relating to the renewal of, and postjudgment interest rate applicable to, certain monetary judgments. Before SB 1200, a judgment creditor could extend the period of enforceability of any money judgment or judgment for possession or sale of property for 10 years by filing an application, and there was no limit to the number of times a judgment creditor could renew the judgment.¹ Judgment debtors could move to vacate or modify a judgment renewal by filing a motion within 30 days after service of the notice of renewal.² A judgment creditor could also bring an action on any judgment, provided the action was brought within 10 years.³ All money judgments accrued interest at 10 percent per year (or 7 percent per year when the judgment debtor was a state or local government entity).⁴

SB 1200 changes the law for monetary judgments where the judgment debtor is a natural person, the judgment is on a claim related to personal debt or medical expenses, and the unsatisfied principal amount of the judgment falls below certain statutory thresholds (\$50,000 for personal debt claims and \$200,000 for medical expense claims).⁵ The statute, however, exempts from its provisions any “debts incurred due to, or obtained by tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee.”⁶

For money judgments that fit within these provisions, SB 1200 changes the law in three ways. First, judgment creditors may now renew the period of enforceability of these judgments only once, and only for a period of five years.⁷ Second, a judgment creditor may not bring an action on such judgments.⁸ Third, these money judgments accrue interest at a rate of 5 percent per year if the judgment was entered or renewed on or after January 1, 2023.⁹

In addition, for all judgments, when a judgment creditor files an application for renewal, a judgment debtor may now file a motion to vacate or modify the renewal within 60 days after service of the notice of renewal.¹⁰

¹ Prior Code Civ. Proc., §§ 683.110, 683.120. “Prior” as used in citations hereafter, refers to code provisions in effect prior to January 1, 2023.

² *Id.*, § 683.170(b).

³ *Id.*, § 683.050.

⁴ *Id.*, § 685.010(a); *California Fed. Savings & Loan Assn. v. City of Los Angeles* (1995) 11 Cal.4th 342, 352.

⁵ Code Civ. Proc., §§ 683.110(c), 685.010(a)(2)(A).

⁶ *Id.*, §§ 683.110(d)(2), 685.010(a)(2)(C)(ii).

⁷ *Id.*, §§ 683.110(c); 683.120(c).

⁸ *Id.*, § 683.050(b). This change is not reflected in Judicial Council forms, so is not addressed further in this proposal.

⁹ *Id.*, § 685.010(a)(2).

¹⁰ *Id.*, § 683.170(b).

The Proposal

Revisions to enforcement of judgment forms relating to judgment renewal

In light of SB 1200's limitations to the length and number of renewals of certain money judgments, the council previously approved revisions to two enforcement of judgment forms. In addition to inviting comment on these prior revisions, the committee is proposing further revisions to one of these forms.

Previously approved revisions to two enforcement of judgment forms.

On December 2, 2022, the Judicial Council approved revisions to *Application for and Renewal of Judgment* (form EJ-190) and *Notice of Renewal of Judgment* (form EJ-195).¹¹ These revisions were approved effective January 1, 2023 because the new law became operative on that date. Because the filing of form EJ-190 automatically renews the judgment without any judicial action and form EJ-195 is a mandatory form that provides the debtor with information about the renewal—which would have been incorrect as of January 1—the council determined that prompt revision was warranted and therefore the forms were approved before the revisions were circulated for public comment.

These previously approved revisions are summarized below.

- *Application for and Renewal of Judgment* (form EJ-190). A new subitem 5j has been added to the information required in the form for renewal of money judgments. This subitem requires the judgment creditor to indicate whether the money judgment to be renewed involves a claim for personal debt with a principal amount of under \$50,000 remaining unsatisfied, a claim for medical expenses with a principal amount of under \$200,000 remaining unsatisfied, some other claim (which would not be subject to SB 1200's renewal limitations), or any combination of these choices. Also added, in a box below this new subitem, is an advisement that if the judgment involves personal debt or medical expense claims against a natural person, the judgment may be renewed only once for five years after the unsatisfied principal amount falls below the statutory threshold.
- *Notice of Renewal of Judgment* (EJ-195). Before January 1, 2023, item 1 on this form stated: "This renewal extends the period of enforceability of the judgment until 10 years from the date the application for renewal was filed." Because, as of January 1, 2023, not all renewals extend the period of enforceability of the judgment for 10 years, item 1 has been revised to read "This renewal extends the enforceability of the judgment (see *Code Civ. Proc.*, § 683.110 et seq.)." Item 3 has also been revised to reflect that judgment debtors now have 60 days to file a motion to vacate or modify the renewal of a judgment.

¹¹ Judicial Council of Cal., Advisory Com. Rep., Civil Practice and Procedure: Enforcement of Judgment Form Revisions (2022).

Proposed further revision of EJ-195

In addition to the revisions that have already taken effect, the committee is recommending further revision to form EJ-195.¹² Proposed revisions to item 1 add subitems 1a and 1b by which the judgment creditor will indicate whether the renewal is for 10 years or 5 years. More importantly, the requirement that the clerk issue the form has been eliminated by removing the line for the clerk's signature. As now proposed, the form would be signed by the judgment creditor or attorney for the judgment creditor.

The committee notes that there is no statutory requirement that the clerk issue the notice of renewal of judgment. Instead, the statute governing notices of renewal of judgments simply requires that a notice of renewal be served by the judgment creditor on the judgment debtor and that the judgment creditor file a proof of service with the court clerk. The statute also requires that the notice of renewal "be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 60 days within which to make a motion to vacate or modify the renewal."¹³

The committee believes that removing the requirement that the clerk issue the notice of renewal will remove unnecessary work from court staff, streamline the renewal process for judgment creditors (who have to serve the notice form in any event), and allow the form to include more information to judgment debtors. As detailed above, judgments can be renewed for either 10 years or 5 years, depending on, among other things, the nature of the claims underlying the judgment. The clerk may not indicate on the notice form which renewal term applies, because doing would be outside the clerk's ministerial role. Consequently, a notice form issued by the clerk could not provide judgment debtors with information about the length of renewal being claimed by the judgment creditor. A notice form signed by the judgment creditor, by contrast, could give judgment debtors this information and assist them in determining whether a motion to vacate or modify the renewal is appropriate.

The committee asks for specific comments on whether eliminating the clerk's signature is appropriate.

Revisions to forms referring to postjudgment interest rates

In light of SB 1200's changes to the postjudgment interest rate applicable to certain monetary judgments, the proposal includes revisions to five forms. In reviewing these forms, the committee also concluded that one form was unnecessary is so the proposal also includes the revocation of one form. These recommendations are summarized below.

- *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* (form MC-012): Item 3 has been revised to include a blank in which the

¹² For clarity, previously approved revisions to form EJ-195 are highlighted in gray and the proposed further revisions are highlighted in yellow on the attached form.

¹³ Code Civ. Proc., § 683.160(a); compare Code Civ. Proc., § 412.20 (providing that a summons shall be "signed by the clerk and issued under the seal of the court in which the action is pending").

judgment creditor is to indicate the applicable legal rate of interest used to calculate the claimed interest, and a reference to form MC-013-INFO.

- *Information Sheet for Calculating Interest and Amount Owed on a Judgment* (MC-013-INFO): The “Accrued Interest” section has been revised to include descriptions of when the 5%, 7%, or 10% rates of interest applies. The final paragraph in this section has also been revised to more clearly advise that unpaid interest is added into the unpaid principal when a judgment is renewed. The interest calculation formulas and examples on pages 1 and 2 have been moved to pages 2 and 3 and reformatted for clarity, and examples showing an application of a 5% interest rate have been added.
- *Request to Make Payments* (form SC-220): On page 2 under “Answers to Common Questions,” in the answer to third question, “Is interest added after the judgment?” the reference to interest accruing at 10 percent per year has been removed. In addition, the second and fourth questions and answers were revised to match those same items on forms SC-223 and SC-224, as revised (see discussion below). Additional slight format and wording changes were made for clarity.
- *Payments in Small Claims Cases* (form SC-220-INFO): Because this form is identical to the second page of form SC-220, the committee proposes revoking the form as unnecessary.
- *Declaration of Default in Payment of Judgment* (form SC-223): On page 2 under “Answers to Common Questions,” in the answer to the third question, “Is interest added after the judgment?” the reference to interest accruing at 10 percent per year has been removed. In the answer to the fourth question, “How do I calculate interest?” a reference directing the reader to form MC-013-INFO for more information about the applicable rate of interest and calculating the amount of interest has been added. Additionally, in the answer to the second question, two instances of the phrase “plaintiff or defendant” have been revised to “party.” Also, the first line of the form has been reworded and slight formatting and wording changes have been made to the “General Information” section on page 2 of the form, for clarity.
- *Response to Declaration of Default in Payment of Judgment* (form SC-224): The same changes that are proposed for the second page of form SC-223 are proposed for this form.

Revisions to judgment forms

To aid the court and the parties in determining what interest rate and term of renewal apply to a particular judgment, the proposal includes adding a new item to three judgment forms. The court can use them to indicate whether the judgment involves a claim against a judgment debtor and is on a claim related to medical expenses or personal debt as provided in Code of Civil Procedure sections 683.110 and 685.010 and, if so, how much of the money judgment is on such a claim. These new items are at item 6e on *Judgment* (form JUD-100), item 10 on *Notice of Entry of Judgment* (form SC-130), and item 9 on *Notice of Entry of Judgment* (form SC-200).

The committee concluded that these revisions would be useful because they would allow the court to provide, at the time the judgment is entered, information about the action that will be determine whether or not SB 1200's provisions apply to the judgment, and so clarify what interest rate, and later what term of renewal, will apply. The committee believes these revisions will prevent confusion if questions about the applicable postjudgment interest rate or the length of a judgment renewal arise.

Alternatives Considered

The committee did not consider the alternative of taking no action to the extent revisions were needed to ensure a form complied with SB 1200. To the extent that a given revision was not required by the terms of SB 1200, the committee considered taking no action but ultimately determined that revision was warranted in light of the benefits the revisions would provide to the parties.

On form EJ-190, the committee considered further revising item 5j to specifically address SB 1200's exemption for "debts incurred due to, or obtained by tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee." (Sen. Bill 1200, § 2.) The committee asks for specific comment on whether further revisions to item 5j to account for SB 1200's exemption would be useful.

On form EJ-195, the committee considered the possibility of continuing to have the clerk issue the form. The committee contemplated the possibility that having the clerk's signature and seal on the form may help convey to the judgment debtor that the filing of the judgment renewal had a legal effect, and that the judgment debtor needed to act if they disagreed. Ultimately, however, the committee believes that the benefits to the parties in streamlining the renewal process and having a notice form that will provide the judgment debtor more information as to the length of the renewal outweigh any benefits gained by continuing to have the clerk issue the form.

On the proposed new items added to JUD-100, SC-130, and SC-200 (items 6c, 10, and 9, respectively), the committee considered adding language conveying SB 1200's exemption for "debts incurred due to, or obtained by tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee."¹⁴ Because space on the form is limited, and because these forms will be filled out by courts, the committee determined that it was sufficient to include the phrase "as provided in Code Civ. Proc., §§ 683.110, 685.010" at the end of the item to ensure the items were properly applied.

Fiscal and Operational Impacts

The statutory changes will require education of court staff and judicial officers. The new forms are intended to facilitate courts' and parties' implementation of the changes in statute and will

¹⁴ Code Civ. Proc., §§ 683.110(d)(2), 685.010(a)(2)(C)(ii).

also require education and possibly some changes to computerized case management systems as well.

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 item 5j on form EJ-190 be further revised to account for SB 1200’s exemption for “debts incurred due to, or obtained by tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee”?
- Should form EJ-195 be further revised to be signed by the judgment creditor (or the creditor’s attorney) rather than issued by the court clerk?

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

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

Attachments and Links

1. Forms EJ-190, EJ-195, JUD-100, MC-012, MC-013-INFO, SC-130, SC-200, SC-220, SC-220-INFO, SC-223, and SC-224, at pages 8–30
2. Link A: Sen. Bill 1200,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1200

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, and State Bar number):
After recording, return to:

TEL NO.: FAX NO. (optional):
E-MAIL ADDRESS:
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

FOR RECORDER'S USE ONLY

PLAINTIFF:
DEFENDANT:

CASE NUMBER:

APPLICATION FOR AND RENEWAL OF JUDGMENT

FOR COURT USE ONLY

- Judgment creditor
- Assignee of record

applies for renewal of the judgment as follows:

1. Applicant (name and address):

2. Judgment debtor (name and last known address):

3. Original judgment
 - a. Case number (specify):
 - b. Entered on (date):
 - c. Recorded:
 - (1) Date:
 - (2) County:
 - (3) Instrument No.:
4. Judgment previously renewed (specify each case number and date):

5. Renewal of money judgment
 - a. Total judgment \$
 - b. Costs after judgment \$
 - c. Subtotal (add a and b) \$ _____
 - d. Credits after judgment \$
 - e. Subtotal (subtract d from c) \$ _____
 - f. Interest after judgment \$
 - g. Fee for filing renewal application \$
 - h. Total renewed judgment (add e, f, and g) \$ _____
 - i. The amounts called for in items a–h are different for each debtor.
These amounts are stated for each debtor on Attachment 5.

SHORT TITLE:	CASE NUMBER:
--------------	--------------

5. j. The money judgment (*check all that apply*)

- (1) has a principal amount remaining unsatisfied of under \$50,000 and is for a claim related to personal debt.
- (2) has a principal amount remaining unsatisfied of under \$200,000 and is for a claim related to medical expenses.
- (3) relates to any other claims, including claims for personal debt or medical expenses that do not otherwise fit within items (1) or (2).

Note: From the point when the unsatisfied principal amount is below \$50,000 for personal debt claims or \$200,000 for medical expense claims, a judgment against a natural person may only be renewed once, for five years from the date an application is filed. (Code Civ. Proc., §§ 683.110–683.120.)

6. Renewal of judgment for possession.
 sale.

a. If judgment was not previously renewed, terms of judgment as entered:

b. If judgment was previously renewed, terms of judgment as last renewed:

c. Terms of judgment remaining unsatisfied:

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

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">03.06.2023</h2> <h2 style="margin: 0;">Not approved</h2> <h2 style="margin: 0;">by Judicial</h2> <h2 style="margin: 0;">Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
NOTICE OF RENEWAL OF JUDGMENT		CASE NUMBER:

TO JUDGMENT DEBTOR (name):

1. **This renewal extends** the period of enforceability of the judgment until

- a. 10 years from the date the application for renewal was filed.
- b. 5 years from the date the application for renewal was filed.

(The judgment creditor should check 1b if the judgment is a money judgment; is not based on tortious or fraudulent conduct or for unpaid wages, damages, or penalties owed to an employee; and, as of the date of the application of renewal, the judgment:

- has an unsatisfied principal amount under \$50,000 and relates to a claim for personal debt; or
- has an unsatisfied principal amount under \$200,000 and relates to a claim for medical expenses.)

2. **If you object** to this renewal, you may make a motion to vacate or modify the renewal with this court.

3. You must make this motion within **60 days** after service of this notice on you.

4. A copy of the *Application for and Renewal of Judgment* is attached (*Cal. Rules of Court, rule 3.1900*).

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF JUDGMENT CREDITOR OR ATTORNEY)

See Code of Civil Procedure section 683.160 for information on method of service

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 0;">03.06.2023</h2> <h3 style="margin: 0;">Not approved by Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<div style="text-align: center;">JUDGMENT</div> <input type="checkbox"/> By Clerk <input type="checkbox"/> By Default <input type="checkbox"/> After Court Trial <input type="checkbox"/> By Court <input type="checkbox"/> On Stipulation <input type="checkbox"/> Defendant Did Not Appear at Trial	CASE NUMBER:

JUDGMENT

1. **BY DEFAULT**
 - a. Defendant was properly served with a copy of the summons and complaint.
 - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
 - c. Defendant's default was entered by the clerk upon plaintiff's application.
 - d. **Clerk's Judgment** (Code Civ. Proc., § 585(a)). Defendant was sued only on a contract or judgment of a court of this state for the recovery of money.
 - e. **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
 - (1) plaintiff's testimony and other evidence.
 - (2) plaintiff's written declaration (Code Civ. Proc., § 585(d)).

2. **ON STIPULATION**
 - a. Plaintiff and defendant agreed (stipulated) that a judgment be entered in this case. The court approved the stipulated judgment and
 - b. the signed written stipulation was filed in the case.
 - c. the stipulation was stated in open court the stipulation was stated on the record.

3. **AFTER COURT TRIAL.** The jury was waived. The court considered the evidence.
 - a. The case was tried on (date and time):
before (name of judicial officer):
 - b. Appearances by:

<input type="checkbox"/> Plaintiff (name each):	<input type="checkbox"/> Plaintiff's attorney (name each):
(1)	(1)
(2)	(2)
<input type="checkbox"/> Continued on Attachment 3b.	
<input type="checkbox"/> Defendant (name each):	<input type="checkbox"/> Defendant 's attorney (name each):
(1)	(1)
(2)	(2)
<input type="checkbox"/> Continued on Attachment 3b.	
 - c. Defendant did not appear at trial. Defendant was properly served with notice of trial.
 - d. A statement of decision (Code Civ. Proc., § 632) was not was requested.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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JUDGMENT IS ENTERED AS FOLLOWS BY: THE COURT THE CLERK

4. **Stipulated Judgment.** Judgment is entered according to the stipulation of the parties.

5. **Parties.** Judgment is

- a. for plaintiff *(name each)*:
- c. for cross-complainant *(name each)*:

and against defendant *(names)*:
and against cross-defendant *(name each)*:

Continued on Attachment 5a.
 Continued on Attachment 5c.

- b. for defendant *(name each)*:
- d. for cross-defendant *(name each)*:

6. **Amount.**

a. Defendant named in item 5a above must pay plaintiff on the complaint:

c. Cross-defendant named in item 5c above must pay cross-complainant on the cross-complaint:

(1) <input type="checkbox"/> Damages	\$	
(2) <input type="checkbox"/> Prejudgment interest at the annual rate of	\$	
%		
(3) <input type="checkbox"/> Attorney fees	\$	
(4) <input type="checkbox"/> Costs	\$	
(5) <input type="checkbox"/> Other <i>(specify)</i> :	\$	
(6) TOTAL		\$

(1) <input type="checkbox"/> Damages	\$	
(2) <input type="checkbox"/> Prejudgment interest at the annual rate of	\$	
%		
(3) <input type="checkbox"/> Attorney fees	\$	
(4) <input type="checkbox"/> Costs	\$	
(5) <input type="checkbox"/> Other <i>(specify)</i> :	\$	
(6) TOTAL		\$

- b. Plaintiff to receive nothing from defendant named in item 5b.
- Defendant named in item 5b to recover costs \$
- and attorney fees \$

- d. Cross-complainant to receive nothing from cross-defendant named in item 5d.
- Cross-defendant named in item 5d to recover costs \$
- and attorney fees \$

e. Judgment debtor is a natural person, and \$ of this judgment is on a claim related to medical expenses or personal debt as provided in Code Civ. Proc., §§ 683.110, 685.010.

7. Other *(specify)*:

Date: _____ JUDICIAL OFFICER

Date: Clerk, by _____, Deputy

(SEAL)

CLERK'S CERTIFICATE *(Optional)*
I certify that this is a true copy of the original judgment on file in the court.

Date: _____
Clerk, by _____, Deputy

Short Title:	CASE NUMBER:
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PROOF OF SERVICE

Mail **Personal Service**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My residence or business address is:

3. I mailed or personally delivered a copy of the *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* as follows (complete either a or b):
 - a. **Mail.** I am a resident of or employed in the county where the mail occurred.
 - (1) I enclosed a copy in an envelope AND
 - (a) **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:
 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. **Personal delivery.** I personally delivered a copy as follows.
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

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

Date: _____

(TYPE OR PRINT NAME)		(SIGNATURE OF DECLARANT)
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**INFORMATION SHEET FOR CALCULATING INTEREST
AND AMOUNT OWED ON A JUDGMENT**

What can the judgment creditor recover?

Under California law, the amount recoverable by a judgment creditor (the party to whom money is owed) includes:

- The total amount of the judgment entered by the court (principal), plus costs;
- Costs after judgment under Code of Civil Procedure section 685.070; and
- Accrued interest on the total amount.

Costs After Judgment

A judgment creditor is entitled to reimbursement for the “reasonable and necessary” costs of enforcing a judgment. These costs must be reported to the court within two years of the date incurred. The judgment amount includes costs ordered by the court after the judgment. (For information on recovering costs and a detailed list of costs that can be recovered see Code of Civil Procedure sections 685.040, 685.050 et seq., 685.070(b), and 685.090; see also “Requesting Costs and Interest” below).

Accrued Interest (See Code Civ. Proc., §§ 685.010, 685.020(a), and Cal. Const., art. XV, § 1.)

Interest accrues on an unpaid judgment at the following legal rates:

- The rate of interest is 10% per year unless one of the following lower interest rates apply.
- The rate of interest is 7% per year if the judgment debtor (the party who owes the money) is a state or local government entity.
- The rate of interest is 5% per year if the judgment debtor is a natural person and the judgment meets all of the following requirements:
 - The judgment was entered or renewed after January 1, 2023.
 - The judgment is for a claim related either to personal debt (and the unpaid principal amount is under \$50,000) or medical expenses (and the unpaid principal amount is under \$200,000).
 - The judgment is not based on tortious or fraudulent conduct or for unpaid wages, damages, or penalties owed to an employee.

Note that for judgments that otherwise meet these requirements, the interest rate will change from 10% to 5% once the unpaid principal falls below the above amounts.

Interest generally accrues from the date the judgment is entered. Interest begins to accrue on the amount of costs added to a judgment from the date ordered by the court or from the date costs are allowed following expiration of the time to object. If the judgment is payable in installments, interest accrues from the date each installment is due. On renewal of a judgment, unpaid interest that has accrued is added to the principal of the judgment and interest begins to accrue on the day the renewed judgment is entered.

Requesting Costs and Interest

To have costs and interest added to the enforceable amount owed, the judgment creditor must file and serve a *Memorandum of Costs After Judgment* (form MC-012). On that form, the judgment creditor must include the exact amount of all costs and accrued interest. This means the judgment creditor is responsible for calculating the amount of interest that accrues on the judgment. It is useful to update this calculation after receiving payments.

Crediting Payments Received

Any payments received by the judgment creditor must be “credited” in a specific order. (Code Civ. Proc., § 695.220.) After specific costs go directly to the levying officer and to the court for fees, the judgment creditor is required to credit payments received first toward *accrued interest* and then toward the *judgment principal* (including costs approved by the court after entry of the judgment).

Calculation of Interest on Judgment and Amount Due

The following are various formulas and examples to assist with the calculation of interest on a judgments using both a 5% and a 10% interest rate.

- **Calculating the Total Amount Due, Including Interest, on the date of payment, if there have been no prior payments or credits**

Step 1: Calculate the daily interest on a judgment. This is the amount of interest earned per day on a judgment. To calculate the daily interest, use the following formula:

Formula: (Total amount of judgment owed) x (applicable interest rate) = interest earned per year. That number divided by 365 = amount of daily interest.

Example: Judgment debtor owes the judgment creditor \$5,000 (the “judgment principal”).

5% Interest Rate	10% Interest Rate
$\$5,000 \times 0.05 = \250 $\$250/365 = \0.69 daily interest	$\$5,000 \times 0.10 = \500 $\$500/365 = \1.37 daily interest
The amount of interest earned will be \$0.69 per day as long as the unpaid amount remains \$5,000.	The amount of interest earned will be \$1.37 per day as long as the unpaid amount remains \$5,000.

Step 2: Count the total number of days that have passed since the court entered the final judgment up to the day of payment. Then calculate the amount of interest owed on the date of payment using the following formula.

Formula: (Total number of days since judgment was entered) x (amount of interest per day, calculated in Step 1) = amount of interest owed on the date of payment.

Example: A \$5,000 judgment was entered on June 1 and the judgment debtor paid the judgment on September 8; 100 days from the entry of the judgment have passed.

5% Interest Rate	10% Interest Rate
The daily interest is \$0.69 (see above) $\$0.69 \text{ per day} \times 100 \text{ days} = \69 interest owed on the date of payment	The daily interest is \$1.37 (see above) $\$1.37 \text{ per day} \times 100 \text{ days} = \137 interest owed on the date of payment.
The judgment debtor owes \$69 in interest on the principal of \$5,000 on the date of payment.	The judgment debtor owes \$137 in interest on the principal of \$5,000 on the date of payment.

Step 3: Add the amount of interest that has accrued to the amount of the judgment.

5% Interest Rate	10% Interest Rate
$\$5,000 \text{ judgment} + \$69 \text{ interest} = \$5,069$	$\$5,000 \text{ judgment amount} + \$137 \text{ interest} = \$5,137$
The judgment debtor owes a total of \$5,069 on the 100th day after the court entered judgment.	The judgment debtor owes a total of \$5,137 on the 100th day after the court entered judgment.

- **Crediting partial payments and recalculating the amount due**

If the judgment debtor does not pay all that is owed at one time, the partial payments the debtor makes are credited to the interest *first* and then to the judgment amount (the principal) owed.

Example: The judgment principal is \$5,000. After 200 days, the judgment debtor pays \$1,000.

Step 1: Calculate the amount of interest owed on the date of payment

5% Interest Rate	10% Interest Rate
The daily interest is \$0.69 (see above) \$0.69 per day x 200 days = \$138 interest owed on the date of payment	The daily interest is \$1.37 (see above) \$1.37 per day x 200 days = \$274 interest owed on the date of payment.

Step 2: Apply payment to interest

5% Interest Rate	10% Interest Rate
The judgment debtor paid \$1,000, which first must be used to credit the \$138 of accrued interest.	The judgment debtor paid \$1,000, which first must be used to credit the \$274 of accrued interest.
That leaves a balance of \$862 ($\$1,000 - \$138 = \862) to be credited towards the \$5,000 principal.	That leaves a balance of \$726 ($\$1,000 - \$274 = \726) to be credited towards the \$5,000 principal.

Step 3: Apply remainder to principal

5% Interest Rate	10% Interest Rate
The remaining credit of \$862 is applied to the judgment principal. The judgment debtor now owes \$4,138 on the judgment principal ($\$5,000 - \$862 = \$4,138$).	The remaining credit of \$726 is applied to the judgment principal. The judgment debtor now owes \$4,274 on the judgment principal ($\$5,000 - \$726 = \$4,274$).

Step 4: Calculate the new daily interest rate

5% Interest Rate	10% Interest Rate
$\$4,138$ (new principal) x 5% = \$206.90 interest per year $\$206.90/365$ days = \$0.57 interest earned per day	$\$4,274$ (new principal) x 10% = \$427.40 interest per year $\$427.40/365$ days = \$1.17 interest earned per day

Example: After 100 days, the judgment debtor makes a second payment of \$500. (Recalculate using Steps 1-4.)

5% Interest Rate	10% Interest Rate
Amount of accrued interest over 100 days: 100 days x \$0.57 daily interest = \$57 total interest.	Amount of accrued interest over 100 days: 100 days x \$1.17 daily interest = \$117 total interest
\$500 payment credited to interest first: \$500 payment - \$57 interest = \$443 remaining.	\$500 payment credited to interest first: \$500 payment - \$117 interest = \$383 remaining
Remainder credited to principal: \$4138 principal - \$443 remainder = \$3,695 new principal	Remainder credited to principal: \$4,274 principal - \$383 remaining = \$3,891 new principal
Calculate new daily interest: $\$3,695$ x 5% = $\$184.75/365 = \0.51 interest per day	Calculate new daily interest: $\$3,891$ x 10% = $\$389.10/365 = \1.07 interest per day

Not approved by Judicial Council

SMALL CLAIMS CASE NO.:

<p>NOTICE TO ALL PLAINTIFFS AND DEFENDANTS: Your small claims case has been decided. If you lost the case, and the court ordered you to pay money, your wages, money, and property may be taken without further warning from the court. Read the back of this sheet for important information about your rights.</p>	<p>AVISO A TODOS LOS DEMANDANTES Y DEMANDADOS: Su caso ha sido resuelto por la corte para reclarnos judiciales menores. Si la corte ha decidido en su contra y ha ordenado que usted pague dinero, le pueden quitar su salario, su dinero, y otras cosas de su propiedad, sin aviso adicional por parte de esta corte. Lea el reverso de este formulario para obtener informacion de importancia acerca de sus derechos.</p>
---	---

PLAINTIFF/DEMANDANTE (Name, street address, and telephone number of each):

DEFENDANT/DEMANDADO (Name, street address, and telephone number of each):

Telephone No.: _____

Telephone No.: _____

Telephone No.: _____

Telephone No.: _____

See attached sheet for additional plaintiffs and defendants.

NOTICE OF ENTRY OF JUDGMENT

Judgment was entered as checked below on (date):

- Defendant (name, if more than one): shall pay plaintiff (name, if more than one): \$ _____ principal and: \$ _____ costs on plaintiffs claim.
- Defendant does not owe plaintiff any money on plaintiff's claim.
- Plaintiff (name, if more than one): shall pay defendant (name, if more than one): \$ _____ principal and \$ _____ costs on defendant's claim.
- Plaintiff does not owe defendant any money on defendants claim.
- Possession of the following property is awarded to plaintiff (describe property):
- Payments are to be made at the rate of: \$ _____ per (specify period): _____, beginning on (date): _____ and on the (specify day): _____ day of each month thereafter until paid in full. If any payment is missed, the entire balance may become due immediately.
- Dismissed in court with prejudice. without prejudice.
- Attorney-Client Fee Dispute (Attachment to Notice of Entry of Judgment) (form SC-132) is attached.
- Other (specify):
- Judgment debtor is a natural person, and \$ _____ of this judgment is on a claim related to medical expenses or personal debt as provided in Code Civ. Proc., §§ 683.110, 685.010.
- This judgment results from a motor vehicle accident on a California highway and was caused by the judgment debtor's operation of a motor vehicle. If the judgment is not paid, the judgment creditor may apply to have the judgment debtor's drivers license suspended.
- Enforcement of the judgment is automatically postponed for 30 days or, if an appeal is filed, until the appeal is decided.
- This notice was personally delivered to (insert name and date):
- CLERK'S CERTIFICATE OF MAILING I certify that I am not a party to this action. This Notice of Entry of Judgment was mailed first class, postage prepaid, in a sealed envelope to the parties at the addresses shown above. The mailing and this certification occurred at the place and on the date shown below.

Place of mailing: _____, California

Date of mailing:

Clerk, by _____, Deputy

The county provides small claims advisor services free of charge. Read the information sheet on the reverse.

INFORMATION AFTER JUDGMENT	INFORMACION DESPUES DEL FALLO DE LA CORTE
<p>Your small claims case has been decided. The judgment or decision of the court appears on the front of this sheet. The court may have ordered one party to pay money to the other party. The person (or business) who won the case and who can collect the money is called the judgment creditor. The person (or business) who lost the case and who owes the money is called the judgment debtor.</p> <p>Enforcement of the judgment is postponed until the time for appeal ends or until the appeal is decided. This means that the judgment creditor cannot collect any money or take any action until this period is over. Generally, both parties may be represented by lawyers after judgment.</p>	

IF YOU LOST THE CASE . . .

1. If you lost the case on your own claim and the court did not award you any money, the court's decision on your claim is **FINAL**. You may not appeal your own claim.
2. If you lost the case and the court ordered you to pay money, your money and property may be taken to pay the claim unless you do one of the following things:
 - a. **PAY THE JUDGMENT**
The law requires you to pay the amount of the judgment. You may pay the judgment creditor directly, or pay the judgment to the court for an additional fee. You may also ask the court to order monthly payments you can afford.
Ask the clerk for information about these procedures.
 - b. **APPEAL**
If you disagree with the court's decision, you may appeal the decision on *the other party's claim*. You may not appeal the decision on your own claim. However, if any party appeals, there will be a new trial on *all* the claims. If you appeared at the trial, you *must* begin your appeal by filing a form called a *Notice of Appeal* (form SC-140) and pay the required fees within 30 days after the date this *Notice of Entry of Judgment* was mailed or handed to you. Your appeal will be in the superior court. You will have a **new trial** and you must present your evidence again. You may be represented by a lawyer.
 - c. **VACATE OR CANCEL THE JUDGMENT**
If you did not go to the trial, you may ask the court to vacate or cancel the judgment. To make this request, you must file a *Motion to Vacate the Judgment* (form SC-135) and pay the required fee *within 30 days* after the date this *Notice of Entry of Judgment* was mailed. If your request is denied, you then have 10 days from the date the notice of denial was mailed to file an appeal. The period to file the *Motion to Vacate the Judgment is 180 days* if you were *not properly served* with the claim. The 180-day period begins on the date you found out or should have found out about the judgment against you.

- b. **VOLUNTARY PAYMENT**
Ask the judgment debtor to pay the money. If your claim was for possession of property, ask the judgment debtor to return the property to you. **THE COURT WILL NOT COLLECT THE MONEY OR ENFORCE THE JUDGMENT FOR YOU.**
- c. **STATEMENT OF ASSETS**
If the judgment debtor does not pay the money, the law requires the debtor to fill out a form called the *Judgment Debtor's Statement of Assets* (form SC-133). This form will tell you what property the judgment debtor has that may be available to pay your claim. If the judgment debtor willfully fails to send you the completed form, you may file an *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) and ask the court to give you your attorney's fees and expenses and other appropriate relief, after proper notice, under Code of Civil Procedure section 708.170.
- d. **ORDER OF EXAMINATION**
You may also make the debtor come to court to answer questions about income and property. To do this, ask the clerk for an *Application and Order for Appearance and Examination (Enforcement of Judgment)* (form EJ-125) and pay the required fee. There is a fee if a law officer serves the order on the judgment debtor. You may also obtain the judgment debtor's financial records. Ask the clerk for the *Small Claims Subpoena and Declaration* (form SC-107) or *Civil Subpoena Duces Tecum* (form SUBP-002).
- e. **WRIT OF EXECUTION**
After you find out about the judgment debtor's property, you may ask the court for a *Writ of Execution* (form EJ-1 30) and pay the required fee. A writ of execution is a court paper that tells a law officer to take property of the judgment debtor to pay your claim. Here are some examples of the kinds of property the officer may be able to take: **wages, bank account, automobile, business property, or rental income.** For some kinds of property, you may need to file other forms. See the law officer for information.
- f. **ABSTRACT OF JUDGMENT**
The judgment debtor may own land or a house or other buildings. You may want to put a lien on the property so that you will be paid if the property is sold. You can get a lien by filing an *Abstract of Judgment* (form EJ-001) with the county recorder in the county where the property is located. The recorder will charge a fee for the *Abstract of Judgment*.

IF YOU WON THE CASE . . .

1. If you were sued by the other party and you won the case, then the other party may not appeal the court's decision.
If you won the case and the court awarded you money, here are some steps you may take to collect your money or get possession of your property:
 - a. **COLLECTING FEES AND INTEREST**
Sometimes fees are charged for filing court papers or for serving the judgment debtor. These extra costs can become part of your original judgment. To claim these fees, ask the clerk for a *Memorandum of Costs*.

NOTICE TO THE PARTY WHO WON: As soon as you have been paid in full, you *must* fill out the form below and mail it to the court *immediately* or you may be fined. If an *Abstract of Judgment* has been recorded, you must use another form; see the clerk for the proper form.

SMALL CLAIMS CASE NO.:

ACKNOWLEDGMENT OF SATISFACTION OF JUDGMENT (*Do not use this form if an Abstract of Judgment has been recorded.*)

To the Clerk of the Court:

I am the judgment creditor assignee of record.
I agree that the judgment in this action has been paid in full or otherwise satisfied.
Date: _____

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

Clerk stamps here when form is filed.

DRAFT

03/06/2023

Not approved by the Judicial Council

This form tells you the court's decision (judgment) in this small claims case. The date the small claims clerk handed or mailed you this form is very important. That date sets the deadline for the parties to take legal steps to protect or enforce their rights.

If the court ordered you to pay money, your wages, money, or property can be taken, if you do not pay the judgment within 30 days. You may also have to pay interest. If the court decided that you owe money because of an auto accident, the Department of Motor Vehicles (DMV) can suspend your driver's license.

If you disagree with the judgment, you may have the right to appeal or to ask the court to cancel or correct the judgment. To protect these rights, you must file papers with the court within 30 days after this notice was mailed or handed to you.

Read pages 3 and 4. They explain your rights and responsibilities, whether you won or lost the case.

Fill in the court name and street address:

Superior Court of California, County of

Fill in your case number and case name:

Case Number:

Case Name:

1 The judgment (decision) in this small claims case was entered on (date):

2 The judgment cannot be enforced until after the 30-day right to appeal or file a motion to vacate (cancel) or correct the judgment has ended. If an appeal or a motion to cancel or correct the judgment is properly filed, the judgment cannot be enforced until the appeal or motion is decided.

3 Judgment on the Plaintiff's Claim

Plaintiff's name, if more than one:

Defendant's name, if more than one:

- a. The plaintiff's claim against (check one): all parties (name) is dismissed and (1) may not be filed again. (The claim is dismissed with prejudice.) (2) may be filed again, if filed by the legal deadline. (The claim is dismissed without prejudice.)

b. The defendant (name) does not have to pay the plaintiff anything.

c. The defendant (name) must pay the plaintiff (name) (total amount): \$, which includes: principal: \$ + interest: \$ + court costs: \$ - offset: \$ Reason for offset, if any:

- d. More than one person owes money on this claim. The liability of each person is: (1) Joint and several. (The judgment creditor may collect the entire judgment from any judgment debtor.) (2) Other (specify):

e. The defendant (name) must give the plaintiff (name) (specify property): by (date): The property is specified on Attachment 3e.

4 Judgment on the Defendant's Claim

Defendant's name, if more than one:

Plaintiff's name, if more than one:

Case Name: _____

- 4 a. The defendant's claim against (*check one*): all parties (*name*): _____ is dismissed and
 - (1) may not be filed again. (The claim is dismissed with prejudice.)
 - (2) may be filed again, if filed by the legal deadline. (The claim is dismissed without prejudice.)
- b. The plaintiff (*name*): _____ does not owe any money on this claim.
- c. The plaintiff (*name*): _____ must pay the defendant (*name*): _____
 (*total amount*): \$ _____, which includes:
 principal: \$ _____ + interest: \$ _____ + court costs: \$ _____ - offset: \$ _____
 Reason for offset, if any: _____
- d. More than one person owes money on this claim. The liability of each person is:
 - (1) Joint and several. (The judgment creditor may collect the entire judgment from any judgment debtor.)
 - (2) Other (*specify*): _____
- e. The plaintiff (*name*): _____ must give the defendant (*name*): _____
 (*specify property*): _____ by (*date*): _____
 The property is specified on Attachment 4e.

- 5 Payments (*Name*): _____
 may pay the judgment to (*name*): _____ as follows:
 - a. Payments of \$ _____ on the _____ day of each (*month, week, other*) _____
 starting (*date*): _____ and a final payment of: \$ _____ on (*date*): _____
 - b. Other payment schedule (*specify*): _____
 - c. The total amount of payments is \$ _____, which includes interest on the unpaid balance of the judgment. The actual amount of that interest may be different if payments are made late or early.
 - d. The total amount of the payments is the same as the judgment. If all payments are made in full and on time, no interest will be owed on the judgment and the judgment will have been paid in full.
 - e. If any payment is not made in full and on time, the judgment creditor may notify the court to cancel the payment plan, and the entire unpaid balance will become due and collectible.

Other Orders

- 6 Decisions on other claims or parties are stated in Attachment 6.
- 7 After offsetting the judgments on the claims, (*name*): _____
 owes (*name*): _____ \$ _____
- 8 This judgment against (*name*): _____
 is for damage or injury because of an automobile vehicle accident on a California highway caused by the judgment debtor or by another party for whose conduct the judgment debtor is liable (other than liability because the party signed a minor's driver's license application).
- 9 Judgment debtor is a natural person, and \$ _____ of this judgment is on a claim related to medical expenses or personal debt as provided in Code Civ. Proc., §§ 683.110, 685.010.
- 10 The court finds that the defendant's rights under the Servicemembers Civil Relief Act were not prejudiced by the entering of a judgment against the defendant because the defendant was not a servicemember or had notice and was available to defend this action.
- 11 Form SC-202A, *Decision on Attorney-Client Fee Dispute*, is attached.
- 12 Other (*specify*): _____
 Continued on Attachment 11.

Date: _____

Clerk, by _____, Deputy



What to Do After the Court Decides Your Small Claims Case

First, read the court's decisions on pages 1 and 2. They will tell you the court's judgment in this case.
Then read this form. It will help you protect or enforce your rights, whether you won or lost the case.

Warning! You may lose important rights if you do not act within 30 days after the court handed or mailed you this *Notice of Entry of Judgment*. If the court mailed the *Notice of Entry of Judgment*, the date of mailing is on the *Clerk's Certificate of Mailing* that came with the notice.

If the court did not award you any money on a claim that you filed... The court's decision on your claim is *normally* final. You cannot appeal the decision on your own claim, but you may be allowed to ask the court to correct a mistake in the judgment.

If the court ordered you to pay money...

You are the *judgment debtor*. The law requires you to pay the judgment. You **can**:

- Pay the judgment creditor directly.
- Pay the court. (To do this, file Form SC-145, *Request to Pay Judgment to Court*.) Or
- Ask the court to let you make payments. (To do this, file Form SC-220, *Request to Make Payments*.)

If any payment is not made in full and on time, the judgment creditor may notify the court to cancel the payment plan and the entire unpaid balance will become due and collectible.

Warning! If you do not pay the judgment or file an appeal or a motion to vacate (cancel) or correct the judgment **within 30 days** after the *Notice of Entry of Judgment* was handed or mailed to you, your wages, money, and property can be taken to pay the claim. You may also have to pay interest. If your case involves an auto accident on a California highway, the Department of Motor Vehicles (DMV) can suspend your driver's license.

After you pay the judgment in full, you can ask the judgment creditor to file a form saying the judgment is paid. (See form SC-290, *Acknowledgment of Satisfaction of Judgment*.) If the judgment creditor does not do this, he or she may have to pay you damages and a penalty.

If you disagree with the judgment ordering you to pay money and you went to your small claims trial, you can appeal that decision. (You cannot appeal the decision on your own claim.) To do this, file Form SC-140, *Notice of Appeal*, within 30 days after the *Notice of Entry of Judgment* was handed or mailed to you. There will be a new trial in the superior court on all claims in the case. Each side will present evidence again. This time, each side can have a lawyer at the trial.

(Continued on page 4)

If the court ordered the other side to pay you...

You are the *judgment creditor*. **You** must collect your judgment. The court will not collect it for you. Some steps you can take to collect your money are summarized below. For more information, go to www.courtinfo.ca.gov/selfhelp/smallclaims/collectintro.htm.

Important! The judgment debtor has **30 days** after the *Notice of Entry of Judgment* was handed or mailed to him or her to appeal or pay or ask the court to cancel or correct the judgment. You cannot take legal steps to collect the judgment during this time.

Ask the judgment debtor to pay you the money. If the judgment debtor cannot afford to pay the judgment all at once, consider offering to take payments. If your claim was for possession of property, ask the judgment debtor to return the property to you.

If the judgment debtor does not pay, you can find out about the debtor's income or property that the sheriff can take to satisfy the judgment.

- If the debtor does not pay within 30 days after the court clerk delivered or mailed the *Notice of Entry of Judgment*, the debtor must send you Form SC-133, *Judgment Debtor's Statement of Assets*. This form will tell you what property the debtor has that may be used to pay the judgment.
- **If the debtor does not send you the completed Form SC-133**, you can file Form SC-134, *Application and Order to Produce Statement of Assets and to Appear for Examination*. In this form, you can also ask the court to award you your attorney fees, expenses, and other appropriate relief.
- **If the debtor does send you Form SC-133, you can still have the debtor come to court to answer questions** about income and property. To do this, file Form EJ-125, *Application and Order for Appearance and Examination*.

(Continued on page 4)



If the court ordered you to pay money...

(continued)

If you disagree with the judgment ordering you to pay money, and you did not go to your trial, you can ask the court to vacate (cancel) the judgment. To do this, file Form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, within 30 days* after the *Notice of Entry of Judgment* was handed or mailed to you. If the court denies your request, you have until 10 days from the date the notice of denial is mailed to file an appeal.

Exception:* If the claim against you was not properly served, you have **180 days from the date that you found out (or should have found out) about the judgment against you to file a request to cancel the judgment.

Unless you pay the judgment or file an appeal or a motion as discussed above, you must complete Form SC-133, *Judgment Debtor's Statement of Assets*, and deliver it to the judgment creditor within 30 days after the clerk delivered or mailed the *Notice of Entry of Judgment*.

Warning! If you do not deliver the completed Form SC-133, the court can order you to pay attorney fees and impose other penalties.

If the court ordered the other side to pay you...

(continued)

- To obtain the judgment debtor's financial records from another person or a company at a hearing, fill out Form SC-107, *Small Claims Subpoena and Declaration*, take it to the small claims court clerk to be issued, and then have it served.

Once you know about the judgment debtor's income and property, you can ask the sheriff to take that property to pay you. (Property that may be taken includes wages, bank accounts, automobiles, business property, and rental income.) To do this, fill out and ask the court clerk to issue Form EJ-130, *Writ of Execution*. Then, take the form to the sheriff's office with a description of the debtor's property.

You can also put a lien on the judgment debtor's house or other real estate. To do this, fill out and ask the court clerk to issue Form EJ-001, *Abstract of Judgment—Civil and Small Claims*. Then, take or mail the *Abstract* to the county recorder's office in the county where you think the debtor owns real property. If the judgment debtor sells, refinances, or buys real property in that county, your judgment should be paid from the debtor's funds.

After the judgment has been paid in full, you must fill out an *Acknowledgment of Satisfaction of Judgment* and file it with the court clerk. If an *Abstract of Judgment* has not been recorded, you may use Form SC-290. If an abstract has been recorded, use Form EJ-100.

Warning! If you do not file an *Acknowledgment of Satisfaction of Judgment*, you may have to pay the judgment debtor damages and a penalty.

You may need to pay fees to the court, the county recorder's office, or the sheriff for filing, issuing, and recording papers and doing the other things discussed above. Sometimes, you can ask the court to order the other side to repay you for these expenses.



Need help?

For free help, contact your county's small claims advisor:
[local info here]

Or go to "County-Specific Court Information" at www.courtinfo.ca.gov/selfhelp/smallclaims

Clerk stamps here when form is filed.

DRAFT
2.28.2023
Not approved
by Judicial
Council

Read the other side before you fill out this form.

1 I am asking for permission to pay my small claims judgment in payments.

My name is: _____

Mailing address: _____

Phone: _____

2 On (date): _____, the court made the decision (judgment) that:

Fill in the court name and street address:

I owe (total amount): \$ _____

Superior Court of California, County of

To (name of party you must pay): _____

Mailing address: _____

Phone: _____

Fill in your case number and case name:

3 I am asking for permission to make payments, instead of paying the full amount all at once, because (explain):

Case Number:

If your answer will not fit in the space below, check this box and attach your answer on a separate sheet of paper. Write "SC-220, Item 3" at the top.

Case Name:

4 I ask the court to allow me to make payments on the following terms (check and complete all that apply):

a. Payments of \$ _____, on the _____ day of each (month, week, other): _____ Starting (date): _____, until (date of final payment): _____; amount of final payment: \$ _____

b. Other payment schedule (specify): _____

c. The total amount of payments is \$ _____, which includes interest on the unpaid balance of the judgment. The actual amount of that interest may be different if the payments are made late or early. Attach a page that shows how you calculated the interest and write "SC-220, Item 4c" at the top.

d. The total amount of payments is the same as the judgment. If all payments are made in full and on time, no interest will be owed on the judgment, and the judgment will be paid in full.

e. Other (specify): _____

Warning! If any payment is not made in full and on time, the judgment creditor may notify the court to cancel the payment plan and the entire unpaid balance will become due and collectible.

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

Date: _____

Type or print your name

Sign here

Payments in Small Claims Cases

General Information

If the court ordered you to pay money, you can ask the court for permission to make payments. Here's how:

- Fill out form SC-220, *Request to Make Payments*. Fill out one form for each plaintiff or defendant (judgment creditor) you want to make payments to.
- Fill out form EJ-165, *Financial Statement*.
- File your completed forms with the small claims court clerk.

The court will mail all other plaintiffs and defendants in the case copies of your *Request to Make Payments* and *Financial Statement*, and a blank form SC-221, *Response to Request to Make Payments*.

The other parties will have 10 days to file a **Response**. Then, the court will mail all plaintiffs and defendants in the case:

- A decision on the *Request to Make Payments* or
- A notice to go to a hearing.

If the court ordered someone to pay you money, and that person has filed a *Request to Make Payments*:

- If, after reading the *Request*, you agree with the *Request*, you do not need to do anything.
- If you do not agree with the *Request* or you want to be paid interest, fill out and file form SC-221, *Response to Request to Make Payments*, within 10 days after the court clerk mailed the *Request* to you. (This date is on the *Clerk's Certificate of Mailing*.) If you do not do this, the court may allow the person who owes you money to make payments. And, you may lose your rights to collect interest on the judgment.

To file your **Response**:

- Have your *Response* served on all other plaintiffs and defendants in your case. (See form SC-112A, *Proof of Service By Mail*.)
- File your *Response* and *Proof of Service* with the small claims court clerk.

Answers to Common Questions

When is the judgment due?

Unless the court orders otherwise, small claims judgments are due immediately. If the judgment is not paid in full within 30 days, the judgment creditor (person to whom the money is owed) can take legal steps to collect any unpaid amount. (Collection may be postponed if an appeal or a request to vacate (cancel) or correct the judgment is filed.)

When can the judgment debtor make payments?

A party who was ordered to pay a small claims judgment (judgment debtor) can ask the court for permission to make payments. If the court agrees, the party who is owed money (the judgment creditor) cannot take any other steps to collect the money as long as the payments are made on time. If payments are not made on time, the judgment creditor can ask the court to order that the remaining balance of the judgment is due and collectible.

Is interest added after the judgment?

Interest is usually added to the unpaid amount of the judgment from the date the judgment is entered until it is paid in full. Interest can only be charged on the unpaid amount of the judgment (the principal); interest cannot be charged on any unpaid interest. If a partial payment is received, the money is applied first to unpaid interest and then to unpaid principal.

When the court allows payments, the court often does not order any interest, as long as all payments are made in full and on time. Unless the judgment creditor asks for interest to be included in the order allowing payments, the judgment creditor may lose any claims for interest. But if the judgment debtor does not make full payments on time, interest on the missed payment or the entire unpaid principal.

How do I calculate interest?

If you are asking for interest or disagreeing with a request for interest, you need to explain your interest calculation. Interest may be added to the full unpaid balance of the judgment or only to payments that were not made on time. To calculate interest, show the unpaid principal balance, the dates and number of days you want the court to allow interest on that amount, and the total interest for that period. If payments were made, you will need to make separate calculations for the reduced principal balance after each payment. For more information on the applicable rate of interest and calculating the amount of interest, see *Information Sheet for Calculating Interest and Amount Owed on a Judgment* (form MC-013-INFO).



Need help?

For free help, contact your county's small claims advisor:

[local info here]

Or go to "County-Specific Court Information" at www.courts.ca.gov/selfhelp-smallclaims.htm

General Information

If the court ordered you to pay money, you can ask the court for permission to make payments. Here's how:

- Read this form.
- Fill out Form SC-220, *Request to Make Payments*
Fill out one form for each plaintiff or defendant (judgment creditor) you want to make payments to.
- Fill out Form EJ-165, *Financial Statement*
- File your completed forms with the small claims court clerk.

The court will mail all other plaintiffs and defendants in the case copies of your *Request to Make Payments* and *Financial Statement*, this information form, and a blank Form SC-221, *Response to Request to Make Payments*.

The other parties will have 10 days to file a Response. Then, the court will mail all plaintiffs and defendants in the case:

- A decision on the *Request to Make Payments* or
- A notice to go to a hearing.

If the court ordered someone to pay you money, and that person has filed a *Request to Make Payments*...

- Read this form and the *Request*.
- If you agree with the *Request*, you do not need to do anything.
- **If you do not agree with the *Request* or you want to be paid interest, file a *Response* within 10 days after the court clerk mailed the *Request* to you.** (This date is on the *Clerk's Certificate of Mailing*.) If you do not do this, the court may allow the person who owes you money to make payments. And, you may lose your rights to collect interest on the judgment.

To file your Response:

- Fill out Form SC-221, *Response to Request to Make Payments*.
- Have your *Response* served on all other plaintiffs and defendants in your case. (See Form SC-112A, *Proof of Service By Mail*.)
- File your *Response* and *Proof of Service* with the small claims court clerk.

Answers to Common Questions

When is the judgment due?

Unless the court orders otherwise, small claims judgments are due immediately. If the judgment is not paid in full within 30 days, the judgment creditor (person to whom the money is owed) can take legal steps to collect any unpaid amount. (Collection may be postponed if an appeal or a request to vacate (cancel) or correct the judgment is filed.)

Can the judgment debtor make payments?

A party who was ordered to pay a small claims judgment (the judgment debtor) can ask the court for permission to make payments. If the court agrees, the party who is owed money (the judgment creditor) cannot take any other steps to collect the money as long as the payments are made on time.

Is interest added after the judgment?

Interest (10 percent per year) is usually added to the unpaid amount of the judgment from the date the judgment is entered until it is paid in full. Interest can only be charged on the unpaid amount of the judgment (the principal); interest cannot be charged on any unpaid

interest. If a partial payment is received, the money is applied first to unpaid interest and then to unpaid principal. When the court allows payments, the court often does not order any interest, as long as all payments are made in full and on time. Unless the creditor asks for interest to be included in the order allowing payments, the creditor may lose any claims for interest. But, if the debtor does not make full payments on time, interest on the missed payment or the entire unpaid balance might become due and collectible.

How do I calculate interest?

If you are proposing a payment schedule that includes interest, you need to itemize the principal and interest for each payment. To do this, you can search on the Internet for "free amortization calculator." Enter the total amount of the judgment as the principal, the interest rate of 10 percent per year, the frequency of payments (monthly, weekly, etc.), and the number or length of payments. Print the results showing the payment amount and how each payment is divided between principal and interest. Attach this to your *Request* or *Response*.



Need help? For free help, contact your county's small claims advisor:
[local info here]

Or go to "County-Specific Court Information" at www.courts.ca.gov/selfhelp-smallclaims

Declaration of Default in Payment of Judgment

Clerk stamps here when form is filed.

DRAFT 03.06.2023 Not approved by Judicial Council

Important: Read the other side if this form was mailed to you or before you fill out this form. If you are the judgment debtor named in (2) and you disagree with this Declaration of Default in Payment of Judgment, you may file form SC-224, Response to Declaration of Default in Payment of Judgment, within 10 days after the declaration was mailed to you.

(1) I am asking the court to order that the remaining balance of a small claims judgment is now due and collectible because payments were not made as the court ordered.

My name is: _____

Mailing address: _____

Phone: _____ Email (optional): _____

(2) The judgment debtor who has not made payments as the court ordered is (complete a separate form for each judgment debtor who has not paid as ordered):

Name: _____

Mailing address: _____

Phone: _____ Email (optional): _____

(3) On (date): _____ the court ordered that the judgment debtor named in (2) must pay me, or someone who assigned the judgment to me, principal, prejudgment interest, and costs in the total amount of \$ _____.

(4) On (date): _____ the court ordered that the judgment debtor named in (2) may pay the judgment described in (3) as follows:

a. [] Payments of \$ _____, on the _____ day of each (month, week, other): _____ starting (date): _____, until (date of final payment): _____; amount of final payment: \$ _____

b. [] Other payment schedule (specify): _____

(5) The payments listed below, and no others, have been made on the judgment described in (3).

[] Check here if there is not enough space below. List the date and amount of each payment on a separate page and write "SC-223, Item 5" at the top.

Table with 8 columns: Date, Amount, Date, Amount, Date, Amount, Date, Amount

(6) The total amount of the payments that have been made on the judgment described in (3) is \$ _____, and the balance due, without adding any interest after the judgment, is \$ _____.

(7) I request interest on the judgment, in the amount of \$ _____, calculated as follows:

[] Check here if there is not enough space below. Explain how you calculated interest on a separate page and write "SC-223, Item 7" at the top.

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

Date: _____

Type or print your name

Sign here



Default in Payments on Small Claims Judgment

General Information

If the court ordered that another plaintiff or defendant (judgment debtor) may pay a small claims judgment in payments, and that judgment debtor has not made the payments as ordered, you can ask the court to order that the full balance of the judgment is due and collectible. Here's how:

- Fill out page 1 of form SC-223, *Declaration of Default in Payment of Judgment*. Fill out a separate form for each judgment debtor who did not make payments as ordered.
- File your completed form(s) with the small claims court clerk.

The court will mail all other plaintiffs and defendants in the case copies of the *Declaration* and a blank form SC-224, *Response to Declaration of Default in Payment of Judgment*.

The judgment debtor will have 10 days to file a **Response**. Then the court will mail all plaintiffs and defendants in the case:

- A decision, or
- A notice to go to a hearing.

If the court ordered that you may make payments on a judgment, and another plaintiff, defendant, or person to whom the judgment has been assigned (judgment creditor) has filed form SC-223, *Declaration of Default in Payment of Judgment*, asking the court to order that the full balance is now due and collectible because you did not make the payments:

- If, after reading the *Declaration*, you agree with the court ordering that the amounts claimed in the *Declaration* are now due in full, you do not need to do anything.
- If you do not agree with the *Declaration* or with the court ordering that the amounts it claims are now due in full, fill out and file form SC-224, *Response to Declaration of Default in Payment of Judgment*, within 10 calendar days after the court clerk mailed the *Declaration* to you. (This date is on the *Clerk's Certificate of Mailing*.)

To file your **Response**:

- Have your *Response* served on the judgment creditor and all other plaintiffs and defendants in your case. (See form SC-112A, *Proof of Service by Mail*.)
- File your *Response* and *Proof of Service* with the small claims court clerk.

Answers to Common Questions

When is the judgment due?

Unless the court orders otherwise, small claims judgments are due immediately. If the judgment is not paid in full within 30 days, the judgment creditor (person to whom the money is owed) can take legal steps to collect any unpaid amount. (Collection may be postponed if an appeal or a request to vacate (cancel) or correct the judgment is filed.)

When can the judgment debtor make payments?

A party who was ordered to pay a small claims judgment (judgment debtor) can ask the court for permission to make payments. If the court agrees, the party who is owed money (the judgment creditor) cannot take any other steps to collect the money as long as the payments are made on time. If payments are not made on time, the judgment creditor can ask the court to order that the remaining balance of the judgment is due and collectible.

Is interest added after the judgment?

Interest is usually added to the unpaid amount of the judgment from the date the judgment is entered until it is paid in full. Interest can only be charged on the unpaid amount of the judgment (the principal); interest cannot be charged on any unpaid interest. If a partial payment is received, the money is applied first to unpaid interest and then to unpaid principal.

When the court allows payments, the court often does not order any interest, as long as all payments are made in full and on time. Unless the judgment creditor asks for interest to be included in the order allowing payments, the judgment creditor may lose any claims for interest. But if the judgment debtor does not make full payments on time, interest on the missed payment or the entire unpaid principal.

How do I calculate interest?

If you are asking for interest or disagreeing with a request for interest, you need to explain your interest calculation. Interest may be added to the full unpaid balance of the judgment or only to payments that were not made on time. To calculate interest, show the unpaid principal balance, the dates and number of days you want the court to allow interest on that amount, and the total interest for that period. If payments were made, you will need to make separate calculations for the reduced principal balance after each payment. For more information on the applicable rate of interest and calculating the amount of interest, see *Information Sheet for Calculating Interest and Amount Owed on a Judgment* (form MC-013-INFO).



Need help?

For free help, contact your county's small claims advisor:
[local info here]

Or go to www.courts.ca.gov/smallclaims/advisor

Response to Declaration of Default in Payment of Judgment

Clerk stamps here when form is filed.

DRAFT 12.19.2022 Not approved by Judicial Council

Important: If you disagree with a judgment creditor's Declaration of Default in Payment of Judgment (form SC-223), you may file a Response to Declaration of Default in Payment of Judgment (form SC-224) within 10 days after form SC-223 was mailed to you. Read the other side before you fill out this form.

1 I am responding to a Declaration of Default in Payment of Judgment (form SC-223).

My name is: _____

Mailing address: _____

Phone: _____ Email (optional): _____

Fill in the court name and street address:

Superior Court of California, County of

2 The plaintiff or defendant (judgment creditor) who filed the Declaration of Default is:

Name: _____

Mailing address: _____

Phone: _____ Email (optional): _____

Fill in your case number and case name:

Case Number:

Case Name:

3 I agree with the information in the Declaration of Default.

4 I do not agree that the court ordered the payment schedule stated in item 4 of the Declaration of Default. (Describe your disagreement.)

5 I do not agree with the dates or amounts of the payments listed in item 5 of the Declaration of Default. The payments listed below have been made on the judgment.

Check here if there is not enough space below. List the date and amount of each payment on a separate page and write "SC-224, Item 5" at the top.

Table with 8 columns: Date, Amount, Date, Amount, Date, Amount, Date, Amount

6 The total amount of the payments that have been made on the judgment is \$ _____, and the balance due, without adding any interest after the judgment, is \$ _____.

7 I agree that interest in the amount of \$ _____ may be added to the balance of the judgment. This interest is calculated as follows:

Check here if there is not enough space below. Explain how you calculated interest on a separate page and write "SC-224, Item 7" at the top.

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

Date: _____

Type or print your name

Sign here



Default in Payments on Small Claims Judgment

General Information

If the court ordered that you may make payments on a judgment, and another plaintiff, defendant, or person to whom the judgment was assigned (judgment creditor) has filed form SC-223, *Declaration of Default in Payment of Judgment*, asking the court to order that the full balance is now due and collectible because you did not make the payments:

- Read this form and the *Declaration*.
- If you agree with the court ordering that the amounts claimed in the *Declaration* are now due in full, you do not need to do anything.
- **If you do not agree with the *Declaration* or with the court ordering that the amounts it claims are now due in full, file a *Response* within 10 calendar days after the court clerk mailed the *Declaration* to you.** (This date is on the *Clerk's Certificate of Mailing*.) If you do not do so, the court may order that the balance of the judgment is now due and collectible in full and may also order interest on the unpaid amount of the judgment. .

To file your *Response*:

- Fill out form SC-224, *Response to Declaration of Default in Payment of Judgment*.
- Have your *Response* served on all other plaintiffs and defendants in your case. (See form SC-112A, *Proof of Service by Mail*.)
- File your *Response* and *Proof of Service* with the small claims court clerk.

The court will mail all plaintiffs and defendants in the case

- A decision, or
- A notice to go to a hearing.

Answers to Common Questions

When is the judgment due?

Unless the court orders otherwise, small claims judgments are due immediately. If the judgment is not paid in full within 30 days, the judgment creditor (person to whom the money is owed) can take legal steps to collect any unpaid amount. (Collection may be postponed if an appeal or a request to vacate (cancel) or correct the judgment is filed.)

When can the judgment debtor make payments?

A party who was ordered to pay a small claims judgment (judgment debtor) can ask the court for permission to make payments. If the court agrees, the party who is owed money (the judgment creditor) cannot take any other steps to collect the money as long as the payments are made on time. If payments are not made on time, the judgment creditor can ask the court to order that the remaining balance of the judgment is due and collectible.

Is interest added after the judgment?

Interest is usually added to the unpaid amount of the judgment from the date the judgment is entered until it is paid in full. Interest can only be charged on the unpaid amount of the judgment (the principal); interest cannot be charged on any unpaid interest. If a partial payment is received, the money is applied first to unpaid interest and then to unpaid principal.

When the court allows payments, the court often does not order any interest, as long as all payments are made in full and on time. Unless the judgment creditor asks for interest to be included in the order allowing payments, the judgment creditor may lose any claims for interest. But if the judgment debtor does not make full payments on time, interest on the missed payment or the entire unpaid principal.

How do I calculate interest?

If you are asking for interest or disagreeing with a request for interest, you need to explain your interest calculation. Interest may be added to the full unpaid balance of the judgment or only to payments that were not made on time. To calculate interest, show the unpaid principal balance, the dates and number of days you want the court to allow interest on that amount, and the total interest for that period. If payments were made, you will need to make separate calculations for the reduced principal balance after each payment. For more information on the applicable rate of interest and calculating the amount of interest, see *Information Sheet for Calculating Interest and Amount Owed on a Judgment* (form MC-013-INFO).



Need help?

For free help, contact your county's small claims advisor:
[local info here]

Or go to www.courts.ca.gov/smallclaims/advisor.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Unlawful Detainer: Forms to Reflect Existing Law and Implement Senate Bill 1017 and Assembly Bill 1726

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

Approve form UD 110P; revise forms SUM 130, UD 101, UD 105, UD 110, and UD 110S

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

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

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Item 5: Develop form recommendations as appropriate to implement SB 1017. The law prohibits termination of a tenancy based on abuse or violence against a tenant. Under the new legislation, if the abuser is in the same household, that affirmative defense is raised, and a court determines that documentation of the abuse or violence exists, then the court must make certain orders, including a partial eviction removing the perpetrator of the violence and that the landlord change the locks for the remaining occupants. The legislation requires the council to adopt forms to implement this bill.

Item 6: Develop form recommendations as appropriate. The council's current mandatory cover sheet and answer form for unlawful detainer actions contain numerous items related to rent that came due in 2020 and 2021, to reflect COVID-19-related protections applicable to such rent. Because the statute of limitations on recovering such rents is passed, the forms should be revised to avoid confusion as to what protections remain available. Additionally, the forms may benefit from reformatting.

Item 7: Consider whether form revisions are appropriate to implement AB 1726. The law provides that defendants in actions to obtain possession of real property have an additional five court days to file a response if service is completed by mail or in person through the Secretary of State's address confidentiality program.

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

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

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

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

This proposal:

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

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

- The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is

checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-10

Title

Unlawful Detainer: Forms to Reflect Existing Law and Implement Senate Bill 1017 and Assembly Bill 1726

Proposed Rules, Forms, Standards, or Statutes

Approve form UD-110P; revise forms SUM-130, UD-101, UD-105, UD-110, and UD-110S

Proposed by

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

Action Requested

Review and submit comments by May 12, 2023

Proposed Effective Date

January 1, 2024

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes the adoption of one new form and revision of several other forms relating to unlawful detainer actions. These new and revised forms (1) implement a new law creating a new procedure for partial evictions, (2) implement a new law providing additional time for certain defendants to respond to a summons for unlawful detainer, and (3) update the forms to reflect current law regarding COVID-19 rental protections.

Background

Senate Bill 1017

In September 2022 the Governor signed Senate Bill 1017 (Stats. 2022, ch. 558),¹ which, effective January 1, 2023, makes changes to unlawful detainer actions based on an act of abuse or violence against a tenant. Current law provides that a landlord may not terminate a tenancy (or fail to renew a tenancy) based on documented abuse or violence against a tenant or a tenant's

¹ SB 1017 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1017.

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.

household member by a non-tenant unless the tenant allows the perpetrator of abuse or violence to visit the property or the landlord reasonably believes that the presence of the abuse poses a physical threat to other tenants, guests, invitees, or licensees and, in either case, the landlord gave the tenant three days' notice to correct the issue.

SB 1017 expands who is covered by the law to include abuse against a tenant's immediate family member in addition to abuse against a tenant and a tenant's household member. (Code Civ. Proc., § 1161.3(b).)² Another statutory change enacted by SB 1017 concerns what constitutes documentation of abuse or violence. Prior to SB 1017, such documentation was limited to a protective order against the abuser, a copy of a police report, or a report from a qualified third party that the abusee is seeking assistance for physical or mental injuries or abuse resulting from an act of abuse or violence. With SB 1017, section 1161.3 provides that "[a]ny other form of documentation or evidence that reasonably verifies that the abuse or violence occurred" is also sufficient. (§ 1161.3(a)(2)(D).)

In addition to expanding the categories of people covered by the law and the documentation of abuse, SB 1017 also created a new partial eviction procedure. Specifically, when the perpetrator and the victim are both tenants in residence of the same unit, the court is directed to proceed with a new process laid out in section 1174.27.³ The process only applies to unlawful detainer actions: (1) which involve residences; (2) are based on an act of abuse against a tenant or related person; and (3) in which a tenant has invoked the affirmative defense described in section 1161.3(d)(2). If all those conditions are met, the court must then determine if there is documentation evidencing abuse. If there is none, the affirmative defense must be denied. However, if there is documentation and there is no other basis for unlawful detainer, then the tenant raising the affirmative defense cannot be found guilty of an unlawful detainer, cannot be named in a judgment in favor of the landlord, and cannot be held liable to the landlord for any amount related to the unlawful detainer.

If there is a showing that another tenant was the perpetrator and is guilty of an unlawful detainer then the court is required to issue a partial eviction and order the removal of the perpetrator from the dwelling unit and that the locks be changed. The court also has the option to permanently bar the perpetrator from entering the residential premises and order that the remaining occupants not permit or invite the perpetrator to live in the dwelling unit.

² All further statutory references are to the Code of Civil Procedure unless stated otherwise.

³ When enacting SB 1017, the Legislature appears to have inadvertently created an internal inconsistency in statute. Briefly, section 1161.3(d)(2) requires the court to follow the partial eviction procedure if the perpetrator is a tenant in residence in the same dwelling unit as the victim. However, section 1161.3(d)(2) only applies if the landlord *violates* section 1161.3(b) and terminating a tenancy because the perpetrator is a tenant in residence in the same dwelling unit as the victim is expressly permitted under that section. (See § 1161.3(b)(2)(A).) Thus, there is no way that all the requisite circumstances would be present for section 1174.27 to apply. Based on an understanding that the Legislature will further amend the statutes to address this issue, the committee is proposing the attached forms to implement the new procedure, and will modify the proposal is appropriate to reflect further changes in the statute later this year.

Assembly Bill 1726

In September 2022 the Governor also signed Senate Bill 1726 (Stats. 2022, ch. 686),⁴ which, effective January 1, 2023, provides additional time for certain defendants to respond to a summons for unlawful detainer and other summary proceedings for obtaining possession of real property. Specifically, “[i]f service is completed by mail or in person through the Secretary of State’s address confidentiality program . . . the defendant shall have an additional five court days to file a response.” (§ 1167(b).)

COVID-19 tenant protections

In response to the COVID-19 pandemic, the Legislature enacted numerous tenant protections and changed court processes for unlawful detainer actions. For example, section 1179.01.5, which remains in effect until October 1, 2025, requires the use of an unlawful detainer supplemental allegations cover sheet. The Judicial Council adopted form UD-101 as this cover sheet, which enumerates the steps landlords must take in order to bring an unlawful detainer action and comply with the new tenant protections. Similarly, the Judicial Council revised the unlawful detainer answer form so tenants could raise objections and defenses based on the new tenant protections. Those tenant protections, however, are almost exclusively limited to specified time periods when the rent became due, all of which ended before January 1, 2023. Furthermore, section 1161(2) prohibits a landlord from serving notice (and consequently bringing an unlawful detainer action) for unpaid rent more than one year after the rent became due. Accordingly, nearly all the tenant protections enumerated on form UD-101, and many on form UD-105, are inapplicable to any current or future unlawful detainer actions because they only protect tenants from eviction based on rent owed more than one year ago.

The Proposal

The changes proposed in this invitation to comment are needed to address three distinct issues:

- Implementation of recently enacted SB 1017;
- Implementation of recently enacted AB 1726; and
- Updates to reflect current law on COVID-19 protections.

Implementation of SB 1017

The committee proposes several form revisions to implement the statutory changes and new procedure for partial eviction enacted by SB 1017:

- Expanding item 3k on revised *Answer—Unlawful Detainer* (form UD-105) to reflect that the defense also applies if the abuse was directed at tenant’s family member and to reflect the additional catchall category of documentation that can verify the abuse occurred.
- Adding new item 3s to form UD-105 to provide an option for defendant to raise the new affirmative defense in section 1161.3(d) to trigger the partial eviction procedure.

⁴ AB 1726 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1726.

- Creating a new form, *Judgment—Unlawful Detainer Partial Eviction Attachment* (form UD-110P), for courts to attach to *Judgment—Unlawful Detainer* (form UD-110) to issue the orders described in section 1174.27. The proposed form closely follows section 1174.27, listing the required findings and orders and providing check boxes to also issue optional orders.
- Revising *Judgment—Unlawful Detainer* (form UD-110) so the court can check a box for a judgment for partial eviction (item 8) and attach new form UD-110P.
- Changing the title of form UD-110S from *Judgment—Unlawful Detainer Attachment* to *Judgment—Unlawful Detainer Habitable Premises Attachment* since it will no longer be the only attachment to the unlawful detainer judgment form.

Implementation of AB 1726

In order to reflect the provisions of AB 1726, the committee recommends that the first page of *Summons—Eviction* (form SUM-130) be revised to include the following statement in both English and Spanish: “If this summons was provided to you through the Secretary of State’s address confidentially program, you have 10 days, not counting Saturdays and Sundays and other judicial holidays, to respond.”

Updating forms to reflect current law on COVID-19 rental protections

The committee also recommends removing items 3 through 10 from *Plaintiff’s Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) as those items by definition only apply in a situation in which rent was due more than a year before January 1, 2024, when the proposed revised form would go into effect. The committee also recommends deletion of item 11 as it only serves to notify the user that items 3 through 10 do not apply.⁵

In light of the expiration of COVID-19 rental protections and the proposed revisions to form UD-101, the committee also recommends the following revisions to *Answer—Unlawful Detainer* (form UD-105):

- Adding new item 3d allowing defendant to allege that plaintiff’s demand for possession is based on nonpayment of rent due more than a year ago. If a landlord brings an unlawful detainer based on unpaid COVID-19 rental debt, the tenant will have a complete defense to such an action if the rent is from more than one year ago. This proposed new item is included as item 3d because the first several subitems of item 3 all pertain to nonpayment of rent.

⁵ Conversely, the committee recommends retention of item 12 and its renumbering to item 3 in form UD-101. This item is retained because Health and Safety Code section 50897.3(e) is not limited to any particular time period. In addition, the committee has been informed that at least one county in the state is still accepting applications for rental assistance. For the same reasons, no revisions to *Verification by Landlord Regarding Rental Assistance—Unlawful Detainer* (form UD-120) are proposed at this time.

- Deleting item 3l because item 3e in current form UD-105 (and item 3f in proposed form UD-105) is a broader retaliation defense that adequately covers any defenses alleged by item 3l.
- Deleting items 3m, 3n, and 3o as all those items only pertain to unlawful detainer actions brought based on rent due more than a year prior to when the form will be effective.⁶

Alternatives Considered

Because SB 1017 and AB 1726 made significant and substantial changes to the procedures in unlawful detainer actions, the committee determined it must act and that taking no action would be inappropriate. The committee also determined it would be inappropriate to not take action to update the forms to remove reference to COVID-19 rental protections that no longer apply.

Fiscal and Operational Impacts

The committee anticipates that the new legislation, plus the ending of the COVID-19 related protections will require courts to train court staff and judicial officers on the new law. This proposal will add newly adopted and revised forms to that training, and hopefully facilitate it. Courts will also incur costs to incorporate the new and revised forms into the paper or electronic processes.

⁶ The committee recommends retention of item 3p in form UD-105 for the reasons stated in note 5, above.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms SUM-130, UD-101, UD-105, UD-110, UD-110P, and UD-110S, at pages 7–19
2. Link A: Senate Bill 1017,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1017
3. Link B: Assembly Bill 1726,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1726

SUMMONS—EVICTION (CITACIÓN JUDICIAL—DESALOJO)

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

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

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

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

DRAFT
2.27.2023
NOT APPROVED BY
THE JUDICIAL
COUNCIL

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 5 days. You have 5 DAYS, not counting Saturdays and Sundays and other judicial holidays, after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. If this summons was provided to you through the Secretary of State's address confidentiality program, you have 10 days, not counting Saturdays and Sundays and other judicial holidays, to respond.

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

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

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

¡AVISO! Usted ha sido demandado. Si no responde dentro de 5 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 5 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante. Si la presente citación le ha sido proporcionado a través del programa de dirección confidencial del Secretario del Estado, tiene 10 días, sin contar sábado y domingo y otros días feriados del tribunal, para responder.

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

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

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

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

CASE NUMBER (número de caso):

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

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

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

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

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

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

Date: (Fecha)	Clerk, by (Secretario)	, Deputy (Adjunto)
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(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
 (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (form POS-010).)

[SEAL]

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

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">3/3/2023</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<p style="text-align: center;">NOT APPROVED BY THE JUDICIAL COUNCIL</p>
PLAINTIFF: DEFENDANT:	
PLAINTIFF'S MANDATORY COVER SHEET AND SUPPLEMENTAL ALLEGATIONS—UNLAWFUL DETAINER	CASE NUMBER:
	<p>All plaintiffs in unlawful detainer proceedings must file and serve this form. Filing this form complies with the requirement in Code of Civil Procedure section 1179.01.5(c).</p> <ul style="list-style-type: none"> • Serve this form and any attachments to it with the summons. • If a summons has already been served without this form, then serve it by mail or any other means of service authorized by law. • If defendant has answered prior to service of this form, there is no requirement for defendant to respond to the supplemental allegations before trial. <p>To obtain a judgment in an unlawful detainer action for nonpayment of rent on a residential property, a plaintiff must verify that no rental assistance or other financial compensation has been received for the amount demanded in the notice or accruing afterward, and that no application is pending for such assistance. To obtain a default judgment, plaintiff must use Verification by Landlord Regarding Rental Assistance—Unlawful Detainer (form UD-120) to make this verification and provide other information required by statute.</p>

1. PLAINTIFF (name each):

alleges causes of action in the complaint filed in this action against DEFENDANT (name each):

2. **Statutory cover sheet allegations** (Code Civ. Proc., § 1179.01.5(c))

- a. This action seeks possession of real property that is (check all that apply): Residential Commercial
 (If "residential" is checked, complete all remaining items that apply to this action. If only "commercial" is checked, no further items need to be completed except the signature and verification on page 2.)
- b. This action is based, in whole or in part, on an alleged default in payment of rent or other charges. Yes No

3. **Statements regarding rental assistance** (Required in all actions based on nonpayment of rent or any other financial obligation. Plaintiff must answer all the questions in this item and, if later seeking a default judgment, will also need to file Verification Regarding Rental Assistance—Unlawful Detainer (form UD-120).)

- a. Has plaintiff received rental assistance or other financial compensation from any other source corresponding to the amount demanded in the notice underlying the complaint? Yes No
- b. Has plaintiff received rental assistance or other financial compensation from any other source for rent accruing *after* the date of the notice underlying the complaint? Yes No
- c. Does plaintiff have any pending application for rental assistance or other financial compensation from any other source corresponding to the amount demanded in the notice underlying the complaint? Yes No
- d. Does plaintiff have any pending application for rental assistance or other financial compensation from any other source for rent accruing *after* the date on the notice underlying the complaint? Yes No

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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4. **Other allegations** Plaintiff makes the following additional allegations: *(State any additional allegations below, with each allegation lettered in order, starting with (a), (b), (c), etc. If there is not enough space below, check the box below and use form MC-025, title it Attachment 4, and letter each allegation in order.)* Other allegations are on form MC-025.

5. Number of pages attached *(specify):*

Date: _____

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE)

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 <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">3/3/2023</p> <p style="text-align: center;">NOT APPROVED BY THE JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
ANSWER—UNLAWFUL DETAINER		CASE NUMBER:

1. Defendant (*all defendants for whom this answer is filed must be named and must sign this answer unless their attorney signs*):

answers the complaint as follows:

2. **DENIALS (Check ONLY ONE of the next two boxes.)**

a. **General Denial** (*Do not check this box if the complaint demands more than \$1,000.*)
 Defendant generally denies each statement of the complaint and of the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101).

b. **Specific Denials** (*Check this box and complete (1) and (2) below if complaint demands more than \$1,000.*)
 Defendant admits that all of the statements of the complaint and of the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are true EXCEPT:

(1) **Denial of Allegations in Complaint (Form UD-100 or Other Complaint for Unlawful Detainer)**

(a) Defendant claims the following statements of the complaint are false (*state paragraph numbers from the complaint or explain below or, if more room needed, on form MC-025*):

Explanation is on form MC-025, titled as Attachment 2b(1)(a).

(b) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (*state paragraph numbers from the complaint or explain below or, if more room needed, on form MC-025*):

Explanation is on form MC-025, titled as Attachment 2b(1)(b).

(2) **Denial of Allegations in Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer (form UD-101)**

(a) Defendant did not receive plaintiff's *Mandatory Cover Sheet and Supplemental Allegations* (form UD-101). (*If not checked, complete (b) and (c), as appropriate.*)

(b) Defendant claims the following statements on the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are false (*state paragraph numbers from form UD-101 or explain below or, if more room needed, on form MC-025*): Explanation is on form MC-025, titled as Attachment 2b(2)(b).

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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2. b. (2) (c) Defendant has no information or belief that the following statements on the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are true, so defendant denies them (*state paragraph numbers from form UD-101 or explain below or, if more room needed, on form MC-025*):
- Explanation is on form MC-025, titled as Attachment 2b(2)(c).
3. **DEFENSES AND OBJECTIONS** (NOTE: For each box checked, you must state brief facts to support it in item 3u (on page 3) or, if more room is needed, on form MC-025. You can learn more about defenses and objections at www.courts.ca.gov/selfhelp-eviction.htm.)
- a. (Nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.
- b. (Nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.
- c. (Nonpayment of rent only) On (date): _____ before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.
- d. (Nonpayment of rent only) Plaintiff's demand for possession is based on nonpayment of rent due more than one year ago.
- e. Plaintiff waived, changed, or canceled the notice to quit.
- f. Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.
- g. By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or the laws of the United States or California.
- h. Plaintiff's demand for possession violates the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):
(Also, briefly state in item 3u the facts showing violation of the ordinance.)
- i. Plaintiff's demand for possession is subject to the Tenant Protection Act of 2019, Civil Code section 1946.2 or 1947.12, and is not in compliance with the act. (Check all that apply and briefly state in item 3u the facts that support each.)
- (1) Plaintiff failed to state a just cause for termination of tenancy in the written notice to terminate.
- (2) Plaintiff failed to provide an opportunity to cure any alleged violations of terms and conditions of the lease (other than payment of rent) as required under Civil Code section 1946.2(c).
- (3) Plaintiff failed to comply with the relocation assistance requirements of Civil Code section 1946.2(d).
- (4) Plaintiff has raised the rent more than the amount allowed under Civil Code section 1947.12, and the only unpaid rent is the unauthorized amount.
- (5) Plaintiff violated the Tenant Protection Act in another manner that defeats the complaint.
- j. Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.
- k. Plaintiff seeks to evict defendant based on an act against defendant, defendant's family member, or a member of defendant's household that constitutes domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult. (This defense requires one of the following: (1) a temporary restraining order, protective order, or police report that is not more than 180 days old; (2) a signed statement from a qualified third party (e.g., a doctor, domestic violence or sexual assault counselor, human trafficking caseworker, psychologist, or a victim of violent crime advocate concerning the injuries or abuse resulting from these acts); or (3) another form of documentation or evidence that verifies that the abuse or violence occurred.)
- l. Plaintiff seeks to evict defendant based on defendant or another person calling the police or emergency assistance (e.g., ambulance) by or on behalf of a victim of abuse, a victim of crime, or an individual in an emergency when defendant or the other person believed that assistance was necessary.
- m. Plaintiff's demand for possession of a residential property is based on nonpayment of rent or other financial obligations and (check all that apply):
- (1) Plaintiff received or has a pending application for rental assistance from a governmental rental assistance program or some other source relating to the amount claimed in the notice to pay rent or quit. (Health & Saf. Code, §§ 50897.1(d)(2)(B) and 50897.3(e)(2).)
- (2) Plaintiff received or has a pending application for rental assistance from a governmental rental assistance program or some other source for rent accruing since the notice to pay rent or quit. (Health & Saf. Code, §§ 50897.1(d)(2)(B) and 50897.3(e)(2).)

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. m. (3) Plaintiff's demand for possession is based only on late fees for defendant's failure to provide landlord payment within 15 days of receiving governmental rental assistance. (Health & Saf. Code, § 50897.1(e)(2)(B).)
- n. Plaintiff violated the COVID-19 Tenant Relief Act (Code Civ. Proc., § 1179.01 et seq.) or a local COVID-19–related ordinance regarding evictions in some other way (*briefly state facts describing this in item 3u*).
- o. The property is covered by the federal CARES Act and the plaintiff did not provide 30 days' notice to vacate. (*Property covered by the CARES Act means property where the landlord:*
- is participating in a covered housing program as defined by the Violence Against Women Act;
 - is participating in the rural housing voucher program under section 542 of the Housing Act of 1949; or
 - has a federally backed mortgage loan or a federally backed multifamily mortgage loan.)
- p. Plaintiff improperly applied payments made by defendant in a tenancy that was in existence between March 1, 2020, and September 30, 2021 (Code Civ. Proc., § 1179.04.5), as follows (*check all that apply*):
- (1) Plaintiff applied a security deposit to rent, or other financial obligations due, without tenant's written agreement.
- (2) Plaintiff applied a monthly rental payment to rent or other financial obligations that were due between March 1, 2020, and September 30, 2021, other than to the prospective month's rent, without tenant's written agreement.
- q. Plaintiff refused to accept payment from a third party for rent due. (Civ. Code, § 1947.3; Gov. Code, § 12955.)
- r. Defendant has a disability and plaintiff refused to provide a reasonable accommodation that was requested. (Cal. Code Regs., tit. 2, § 12176(c).)
- s. Defendant or a member of defendant's household or family is a victim of abuse or violence and defendant claims protection from eviction under Code of Civil Procedure section 1161.3(d).
- t. Other defenses and objections are stated in item 3u.
- u. (*Provide facts for each item checked above, either below or, if more room needed, on form MC-025*):
- Description of facts or defenses are on form MC-025, titled as Attachment 3u.

4. OTHER STATEMENTS

- a. Defendant vacated the premises on (*date*):
- b. The fair rental value of the premises alleged in the complaint is excessive (*explain below or, if more room needed, on form MC-025*):
- Explanation is on form MC-025, titled as Attachment 4b.
- c. Other (*specify below or, if more room needed, on form MC-025*):
- Other statements are on form MC-025, titled as Attachment 4c.

5. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c. reasonable attorney fees.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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5. DEFENDANT REQUESTS (continued)

- d. that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e. Other (specify below or on form MC-025):
 All other requests are stated on form MC-025, titled as Attachment 5e.

6. Number of pages attached: _____

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)

7. (Must be completed in all cases.) An **unlawful detainer assistant** did not did for compensation give advice or assistance with this form. (If defendant has received **any** help or advice for pay from an unlawful detainer assistant, state):
- a. Assistant's name: _____
 - b. Telephone number: _____
 - c. Street address, city, and zip code: _____
 - d. County of registration: _____
 - e. Registration number: _____
 - f. Expiration date: _____

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless defendant's attorney signs.)

(TYPE OR PRINT NAME)	(SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	(SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	(SIGNATURE OF DEFENDANT OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 3/3/2023 NOT APPROVED BY THE JUDICIAL COUNCIL									
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:										
PLAINTIFF: DEFENDANT:										
<table style="width:100%; border: none;"> <tr> <td colspan="3" style="text-align: center;">JUDGMENT—UNLAWFUL DETAINER</td> </tr> <tr> <td><input type="checkbox"/> By Clerk</td> <td><input type="checkbox"/> By Default</td> <td><input type="checkbox"/> After Court Trial</td> </tr> <tr> <td><input type="checkbox"/> By Court</td> <td><input type="checkbox"/> Possession Only</td> <td><input type="checkbox"/> Defendant Did Not Appear at Trial</td> </tr> </table>	JUDGMENT—UNLAWFUL DETAINER			<input type="checkbox"/> By Clerk	<input type="checkbox"/> By Default	<input type="checkbox"/> After Court Trial	<input type="checkbox"/> By Court	<input type="checkbox"/> Possession Only	<input type="checkbox"/> Defendant Did Not Appear at Trial	CASE NUMBER:
JUDGMENT—UNLAWFUL DETAINER										
<input type="checkbox"/> By Clerk	<input type="checkbox"/> By Default	<input type="checkbox"/> After Court Trial								
<input type="checkbox"/> By Court	<input type="checkbox"/> Possession Only	<input type="checkbox"/> Defendant Did Not Appear at Trial								

JUDGMENT

1. **BY DEFAULT**
 - a. Defendant was properly served with a copy of the summons and complaint.
 - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
 - c. Defendant's default was entered by the clerk upon plaintiff's application.
 - d. **Clerk's Judgment** (Code Civ. Proc., § 1169). For possession only of the premises described on page 2 (item 4).
 - e. **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
 - (1) plaintiff's testimony and other evidence.
 - (2) plaintiff's or others' written declaration and evidence (Code Civ. Proc., § 585(d)).

2. **AFTER COURT TRIAL.** The jury was waived. The court considered the evidence.
 - a. The case was tried on *(date and time)*:
before *(name of judicial officer)*:
 - b. Appearances by:

<input type="checkbox"/> Plaintiff <i>(name each)</i> :	<input type="checkbox"/> Plaintiff's attorney <i>(name each)</i> :
	(1)
	(2)

<input type="checkbox"/> Continued on <i>Attachment 2b</i> (form MC-025).	<input type="checkbox"/> Defendant's attorney <i>(name each)</i> :
<input type="checkbox"/> Defendant <i>(name each)</i> :	(1)
	(2)

<input type="checkbox"/> Continued on <i>Attachment 2b</i> (form MC-025).

 - c. Defendant did not appear at trial. Defendant was properly served with notice of trial.
 - d. A statement of decision (Code Civ. Proc., § 632) was not was requested.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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JUDGMENT IS ENTERED AS FOLLOWS BY: **THE COURT** **THE CLERK**

3. Parties. Judgment is

a. for plaintiff (*name each*):

and against defendant (*name each*):

Continued on *Attachment 3a* (form MC-025).

b. for defendant (*name each*):

4. Plaintiff Defendant is entitled to possession of the premises located at (*street address, apartment, city, and county*):

5. Judgment applies to all occupants of the premises including tenants, subtenants if any, and named claimants if any (Code Civ. Proc., §§ 715.010, 1169, and 1174.3).

6. Amount and terms of judgment

a. Defendant named in item 3a above must pay plaintiff on the complaint:

b. Plaintiff is to receive nothing from defendant named in item 3b.

(1) <input type="checkbox"/> Past-due rent	\$
(2) <input type="checkbox"/> Holdover damages	\$
(3) <input type="checkbox"/> Attorney fees	\$
(4) <input type="checkbox"/> Costs	\$
(5) <input type="checkbox"/> Other (<i>specify</i>):	\$
(6) TOTAL JUDGMENT	\$

Defendant named in item 3b is to recover costs: \$
 and attorney fees: \$

c. The rental agreement is canceled. The lease is forfeited.

7. **Conditional judgment.** Plaintiff has breached the agreement to provide habitable premises to defendant as stated in *Judgment—Unlawful Detainer Habitable Premises Attachment* (form UD-110S), which is attached.

8. **Judgment for partial eviction.** A partial eviction is issued as stated in *Judgment—Unlawful Detainer Partial Eviction Attachment* (form UD-110P), which is attached.

9. Other (*specify*):

Continued on *Attachment 9* (form MC-025).

Date: _____ _____ JUDICIAL OFFICER

Date: _____ Clerk, by _____, Deputy

(SEAL)

CLERK'S CERTIFICATE (*Optional*)

I certify that this is a true copy of the original judgment on file in the court.

Date:

Clerk, by _____, Deputy

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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JUDGMENT—UNLAWFUL DETAINER PARTIAL EVICTION ATTACHMENT

8. **Partial eviction.** A partial eviction is issued.
- a. The court finds the following:
- (1) The proceeding involves a residential premises.
 - (2) The complaint includes a cause of action based on an act of abuse or violence against a tenant, a tenant's immediate family member, or a tenant's household member.
 - (3) Defendant (*name each*):

has invoked Code of Civil Procedure section 1161.3(d) as an affirmative defense.
 - (4) There is documentation evidencing abuse or violence against defendant (*name each*):

or a member of their immediate family or household perpetrated by defendant (*name each*):

Based on the above findings, the court orders as follows:

- b. (1) Defendant (*name each*):

is not guilty of an unlawful detainer and is not liable to landlord for any amount related to the unlawful detainer.
- (2) In order to remain in the tenancy, the defendants shall not give permission to or invite the perpetrator of abuse or violence to live in the dwelling unit.
- c. Defendant (*name each*):

is guilty of an unlawful detainer and is:
- (1) Ordered to be immediately removed and barred from the dwelling unit.
 - (2) Liable for damages, including holdover damages, court costs, lease termination fees, or attorney's fees, as provided in item 6.
 - (3) Permanently barred from entering any portion of the residential premises.
- d. The plaintiff is ordered to change the locks and to provide the remaining occupants with the new key.

DRAFT
3/3/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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JUDGMENT—UNLAWFUL DETAINER HABITABLE PREMISES ATTACHMENT

7. **Conditional judgment.** Plaintiff breached the covenant to provide habitable premises to defendant.
- a. Defendant must pay plaintiff a reduced rent because of the breach in the amount and for the period shown below. *(Specify each defect on a separate line, the month or months (or other period) that the defect existed, and the percentage or amount of the reduced rent as a result of the defect to arrive at the reasonable value of the premises for the period that the defect or defects existed.)*

Month defect existed	Defect	Reasonable rental value is reduced by <i>(specify percentage) or (specify amount)</i>	Reduced monthly rent due
(1)		% \$	\$
(2)		% \$	\$
(3)		% \$	\$
<input type="checkbox"/> Continued on <i>Attachment 7a</i> (form MC-025).			
Total rent due in the 3-day notice is now <i>(specify)</i> :			\$

- b. Defendant is entitled to attorney fees *(specify)*: \$ _____ and costs *(specify)*: \$ _____
- c. Defendant is the prevailing party if defendant pays plaintiff *(specify total rent in item 7a, less any attorney fees and costs in item 7b)*: \$ _____ by _____ p.m. on *(date)*: _____ at _____ *(address)*:
- d. Judgment will be entered for defendant when defendant has complied with item 7c shown by defendant's filing of a declaration under penalty of perjury (see form MC-030), with proof of service on the plaintiff, OR at a hearing that has been set in this court as follows:

Date:	Time:	Dept.:	Room:
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- (1) Defendant must continue to pay rent after expiration of the 3-day notice if the defendant continues in possession of the premises in the amount of \$ _____ per month. The total rent at item 7a is the corrected amount under the 3-day notice.
- (2) Plaintiff must repair the defects described in item 7a. The court retains jurisdiction over the case until those repairs are made. Rent remains reduced in the amount of *(specify monthly rent)* \$ _____ until the repairs are made.
- (3) Rent will increase to *(specify monthly rent)* \$ _____ the day after plaintiff files a declaration under penalty of perjury (see form MC-030), with proof of service on the defendant, stating that all the repairs have been made OR it is established that all the repairs have been made at a hearing set in this court as follows:

Date:	Time:	Dept.:	Room:
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- e. Plaintiff is the prevailing party if defendant fails to comply with items 7c and 7d.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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- f. Judgment will be entered for plaintiff when plaintiff files a declaration under penalty of perjury (see form MC-030), with proof of service on the defendant, that the amount in item 7c has not been paid, OR at a hearing that has been set in the court as follows:

Date:	Time:	Dept.:	Room:
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(1) <input type="checkbox"/> Past-due rent (<i>item 7a</i>)	\$
(2) <input type="checkbox"/> Holdover damages*	\$
(3) <input type="checkbox"/> Attorney fees (<i>item 7b</i>)	\$
(4) <input type="checkbox"/> Costs (<i>item 7b</i>)	\$
(5) <input type="checkbox"/> Other (<i>specify</i>):	\$
(6) TOTAL JUDGMENT	\$

*Use one of the following formulas: From expiration of the 3-day notice to today's date date the premises were vacated (*specify number of days*) times

(*specify reduced monthly rent \$*) times 0.03228 (*12 months divided by 365 days*.)

(*specify reduced rent per month divided by 30*): \$

= Total holdover damages

- g. Plaintiff is awarded possession of the premises located at (*street address, apartment, city, and county*):
- h. The rental agreement is canceled. The lease is forfeited.
8. **Other** (*specify*):

DRAFT

1/23/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Judicial Branch Education: Delivery Methods Defined

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Amend Cal. Rules of Court, rule 10.493

Committee or other entity submitting the proposal:
 The Center for Judicial Education and Research (CJER) Advisory Committee

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

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

Annual agenda approved by Rules Committee on (date): N/A

Project description from annual agenda: The CJER Advisory Committee's annual agenda is approved by the Executive and Planning Committee. The Executive and Planning Committee is expected to meet and approve this project as part of the CJER Advisory Committee's 2023 annual agenda on March 27, 2023.

Draft Project Summary: In response to two public comments received on last year's revisions to education-related court rules, amend California Rules of Court, rule 10.493, to add, inter alia, definitions for "e-Learning" and "asynchronous" training.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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INVITATION TO COMMENT

SPR23-__

Title

Judicial Branch Education: Delivery
Methods Defined

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 10.493

Proposed Effective Date

January 1, 2024

Proposed by

Center for Judicial Education and Research
Advisory Committee
Hon. Darrell S. Mavis, Chair

Contact

Karene Alvarado, 415-865-7761
karene.alvarado@jud.ca.gov

Executive Summary and Origin

The Center for Judicial Education and Research Advisory Committee recommends amending rule 10.493 of the California Rules of Court to provide additional clarification to terms used in a slate of education rule amendments adopted by the Judicial Council that went into effect on January 1, 2023. This proposal is based on public comment received in 2022.

Background

The Judicial Council approved a comprehensive set of rule amendments on judicial branch education effective January 1, 2023. The amendments, among other things, updated and modernized the judicial branch education rules to reflect new education delivery methods and terminology. During the public comment period, the Center for Judicial Education and Research (CJER) Advisory Committee received feedback that extended definitions for certain terms in the amended rules would be helpful to judicial officers and judicial branch staff.

The Proposal

In response to public comments received in 2022, the CJER Advisory Committee proposes that rule 10.493 be amended to include definitions for specified terms. In its current form, rule 10.493

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.

provides a definition for the term “instructor-led training” and discusses that term’s application. This proposal modifies that definition and offers additional definitions for terms introduced as part of the amendments that went into effect on January 1, 2023: “asynchronous education,” “e-Learning,” and “self-directed study.”

At the same time, the proposal removes the application subdivision in rule 10.493 and the advisory committee comment that are no longer necessary due to the amendments that went into effect on January 1, 2023. Those amendments eliminated all references in the Rules of Court that certain trainings be held via “traditional (live, face-to-face) education.”

In addition to responding to the public comments received, the revised and new definitions will make it easier for judicial officers and judicial branch staff to understand what education delivery methods are available to them to meet their ongoing continuing education obligations.

Alternatives Considered

In deciding to make this proposed amendment, the CJER Advisory Committee considered alternatives. The committee considered repealing rule 10.493 in its entirety as being no longer necessary. Alternatively, the committee considered leaving the rule as it currently stands without modification. However, neither option addressed the public comment request for additional clarification of the specific terms adopted by the Judicial Council in the amendments that went into effect on January 1, 2023.

The CJER Advisory Committee also considered adding the definitions to each rule that contained the terms. This would have also allowed the removal of parenthetical examples given for certain delivery methods in several Rules of Court. The committee concluded, however, that removing the parenthetical examples in the current rules or adding language to each rule would make the education requirements difficult to understand and thus make the requirements more confusing.

The CJER Advisory Committee ultimately concluded that it should propose amending rule 10.493 as suggested during the public comment period. The text of the proposed rule is attached at pages 4–5.

Fiscal and Operational Impacts

This proposal will result in no fiscal or operational costs to the courts or the Judicial Council.

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 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. Proposed Cal. Rules of Court, rule 10.493, at pages 4–5
2. Link A: Cal. Rules of Court, rule 10.493,
https://www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_493

Rule 10.493 of the California Rules of Court would be amended, effective January 1, 2024, to read:

Title 10. Judicial Administration Rules

Division 2. Administration of the Judicial Branch

Chapter 7. Minimum Education Requirements, Expectations, and Recommendations

Rule 10.493. ~~Instructor-led training~~ Delivery methods defined

(a) — Definitions

(a) “Asynchronous education” refers to training that learners participate in at their own pace outside the presence of an instructor or other learners. Asynchronous education includes viewing or listening to videos or audio files or participating in self-paced online courses.

(b) “E-learning” refers to any kind of instruction that is delivered through an electronic device using electronic media. E-learning can be either synchronous or asynchronous and either live or prerecorded, such as participating in live webinars, viewing or listening to videos or audio files, or participating in online courses.

(c) “Instructor-led training” refers to synchronous education, guided by faculty, that allows for real-time communication between faculty and learners and is offered by an approved provider under rule 10.481. Live, synchronous education facilitated by an instructor may be delivered remotely via e-learning or in-person. Examples of instructor-led training include in-person trainings in a classroom setting; and live webinars, and live videoconferenees.

(d) “Self-directed study” means education in which learners engage in a process where they take primary responsibility for planning, executing, and evaluating a course of study with or without guidance from a manager, supervisor, or peer. In self-directed learning, the individual learner assumes responsibility for the design and completion of a course of study. Prior approval to engage in self-directed study may be required to qualify for continuing education credit.

(b) — Application

~~Notwithstanding any other rule, instructor-led training may be used to satisfy all continuing education requirements specified in the California Rules of Court that require traditional (live, face-to-face) education. This provision applies whether the~~

1 requirement relates to a specific course or to a certain percentage or number of
2 hours of education.

3
4 **Advisory Committee Comment**

5
6 This rule is intended to eliminate within the California Rules of Court any restriction that requires
7 that a specific course or a certain number or percentage of hours of education be taken in a
8 traditional (live, face to face) learning environment. This rule applies whether the education is
9 described as "traditional (live, face to face)," "live (face to face)," "in person," or any
10 combination of these terms.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

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

Title of proposal: Criminal Procedure: Appointment of Trial Counsel in Capital Cases

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend rule 4.117

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

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-ihn@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): 11/2/2022, 2/16/2023

Project description from annual agenda: Amend Cal. Rules of Court, rule 4.117, qualifications for appointed counsel in capital cases: Develop a proposal to amend the rule to clarify that qualified counsel must be appointed when special circumstances are charged.

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

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

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

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

This proposal:

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

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

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

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

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

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR23-12

Title	Action Requested
Criminal Procedure: Appointment of Trial Counsel in Capital Cases	Review and submit comments by May 12, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 4.117	January 1, 2024
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 proposes amending the rule governing qualifications for appointed trial counsel in capital cases to clarify that appointment of qualified counsel applies to all capital cases unless the district attorney affirmatively states on the record that the death penalty will not be sought.

Background

Rule 4.117 was adopted by the Judicial Council effective January 1, 2003. The Criminal Law Advisory Committee developed the rule because there were no statewide minimum standards for appointment of trial counsel in capital cases at the time. The rule was designed to set standards to help ensure adequate representation in death penalty trials and to avoid unnecessary delay and expense in appointing counsel.

The Proposal

This proposal would amend subdivision (b), General qualifications, to clarify that qualified counsel should be appointed in all capital cases unless the district attorney has made an affirmative statement on the record that the prosecution will not be seeking the death penalty:

In cases in which the death penalty is sought where a person is charged with capital offenses, the court must assign qualified trial counsel to represent the defendant unless the district attorney has made an affirmative statement on the record that the prosecution will not be seeking the death penalty. The attorney may be appointed only if the court, after reviewing the attorney's background,

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.

experience, and training, determines that the attorney has demonstrated the skill, knowledge, and proficiency to diligently and competently represent the defendant. An attorney is not entitled to appointment simply because he or she meets the minimum qualifications.

The committee was concerned that the phrase “in which the death penalty is sought” could be interpreted as applying only when the district attorney has made an affirmative statement in a capital case indicating that they are seeking the death penalty. The Judicial Council report recommending adoption of the rule noted that

[t]he rule specifies that counsel must meet the qualifications in cases “in which the death penalty is sought” (Rule 4.117(b).) The committee noted that it is not always clear at arraignment, when counsel would normally be appointed, whether the District Attorney will be seeking the death penalty. Thus, as a practical matter, the rule would apply to all special-circumstances cases, unless there has been an explicit statement by the District Attorney that the death penalty will not be sought. This procedure is consistent with the current practice in counties with local standards. In those counties attorneys who are qualified to be assigned to death penalty cases are appointed to all cases involving special circumstances.

(Judicial Council of Cal., Advisory Com. Rep., *Minimum Standards for Appointed Trial Counsel in Capital Cases* (Aug. 19, 2002), pp. 3–4.)

A capital case has been defined in a similar manner when interpreting Penal Code section 987.9, which allows indigent defendants charged in a capital case or under Penal Code section 190.5(a) to seek funds for investigators, experts, and others whose assistance is needed to prepare or present a defense. The state regulations on reimbursement to counties for the cost of homicide trials under section 987.9 allow for reimbursement in a special circumstances case unless it “no longer involves the death penalty.” This is defined as dismissal of the special circumstance allegations or where “the prosecution has formally elected not to seek the death penalty.” (Cal. Code Regs., tit. 2, § 1026.2.)

In *People v. Gardner* (2010) 185 Cal.App.4th 1003, the trial court denied a section 987.9 request for indigent defense funds in a case in which special circumstances were charged because the district attorney had not announced that he was seeking the death penalty and, until he did, the case was not “presently a capital case.” (*Id.* at p. 1007.) On appeal, the First Appellate District held that “capital case,” as used in section 987.9, means one where the defendant faces the possibility of the death penalty, so that unless the district attorney makes an announcement to the contrary, a defendant charged with special circumstances is exposed to that punishment and a section 987.9 request should be heard on the merits. (*Id.* at p. 1014.)

Although these examples are about eligibility for indigent capital defense funds under section 987.9, the underlying rationales are comparable with the committee’s position when first

developing the rule that qualified counsel should be appointed in a special circumstances case, unless the district attorney states that they will not seek the death penalty.

Alternatives Considered

The committee discussed whether the rule should require that the district attorney’s statement not seeking the death penalty be made on the record. As noted above, regulations and cases interpreting section 987.9 do not require the statement to be on the record, but state that the prosecution must “formally elect[]” not to seek the death penalty, or “make an announcement to the contrary.” Upon discussion, the committee agreed to require that the statement be made on the record, noting that this appears to be the standard practice, but is seeking specific comments on whether remaining silent about the record requirement is preferred.

Fiscal and Operational Impacts

No implementation or operational impacts are likely.

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 the following phrasing be preferable to explicitly requiring that the statement be on the record?

In cases in which the death penalty is sought where a person is charged with capital offenses, the court must assign qualified trial counsel to represent the defendant unless the district attorney has made an explicit statement that the death penalty will not be sought.

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 4.117, at page 4

Rule 4.117 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 4.117. Qualifications for appointed trial counsel in capital cases**

2
3 (a) * * *

4
5 (b) **General qualifications**

6
7 In cases ~~in which the death penalty is sought~~ where a person is charged with capital
8 offenses, the court must assign qualified trial counsel to represent the defendant
9 unless the district attorney has made an affirmative statement on the record that the
10 prosecution will not be seeking the death penalty. The attorney may be appointed
11 only if the court, after reviewing the attorney's background, experience, and
12 training, determines that the attorney has demonstrated the skill, knowledge, and
13 proficiency to diligently and competently represent the defendant. An attorney is
14 not entitled to appointment simply because he or she meets the minimum
15 qualifications.

16
17 (c)-(i) * * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

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

Title of proposal: Criminal Law: Circumstances in Aggravation

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form CR-101

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

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-ihn@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): 2/16/2023

Project description from annual agenda: Develop a proposal to revise the felony plea form to incorporate a waiver of the right to a trial on aggravating factors that can be used to sentence the defendant to the upper term of a criminal offense or enhancement, to reflect statutory changes under SB 567 (Stats. 2021, ch. 731).

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

INVITATION TO COMMENT

SPR23-13

Title

Criminal Law: Circumstances in Aggravation

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Revise form CR-101

Proposed Effective Date

January 1, 2024

Proposed by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Contact

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 felony plea form to reflect statutory changes regarding the right to a trial on circumstances in justifying the imposition of the upper term of a criminal offense or enhancement, and to improve consistency throughout the form.

Background

Senate Bill 567 (Stats. 2021 ch. 731) amended Penal Code sections 1170 and 1170.1 to state that a court may impose an upper term of custody for a criminal offense or enhancement if aggravating factors were found true beyond a reasonable doubt at trial or stipulated to by the defendant, with specified exceptions. A court executive officer requested a revision of the optional felony plea form to reflect these statutory changes.

While the appellate courts are split on whether section 1170(b) applies to plea agreements (compare *People v. Mitchell* (2022) 83 Cal.App.5th 1051, review granted Dec. 14, 2022, and *People v. Sallee* (2023) ---Cal.Rptr.3d---, with *People v. Todd* (2023) ---Cal.Rptr.3d---), at this point, the committee's position is that it is a best practice for trial courts to make findings about circumstances in aggravation on the record as part of the plea, when relevant.

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

The proposal would revise *Plea Form, With Explanations and Waiver of Rights—Felony* (CR-101) to reflect the statutory changes regarding the right to a trial on circumstances in aggravation justifying the imposition of the upper term of a criminal offense or enhancement.

In addition to referencing the charged offenses, the plea form refers to additional sentencing considerations because of prior convictions, enhancements, and alternate sentencing schemes, but characterizes those considerations collectively as “allegations” in some sections and as “prior convictions, enhancements, and special allegations” in others. These references are inconsistent and interspersed throughout the form. The proposal would improve consistency throughout the form by referring to the admission of prior convictions, enhancements, allegations, and/or circumstances in aggravation specifically, when relevant.

The proposal would also replace references to “special allegations” with “allegations.” The committee agreed that, in practice, “allegations” is the common term to refer to alternative sentencing schemes and that the term “special allegations” was confusing because it could be confused with special circumstances as defined in Penal Code section 190.2. Some committee members were concerned that “allegation” was too broad a term and could be interpreted to apply to the alleged charges or everything alleged in the complaint, rather than just an alternative sentencing scheme. However, the committee ultimately agreed that the manner in which “allegation” was used in the plea form—alongside prior convictions, enhancements, and circumstances in aggravation—sufficiently narrowed the definition from a broader interpretation.

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-101, at pages 4–10

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 0;">Not approved by the Judicial Council</h2>
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	
PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS—FELONY	CASE NUMBER:

- INSTRUCTIONS:**
- (1) Fill out this form only if you want to plead guilty or no contest.
 - (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
 - (3) On page 6, sign and date the form under "DEFENDANT'S STATEMENT."
 - (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the charges and admit the following prior convictions, enhancements, allegations, and/or circumstances in aggravation listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below. INITIALS

COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS / MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, ALLEGATIONS & CIRCUMSTANCES IN AGGRAVATION (SECTION & DESCRIPTION)	YEARS / MONTHS		TOTAL MAXIMUM TIME	
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM		
AGGREGATE MAXIMUM TIME OF IMPRISONMENT								

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the prior convictions, enhancements, allegations, and/or circumstances in aggravation listed above, the court will sentence me as follows:

a. Check one: **State Prison** (or the Division of Juvenile Justice) **County Jail** for INITIALS

(1) years and months or

(2) not less than years and months and/or not more than years and months.

(3) Other (*specify*):

b. **Probation** for years under conditions to be set by the court, including

days in the **county jail** or

up to days in the **county jail**.

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **county jail or state prison** for up to the "**Aggregate Maximum Time of Imprisonment**" specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sends me to county jail.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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INITIALS

2. c. **Split Sentence (1170(h)(5)(B)):** _____ years and _____ days in the county jail and _____ years and _____ days on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

d. **Open Plea**

- (1) I understand the maximum and minimum sentences for the charges, **enhancements**, and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.
- (2) I understand that I am not eligible for probation.
- (3) I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

e. **Restitution, Statutory Fees, and Assessments**

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

- (1) \$ _____ **to the Victim Restitution Fund**
- (2) \$ _____ **restitution to actual victims**
- (3) \$ _____ **restitution to the State of California, Victims of Crime Fund**
- (4) \$ _____ **court operations assessment**
- (5) \$ _____ **court facilities assessment**
- (6) \$ _____ **base fine plus any applicable penalties, assessments, and surcharges**
- (7) \$ _____ **other (specify):**
- (8) \$ _____ **other (specify):**
- (9) An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set.

f. **Fines for Revocation of Parole, Postrelease Community Supervision, Mandatory Supervision, or Probation**

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine or a postrelease community supervision revocation fine, which will be collected only if my parole or postrelease community supervision is later revoked. I also understand that if I am granted probation or mandatory supervision, the court **will** impose a probation revocation fine or mandatory supervision revocation fine, which will be collected only if my probation or mandatory supervision is later revoked.

g. **Dismissal of Other Counts**

I understand that as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

h. **Other Terms (specify):**

3. **CONSEQUENCES OF MY PLEA**

INITIALS

a. **No Contest ("Nolo Contendere") Plea**

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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INITIALS

3. b. **Parole and Postrelease Community Supervision**

I understand that if I am sentenced to **state prison**

- (1) I will be placed on parole or postrelease community supervision for up to _____ years after my release.
- (2) if I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.
- (3) if I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or returned to state prison for up to one year, up to a maximum of _____ years. If I violate any of the terms or conditions of postrelease community supervision, I can be sentenced to county jail for up to 180 days for each violation, for up to a maximum of 3 years.

c. **Effect of Conviction on Other Cases**

I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, postrelease community supervision, or probation in any other case and that I may receive additional punishment as a result of that violation.

d. **Registration**

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

- (1) an arson offender
- (2) a gang member
- (3) a sex offender (**this registration is a lifelong requirement**)
- (4) Other (*specify*):

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me.

e. **Prints and DNA Samples**

I understand that I must provide biological samples and prints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense.

f. **Serious or Violent Felony**

- (1) I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
- (2) I understand that if I am convicted of a violent felony, jail or prison conduct/work-time credit I may accrue will not exceed 15 percent.
- (3) I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20 percent of the total term of imprisonment.
- (4) I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

g. **Prior Prison Term for Sexually Violent Offense**

I understand that if I am sentenced to serve a state prison term for this sexually violent offense, as defined in Welfare and Institutions Code section 6600(b), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

h. **Driver's License and Vehicle Forfeiture**

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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- 3. i. **Immigration Consequences** INITIALS
 I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.
- j. **Firearms (Guns), Firearm Parts, and Ammunition Prohibition**
 I understand that federal and state laws prohibit a convicted felon from possessing firearms (guns), firearm parts, or ammunition for life. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- k. **Other Consequences (specify):**

- 4. **RIGHT TO AN ATTORNEY**
 I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.
I hereby give up my right to be represented by an attorney.
- 5. **OTHER CONSTITUTIONAL RIGHTS**
 I understand that I am entitled to each of the following rights as to the charges, enhancements, allegations, and/or circumstances in aggravation listed in item 1 (on page 1):
 - a. **Right to a Jury Trial**
 I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.
 - b. **Right to a Court Trial**
 I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.
 - c. **Right to Confront and Cross-Examine Witnesses**
 I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.
 - d. **Right to Remain Silent and Not to Incriminate Myself**
 I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.
 - e. **Right to Produce Evidence and to Present a Defense**
 I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.
- 6. **BEFORE THE PLEA**
 - a. **Discussion With My Attorney**
Before entering this plea, I have had a full opportunity to discuss the following with my attorney:
 - (1) The facts of my case;
 - (2) The elements of the charged offenses, prior convictions, enhancements, allegations, and circumstances in aggravation;
 - (3) Any defenses that I may have;
 - (4) My constitutional and statutory rights and waiver of those rights;
 - (5) The consequences of this plea, including the immigration consequences; and
 - (6) Anything else I think is important to my case.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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6. **b. Questions** INITIALS
 I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

c. **Stipulation to Commissioner**
 I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

d. **Medications or Controlled Substances**
 I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following:

e. **Court Approval of Plea Agreement**
 I understand that the plea agreement in item 2 (on pages 1 and 2) is based on the facts before the court. I understand that if the court approves this plea agreement, the approval of the court is not binding, and that the court may withdraw its approval of the plea agreement upon further consideration of the matter. I understand that if the court withdraws its approval of this plea agreement, I will be allowed to withdraw my plea. (Pen. Code, § 1192.5.)

7. **STATUTORY RIGHT TO A PRELIMINARY HEARING**
 I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 4).

8. **WAIVER OF CONSTITUTIONAL AND STATUTORY RIGHTS**
 I give up, for each of the charges, enhancements, allegations, and/or circumstances in aggravation listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

9. **THE PLEA**
 I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1 (on page 1) and admit the prior convictions, enhancements, allegations, and/or circumstances in aggravation listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. **I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.**

I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:

(1) **I understand that the court may consider the following as proof of the factual basis for my plea:**

- (a) Preliminary hearing transcript
- (b) Police report
- (c) Probation report
- (d) Welfare investigator's declaration
- (e) Court documents regarding any alleged prior offenses
- (f) Other(*specify*):
- (g) (Specify facts):

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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9. b. (2) **I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea).** (*People v. West* (1970) 3 Cal.3d 595.)

INITIALS

10. AFTER THE PLEA

a. Surrender

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

I agree that if I fail to appear on the date set for surrender or sentencing without a legal excuse, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

b. Sentencing Court

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea.

I give up that right and agree that any judge or commissioner may sentence me.

c. Sentencing Date

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

11. MANDATORY WARNING

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code sections 23152 or 23153, the following warning applies:

You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and effects of any prior convictions, enhancements, allegations, and/or circumstances in aggravation have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT)

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, allegations, and/or circumstances in aggravation; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the police report preliminary hearing transcript probation report other (*specify*): _____ . (*People v. West* (1970) 3 Cal.3d 595.)

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY)

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant(s):	CASE NUMBER:
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INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify):

Date: _____

_____ (CERTIFICATION NUMBER)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF INTERPRETER)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.

I agree do not agree with the terms of the plea agreement and the indicated sentence.

Date: _____

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DISTRICT ATTORNEY)

COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The initialed items in this form have been read by or read to the defendant, and the defendant understands each of them.
2. The defendant understands the nature of the crimes, prior convictions, enhancements, allegations, and/or circumstances in aggravation listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives the constitutional and statutory rights associated with this plea.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under *People v. West*.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: _____

▶ _____
(SIGNATURE OF JUDICIAL OFFICER)

To Be Distributed

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

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

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

This proposal is recirculating for public comment due to the committee proposing a further substantive change in light of comments received on first circulation.

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

SPR23-34

Title

Criminal Procedure: Petition for
Resentencing Based on Health Conditions
From Military Service

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Revise form CR-412/MIL-412

Proposed Effective Date

January 1, 2024

Proposed by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Contact

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 Listed in Penal Code Section 1170.91(b)* (form CR-412/MIL-412). These revisions would clarify that the petitioner may apply for relief if a health condition was discovered after the original sentencing.

Background

Penal Code section 1170.91 was enacted by Assembly Bill 2098 (Stats. 2014, ch. 163) and required the court, starting January 1, 2015, to consider a defendant's status as a veteran suffering from health conditions as a result of military service as a mitigating factor for sentencing. Section 1170.91 was made retroactive by Assembly Bill 865 (Stats. 2018, ch. 523) by authorizing a court to resentence any person sentenced for a felony conviction before January 1, 2015, who was a veteran suffering from health conditions as a result of military service. Taken together, courts are required to consider military service–related health conditions as a mitigating factor for persons sentenced on or after January 1, 2015, and to consider petitions for resentencing for persons sentenced before January 1, 2015, with military service–related health conditions.

Senate Bill 1209 (Stats. 2022, ch. 721) amended, in relevant part, Penal Code section 1170.91(b) to remove the requirement that the petitioner be sentenced before January 1, 2015, and to add

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.

exclusions for petitioners convicted of specified serious and violent felonies and offenses requiring sex offender registration.

Prior Circulation

A proposal to amend form CR-412/MIL-412 circulated for public comment from December 9, 2022, to January 20, 2023.¹ The proposed revisions reflected statutory changes to Penal Code section 1170.91(b) by SB 1209 by deleting the requirement that the petitioner be sentenced before January 1, 2015, and adding item 6 for exclusions for petitioners convicted of specified serious and violent felony offenses and offenses requiring sex offender registration.

The committee received two comments agreeing with the proposal, from the Superior Court of Orange County and the Orange County Bar Association, one comment that did not indicate a position but appears to agree with the proposal if modified, from Justice Eileen C. Moore of the Fourth Appellate District of the Court of Appeal, Division Three, and one comment from a member of the public disagreeing with the proposal due to a disagreement with the underlying law.

The committee incorporated one further substantive change to the originally circulated form based on the comments from Judge Moore, as well as deletion of a provision asking for the moving party's birthdate, and is now circulating the further revised form for comment.

The Proposal

This proposal would revise form CR-412/MIL-412 as follows:

- Revise item 5 to state that “[w]hen the petitioner was sentenced, the judge did not consider all of the above [identified] health conditions resulting from petitioner’s military service as a factor in deciding the sentence”;
- Delete a provision asking for the moving party’s birthdate; and
- As previously circulated:²
 - Eliminate item 6 from current form, which mandates that the original sentencing have been before January 2015;
 - Add new item 6 to exclude requests for resentencing for petitioner who are currently or were previously convicted of specified offenses; and
 - Make additional technical revisions.

Health conditions that were discovered after the original sentencing

Item 4 and 5 correspond to section 1170.91(b)(1), which authorizes relief for “[a] person currently serving a sentence for a felony conviction . . . who is, or was, a member of the United

¹ See Judicial Council of Cal., Invitation to Com., *Criminal Procedure: Petition for Resentencing Based on Health Conditions due to Military Service* (W23-05), www.courts.ca.gov/documents/w23-05.pdf

² The proposed revisions that were previously circulated are not discussed below because they were previously discussed in the prior invitation to comment.

States military and who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of the person’s military service,” who can show that “the circumstance of suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of the person’s military service was not considered” as a mitigating factor during sentencing.

A commenter expressed concern that the current phrasing of item 5 could be read to exclude relief for health conditions that were diagnosed after the original sentencing, stating that SB 1209 intended, in part, to provide relief in these types of situations.

According to the bill author, SB 1209 sought to address situations where health conditions related to military service are belatedly discovered after the original sentencing, such as the situation in *People v. Valliant* (2020) 55 Cal.App.5th 903. (Assem. Com. on Pub. Saf., Analysis of Sen. Bill No. 1209 (2021–2022 Reg. Sess.) as amended May 19, 2022, p. 4.) In *Valliant*, the defendant was sentenced in March 2015, and the Department of Veterans Affairs verified in 2017 his post-traumatic stress disorder stemming from military service. The defendant filed a petition for resentencing under section 1170.91(b), asserting that his military service–related trauma was not considered as a factor in mitigation at the time of sentencing. The trial court denied his petition because he was sentenced after January 1, 2015, and section 1170.91 allowed resentencing only for persons sentenced before January 1, 2015. The ruling was affirmed on appeal, but the court invited the Legislature to revisit the issue and, “if it believes it is appropriate to do so, to provide Valliant and any other veteran in a similar position, with statutory relief.” (*Id.* at p. 912.) The Supreme Court denied the petition for review, but Justice Liu provided a concurring statement, noting that “by requiring that the original sentencing occur prior to January 1, 2015, for an individual to be eligible for resentencing—irrespective of when it was determined that the trauma, mental health, or substance abuse conditions were a result of military service—section 1170.91, subdivision (b) fails to ensure equal treatment of all veterans.” (*Id.*, at 913b (conc. statement. of Liu, J.))

According to the bill’s author, the key point of SB 1209 was “to ensure that veterans that have experienced trauma related to their military service are provided with the sentencing mitigation and resentencing opportunities we have already passed into law. The initial bill that allowed for sentencing mitigation did not apply to resentencing at all, treating those veterans who were already incarcerated differently. We corrected this with a bill to allow for resentencing for crimes that occurred before 2015. Unfortunately, this retroactivity has also been applied unevenly, to such an extent that CA Supreme Court Justice Goodwin Liu noted this section of law ‘fails to ensure equal treatment of all veterans.’ SB 1209 seeks to correct this injustice against those who have served our country. We’ve learned a lot about the impacts of trauma, how long symptoms can take to manifest, and how they can alter thinking and behavior down the road. This bill ensures those with trauma from their honorable military service and sacrifice are provided the considerations we’ve already passed into law.” (Assem. Com. on Pub. Saf., Analysis of Sen. Bill No. 1209 (2021–2022 Reg. Sess.) as amended May 19, 2022, p. 3.)

In light of the comment and the legislative history behind SB 1209, the committee recommends revising item 5 as follows:

When petitioner was sentenced, the judge did not consider all of the above health conditions resulting from petitioner’s military service as a factor in deciding the sentence.

The “all of the above” language would tie item 5 to item 4, which allows the petitioner to identify health conditions they may be suffering from as a result of military service:

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>): | |

Moving party’s date of birth

The committee recommends deleting a provision asking for the moving party’s date of birth as unnecessary.

Technical amendments

The committee also recommends the following nonsubstantive amendments to the form:

- Adding a court address box
- Reformatting the instructions
- Identifying petitioner in item 1 as “defendant named above” (a modification from the “defendant in the above-entitled criminal action,” proposed to be added in the prior circulation).

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.

The committee considered Justice Moore’s suggestion to revise item 5 to refer to “all diagnosed” health conditions resulting from military service. However, nothing in the statute requires a health condition to be formally “diagnosed,” only that the petitioner “may be suffering from” specific health conditions resulting from military service. Thus, the committee did not refer to diagnosed health conditions in the form.

Fiscal and Operational Impacts

Expected costs from revising this optional form should be limited to training 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-412, at page 6 (originally circulated revisions highlighted in yellow, with new proposed revisions in green)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 0;">Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: CDC OR ID NUMBER:	CASE NUMBER:
<h3>PETITION FOR RESENTENCING BASED ON HEALTH CONDITIONS DUE TO MILITARY SERVICE LISTED IN PENAL CODE SECTION 1170.91(b)</h3>	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

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.

1. Petitioner (the defendant named above) 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 (Penal, Vehicle, etc.)	Section	Name of offense

Check here if additional space is needed for listing offenses and use *Attachment to Judicial Council Form* (form MC-025) to list the information requested.

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 all of the above 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: March 29, 2023

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

Title of proposal: Criminal Procedure: Record Cleaning Forms

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

Revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432

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

Staff contact (name, phone and e-mail): Alex Bender, 415-865-7995, Alex.Bender@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): February 16, 2023

Project description from annual agenda: Develop a proposal to revise various record cleaning forms to incorporate statutory changes made by AB 1281 (Stats. 2021, ch. 209), which specifies that a dismissal under Pen. Code, §§ 1203.4, 1203.4a, 1203.4b, or 1203.425 does not invalidate an unexpired criminal protective order; incorporate statutory changes made by AB 1793 (Stats. 2018, ch. 993), which automates record relief for specified marijuana-related convictions; and recommend a standard signature line for use by either counsel or a self-represented petitioner. AB 1803 (Stats. 2022, ch. 494; ability to pay reimbursement fees for dismissal petitions), SB 1106 (Stats. 2022, ch. 734; court prohibited from denying relief based on unpaid restitution or restitution fine), SB 731 (Stats. 2022, ch. 814; automated record relief under Penal Code section 1203.425), and AB 160 (Stats. 2022, ch. 771: extending relief under Penal Code section 1203.4b to individuals who participated in institutional firehouse programs) will also be implemented in this proposal

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

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

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

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

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: Penal Code section 851.91
- 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

SPR23-14

Title

Criminal Procedure: Record Cleaning Forms

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432

Proposed Effective Date

January 1, 2024

Contact

Alex Bender, 415-865-7995
Alex.Bender@jud.ca.gov

Proposed by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Executive Summary and Origin

The Criminal Law Advisory Committee recommends revising optional criminal forms used to petition for dismissals and reductions of convictions and request sealing of arrest records. The proposed revisions reflect statutory changes that allow for automatic record relief, expand who is eligible for relief, and clarify the effect of relief granted.

Background

The proposal is based on statutory changes from recent legislative bills:

- Effective January 1, 2020, Assembly Bill 1076 (Stats. 2019, ch. 578) added Penal Code sections 851.93 and 1203.425, requiring the state Department of Justice (DOJ) to review statewide criminal history records and, without requiring a petition or motion, to grant automatic record relief to persons with arrests for a misdemeanor or felony punishable in the county jail that did not result in a conviction, as specified, and to persons with convictions who completed probation without revocation or who completed an infraction or misdemeanor sentence without probation, as specified. Persons granted relief are released from all penalties and disabilities resulting from the arrest or conviction, and courts, in turn, are generally prohibited from disclosing information on these arrests or convictions, as well as convictions granted relief under other specified dismissal statutes.

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

- Effective January 1, 2022, Assembly Bill 1281 (Stats. 2021, ch. 209) amended Penal Code sections 1203.4, 1203.4a, 1203.4b, and 1203.425 to specify that dismissal of a pleading under these sections does not invalidate a protective order issued by the court in the underlying case, and that such an order remains in effect until the order expires or is modified by the issuing court, despite the dismissal of the underlying pleading.
- Effective September 29, 2022, Assembly Bill 160 (Stats. 2022, ch. 771) amended Penal Code section 1203.4b to allow defendants who successfully participated at an institutional firehouse, as specified, to petition to have their qualifying convictions dismissed. Defendants granted relief are released from all penalties and disabilities resulting from their conviction.
- Effective January 1, 2023, Assembly Bill 1706 (Stats. 2022, ch. 387) amended Health and Safety Code section 11361.9 to require courts to issue an order granting relief under Health and Safety Code section 11361.8 for specified marijuana-related convictions, and to notify the state DOJ by March 1, 2023, in cases where the prosecuting agency did not challenge the granting of relief by July 1, 2020.¹
- Effective January 1, 2023, Senate Bill 731 (Stats. 2022, ch. 814) amended Penal Code section 1203.41 to allow defendants who have been convicted of a felony to petition for dismissal relief, as long as the conviction does not require registration as a sex offender; and commencing July 1, 2023, amends Penal Code section 851.93 to extend automatic arrest record relief to persons who have been arrested for a felony, including a felony punishable in the state prison, as specified, and section 1203.425 to extend automatic conviction record relief to defendants convicted of a felony other than one for which the defendant completed probation without revocation, as specified.

¹ Previously, Proposition 64, effective November 9, 2016, (1) eliminated or reduced the punishment for designated marijuana-related offenses; and (2) added Health and Safety Code section 11361.8, which provides a resentencing and redesignation mechanism for persons convicted under the previous law who would not have been guilty of an offense or who would have been guilty of a lesser offense had Prop. 64 been in effect at the time. To implement Prop. 64, the Judicial Council approved forms to be used to petition the court for relief and make the appropriate orders under Health and Safety Code section 11361.8.

Effective January 1, 2019, Assembly Bill 1793 (Stats. 2018, ch. 993) added Health and Safety Code section 11361.9, which removed the burden of seeking relief for marijuana-related convictions from an eligible defendant and made it the responsibility of government agencies. Section 11361.9 required the state DOJ to identify past convictions potentially eligible for relief under Health and Safety Code section 11361.8 and notify the relevant prosecuting agency, which had until July 1, 2020, to challenge the granting of relief based on ineligibility or a perceived public safety risk. A court granting relief was required to notify the state DOJ, which in turn was required to update the defendant's criminal information accordingly.

Prior Circulation

A proposal to revise forms CR-180, CR-181, CR-400, CR-409, and CR-409-INFO circulated for public comment in spring 2020.² Those proposed revisions were to reflect the automatic record relief provisions from Assembly Bill 1793 and Assembly Bill 1076, which added Health and Safety Code section 11361.9 and Penal Code sections 851.93 and 1203.425, respectively. Comments were received, but the committee withdrew the proposal with the intention of reintroducing it at a later date after a trailer bill pushed back the operative date of key provisions of Penal Code sections 851.93 and 1203.425 to July 1, 2022. The proposed revisions in that proposal have been updated and incorporated into the current proposal, as appropriate.

The Proposal

This proposal would revise optional criminal record cleaning forms to notify petitioners that their arrest or conviction may have already been granted automatic record relief, account for statutory changes that expand who is eligible for record relief and clarify the effect of relief granted, avoid the use of gendered pronouns, and make minor technical changes. The proposal would also eliminate the requirement for a petitioner to sign a record cleaning petition under penalty of perjury if the underlying statute does not contain such a requirement and otherwise provides for the reliability of the information being submitted.

Petition for Dismissal (form CR-180)

- Add a notice that the state DOJ may have already granted automatic relief under Penal Code section 1203.425, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Revise item 5 to account for the expansion of dismissal relief under Penal Code section 1203.41 to a petitioner who served a felony state prison sentence.
- Revise items 4, 7, and 9 to avoid the use of gendered pronouns.
- Eliminate the declaration under penalty of perjury from the signature line.
- Remove references to *Attached Declaration* (form MC-031) throughout and replace with references to *Attachment* (form MC-025).
- Make minor technical changes: add court address box; rephrase items 2, 3, 5, and 6 for clarity; add printed name field to signature line.

Order for Dismissal (form CR-181)

- Combine items 5 and 6 as new item 5 and renumber items as needed.

² See Judicial Council of Cal., Invitation to Com., *Criminal Procedure: Automatic Record Relief* (SPR20-10), www.courts.ca.gov/documents/spr20-10.pdf.

- Revise new item 6 to account for a statutory change regarding the petitioner’s disclosure requirements.
- Add a notice provision as new item 8 stating that dismissal under Penal Code sections 1203.4 or 1203.4a does not release the petitioner from the terms and conditions of any unexpired criminal protective order, as specified.
- Add a notice provision as new item 11 stating that, except as provided in Penal Code section 1203.425(a)(4), if the order is granted under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, the court must not disclose information concerning the conviction except to the person whose conviction was granted relief or to a criminal justice agency.
- Revise item 5 and new item 7 to avoid the use of gendered pronouns.
- Make minor technical changes: add court address box; revise introductory text before item 1.

Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-400)

- Add a notice that automatic relief may have already been granted, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Revise item 4 to avoid the use of gendered pronouns.
- Revise signature line to clarify that an attorney may sign.
- Make minor technical changes: revise title, add court address box; add numbering to items 1 and 2; add printed name field to signature line.

Proof of Service for Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-401)

- Make minor technical changes: revise title to conform to proposed form CR-400; add court address box.

Prosecuting Agency Response to Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-402)

- Make minor technical changes: revise title to conform to proposed form CR-400; add court address box; add instructions (“choose all that apply”); add numbering to check box items; add printed name field to signature line.

Order After Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-403)

- Make minor technical changes: revise title to conform to proposed form CR-400; add court address box; add numbering and clarifying instructions to items 1, 2, and 3.

Petition to Seal Arrest and Related Records (form CR-409)

- Add a reference to *Information on How to File a Petition to Seal Arrest and Related Records* (form CR-409-INFO).
- Add a notice that automatic relief may have already been granted under Penal Code section 851.93, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Simplify and eliminate duplication in items 3e, 3f, and 3g.
- Make minor technical changes: reorganize item 1 by separating attorney/petitioner fields and add text regarding address information; clarify instructions in items 2 and 3; add printed name field to signature line.

Information on How to File a Petition to Seal Arrest and Related Records (form CR-409-INFO)

- Add numbering to each question item.
- Revise item 2 to include a reference to *Petition to Seal Arrest and Related Records* (form CR-409) and clarify that form CR-409 is optional.
- Revise item 5 to clarify that electronic service is possible and that *Proof of Service – Criminal Record Clearing* (form CR-106) may be used for service.
- Revise item 8 to state that automatic relief may have already been granted under Penal Code section 851.93, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.

Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-430)

- Add a notice that automatic relief may have already been granted under Penal Code section 1203.425, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Revise title and language in items 1 and 2 to account for the expansion of relief under Penal Code section 1203.4b to successful participants at an institutional firehouse.
- Remove declaration from signature line.
- Remove reference to *Attached Declaration* (form MC-031) in item 2 and replace with reference to *Attachment* (form MC-025).

- Make minor technical changes: reorganize item 1 by separating petitioner/attorney and address fields.

Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-430-INFO)

- Add a bullet to item 12 that states that a dismissal will not release a petitioner from the terms and conditions of an unexpired criminal protective order that has not been modified or terminated by the court.
- Revise title and language in items 1, 3, 7, 8, 9, and 11 to account for the expansion of dismissal relief under Penal Code section 1203.4b to successful participants at an institutional firehouse.

Court Cover Letter and Agency Certification—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-431)

- Revise title and language throughout to account for the expansion of dismissal relief under Penal Code section 1203.4b to successful participants at an institutional firehouse.

Order on Petition—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-432)

- Add a notice provision to item 3 stating that a petitioner may still be subject to the terms and conditions of any unexpired criminal protective order as specified.
- Revise title and language in items 1, 2, and 4 to account for the expansion of dismissal relief under Penal Code section 1203.4b to successful participants at an institutional firehouse.
- Make minor technical changes: change formatting of hearing date box; add numbering to items 2 and 3; rephrase item 3 for clarity.

Alternatives Considered

Because the proposed form revisions relating to the expansion of relief under Penal Code sections 1203.4b and 1203.41 are based on statutory changes, the committee viewed these revisions as necessary and did not consider other alternatives.

Although the committee considered not updating the forms with notice provisions regarding automatic record relief, limitations on disclosure, and the effect of relief on unexpired criminal protective orders, the committee determined that this information would be useful and potentially save time and resources for courts and petitioners.³

³ The committee also considered and would propose an additional revision to *Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew (Pen. Code, § 1203.4b)* (form CR-430-INFO) depending on whether the Legislature acts to fix an apparent oversight in its last session.

The committee considered making no changes to the signature line in form CR-180 (which currently requires the petitioner to declare under penalty of perjury that the information provided is true and correct) and adding penalty of perjury language to the signature line in form CR-430 (which currently requires the petitioner to state that the information provided is true or believed to be true but does not include penalty of perjury language). Instead, however, the committee concluded that the attestation clause in both forms should be eliminated because (1) the underlying dismissal statutes do not require the request for relief to be verified or submitted under penalty of perjury,⁴ and absent a statutory mandate, verification should not be required because it is an exception to general pleading practice and an additional burden to the petitioner; (2) the underlying dismissal statutes outline a procedure that includes notice to the prosecuting attorney and thus contemplates an adversarial hearing at which issues regarding the admissibility or reliability of a petitioner's statements of fact (or other supporting evidence) can be addressed;⁵ and (3) courts can and do independently verify relevant case information.

Effective January 1, 2023, Senate Bill 1106 (Stats. 2022, ch. 734) amended Penal Code sections 17, 1203.4, 1203.4a, 1203.41, 1203.42, and 1203.45 to prohibit the denial of relief under these sections because of an unfulfilled order of restitution or restitution fine. This bill, as signed into law by the Governor, was to amend Penal Code section 1203.4b in the same manner. However, Assembly Bill 160 (Stats. 2022, ch. 771) also amended section 1203.4b, and because AB 160 was chaptered after SB 1106 but did not include the SB 1106 amendment to section 1203.4b, the SB 1106 provision concerning section 1203.4b did not go into effect on January 1 as anticipated.

If, before the effective date of the revised forms in this proposal, cleanup legislation is signed into law amending Penal Code section 1203.4b to include the SB 1106 provision as intended, the committee would also propose to add a new question-and-answer item to form CR-430-INFO as follows:

I still owe a restitution fine in my case. Can I apply for § 1203.4b relief now?

Yes. The law says the court cannot deny § 1203.4b relief because of unpaid restitution and fines.

As with other notice provisions discussed in this proposal, this information would be useful for petitioners.

⁴ See Pen. Code, §§ 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, 1203.49. Under Penal Code section 1203.43, if court records showing the case resolution are no longer available and a defendant submits a declaration under penalty of perjury stating that the charges were dismissed, the court must presume the truth of the declaration, provided that the defendant also submits a copy of their state summary criminal history information (SCHI). However, the defendant is not *required* to submit a declaration under penalty of perjury; the statute merely provides that a court must presume any such declaration to be true under specified circumstances. The current version of form CR-180 accounts for this statutory provision in item 7b by including a box where the defendant may declare under penalty of perjury that the charges were dismissed and indicate whether the state SCHI is attached.

⁵ A petition for dismissal of an infraction, however, must be by “written declaration, except on a showing of compelling need.” (Pen. Code, § 1203.4a(f).) In such petitions, the prosecuting attorney must still be given notice as specified, and there is thus still an opportunity for the prosecution to object to the defendant’s request for relief. (*Ibid.*)

Additionally, given that Penal Code section 1203.4a(f) does not expressly require the written declaration to be under oath (i.e., an affidavit) or under penalty of perjury, the committee interpreted section 1203.4a(f) as aimed towards eliminating the need for an in-person hearing rather than imposing a verification requirement. (See *Kulshrestha v. First Union Commercial Corp.* (2004) 33 Cal.4th 601, 610 [unsworn declarations made under penalty of perjury authorized for use whenever state law requires or permits facts to be evidenced by affidavits or other sworn statements]; *id.* at p. 609 [since 1872, an affidavit has been defined as a written declaration under oath, taken before any officer authorized to administer oaths].) This accords with the general principle that procedural requirements and rights are sometimes different and less rigorous where infractions are concerned. (See *People v. Carlucci* (1979)

Fiscal and Operational Impacts

Expected costs are limited to training, possible case management system updates, and the production of new forms. As to forms CR-409 and CR-409-INFO, the Judicial Council was required by law to develop these forms and to translate them into four languages, so revisions to these forms would require modest translation costs. 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?
- Do the proposed revisions to forms CR-430, CR-430-INFO, CR-431, and CR-432 adequately address the expansion of relief under Penal Code section 1203.4b to institutional firehouse participants?

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. Proposed forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432, at pages 10–33
2. Link A: Assem. Bill 1076 (Stats. 2019, ch. 578),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1076
3. Link B: Assem. Bill 1281 (Stats. 2021, ch. 209),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1281
4. Link C: Assem. Bill 160 (Stats. 2022, ch. 771),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB160

23 Cal.3d 249, 257 [“[I]t is in the interests of the defendant, law enforcement, the courts, and the public to provide simplified and expeditious procedures for the adjudication of less serious traffic offenses.”]; Pen. Code, § 19.6.)

5. Link D: Assem. Bill 1706 (Stats. 2022, ch. 387),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1706
6. Link E: Assem. Bill 1793 (Stats. 2018, ch. 993),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1793
7. Link F: Sen. Bill 731 (Stats. 2022, ch. 814),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB731
8. Link G: Sen. Bill 1106 (Stats. 2022, ch. 734),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1106
9. Link H: Pen. Code, § 851.93,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=851.93.&nodeTreePath=5.5.7&lawCode=PEN
10. Link I: Pen. Code, § 1203.425,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.425.&nodeTreePath=5.10.1&lawCode=PEN
11. Link J: Pen. Code, § 1203.4,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4.&nodeTreePath=5.10.1&lawCode=PEN
12. Link K: Pen. Code, § 1203.4a,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4a.&nodeTreePath=5.10.1&lawCode=PEN
13. Link L: Pen. Code, § 1203.4b,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4b.&nodeTreePath=5.10.1&lawCode=PEN
14. Link M: Health & Saf. Code, § 11361.9,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11361.9.&lawCode=HSC
15. Link N: Health & Saf. Code, § 11361.8,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11361.8.&nodeTreePath=12.6.2&lawCode=HSC

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

Note to petitioner: Your conviction(s) may have already been automatically dismissed under Penal Code section 1203.425. If so, this petition may be unnecessary. To find out if your conviction has already been dismissed, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition.

1. On (date): _____, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following offenses or was granted deferred entry of judgment for the following offenses:

Code (Penal, Vehicle, etc.)	Section	Type of offense (felony, misdemeanor, or infraction):	Eligible for reduction to misdemeanor under Penal Code, § 17(b) (yes or no)	Eligible for reduction to infraction under Penal Code, § 17(d)(2) (yes or no)

If additional space is needed for listing offenses, use Attachment to Judicial Council Form (form MC-025).

2. **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**
 Probation was granted on the terms and conditions stated in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, on probation for any offense, or currently charged with committing any crime, and the petitioner (check all that apply)

a. has fulfilled the conditions of probation for the entire period thereof.

b. has been discharged from probation prior to the termination of the period thereof.

c. should be granted relief in the interests of justice. (Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) and attach it to this petition.)

THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

3. **Misdemeanor or infraction with sentence other than probation (*Pen. Code, § 1203.4a*)**

Probation was not granted; more than one year has elapsed since judgment was pronounced. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or currently charged with committing any crime; and the petitioner (*check one*)

- a. has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land; **or**
- b. should be granted relief in the interests of justice. (*Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) and attach it to this petition.*)

4. **Misdemeanor conviction under Penal Code section 647(b) (*Pen. Code, § 1203.49*)**

Petitioner has completed a term of probation for a conviction under Penal Code section 647(b) and should be granted relief because the conviction was the result of petitioner's status as a victim of human trafficking.

(*Please provide evidence that the conviction was the result of your status as a victim of human trafficking. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) and attach it to this petition.*)

5. **Felony county jail sentence under Penal Code section 1170(h)(5) or felony state prison sentence (*Pen. Code, § 1203.41*)**

Petitioner is not on parole or under supervision under Penal Code section 1170(h)(5)(B); is not serving a sentence for, on probation for, or currently charged with committing any crime; and should be granted relief in the interests of justice, and (*check one*)

- a. more than one year has elapsed since petitioner completed the felony county jail sentence **with** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B);
- b. more than two years have elapsed since petitioner completed the felony county jail sentence **without** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A); **or**
- c. more than two years have elapsed since petitioner completed the felony state prison sentence.

(*Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) and attach it to this petition.*)

THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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6. **Felony prison sentence that would have been eligible for a felony county jail sentence after 2011 under Penal Code section 1170(h)(5) (Pen. Code, § 1203.42)**

Petitioner is not under supervision and is not serving a sentence for, on probation for, or currently charged with committing any crime; more than two years have elapsed since petitioner completed the felony prison sentence; and petitioner should be granted relief in the interests of justice.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) and attach it to this petition.)

7. **Deferred entry of judgment (Pen. Code, § 1203.43)**

Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted. The criminal charge(s) were dismissed under former Penal Code section 1000.3 on (date): . Furthermore (check one),

a. court records are available showing the case resolution; **or**

b. petitioner declares under penalty of perjury that the charges were dismissed after petitioner completed the requirements for deferred entry of judgment. Petitioner (check one)

(1) has

(2) has not

attached a copy of petitioner's state summary criminal history information.

8. Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b) and eligible misdemeanor offenses be reduced to infractions under Penal Code section 17(d)(2).

9. Petitioner requests that petitioner be permitted to withdraw the plea of guilty, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under the Penal Code section(s) noted above.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER OR ATTORNEY)

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
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PEOPLE OF THE STATE OF CALIFORNIA <p style="text-align: center;">v.</p> DEFENDANT:		
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)		CASE NUMBER:

From the petition filed in this matter, the records of the court, and any other evidence presented in this matter, the court orders as follows:

1. The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and reduces
 - a. ALL FELONY CONVICTIONS in the above-entitled action.
 - b. ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - c. only the following convictions in the above-entitled action (*specify charges and date of conviction*):

2. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for
 - a. ALL FELONY CONVICTIONS in the above-entitled action.
 - b. ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - c. only the following convictions in the above-entitled action (*specify charges and date of conviction*):

3. The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code (*check all that apply*)
 § 1203.4 § 1203.4a § 1203.41 § 1203.42 § 1203.43 § 1203.49
 and it is ordered that the pleas of guilty or nolo contendere or verdicts or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint or information be, and is hereby, dismissed for (*check one*)
 - a. ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
 - b. only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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4. The court **DENIES** the petition for dismissal under Penal Code (*check all that apply*)
 § 1203.4 § 1203.4a § 1203.41 § 1203.42 § 1203.43 § 1203.49 for (*check one*)
- a. ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
- b. only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

5. In granting this order under the provisions of Penal Code section 1203.49, the court finds that the petitioner was a victim of human trafficking when **petitioner** committed the crime.

- a. The court orders (*check one*):
- (1) the relief described in section 1203.4.
- (2) the relief described in section 1203.4, with the following exceptions (*specify*):

b. The Department of Justice is hereby notified that **petitioner** was a victim of human trafficking when **petitioner** committed the crime, and **notified** of the relief ordered.

6. If this order is granted under the provisions of Penal Code section 1203.4, 1203.41, or 1203.42,
- a. the petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency (*or, under Penal Code section 1203.41, for licensure by a federally recognized tribe*), or for contracting with the California State Lottery Commission; and
- b. dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)

7. If **this** order is granted under the provisions of Penal Code section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in **their** control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

8. Dismissal under Penal Code sections 1203.4 or 1203.4a does not release petitioner from the terms and conditions of any unexpired criminal protective order issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), or 646.9(k).

9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

FOR COURT USE ONLY

10. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in former Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.

11. Notice: Except as provided in Penal Code section 1203.425(a)(4), if this order is granted under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, the court must not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or to a criminal justice agency.

Date: _____

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):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT Not approved by the Judicial Council</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
<p style="text-align: center;">PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES</p> <input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> DATE: TIME: DEPARTMENT:

Note to petitioner/applicant: Your conviction may have already been automatically dismissed or redesignated. To find out if automatic relief was granted, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition/application.

1. CONVICTION INFORMATION (check all that apply)

- a. 11357 - Possession of Marijuana
- b. 11358 - Cultivation of Marijuana
- c. 11359 - Possession of Marijuana for Sale
- d. 11360 - Transportation, Distribution, or Importation of Marijuana
- e. 11362.1 - Personal Use of Marijuana

2. REQUEST (check all that apply)

- a. PETITION: Petitioner is currently serving a sentence in the above-captioned case and now requests that the court recall and resentence or dismiss the conviction.
- b. APPLICATION: Applicant has completed the sentence in the above captioned case and now requests that the court redesignate or dismiss and seal the conviction.

3. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

Petitioner/applicant waives the right to have this matter heard by the original sentencing judge. The presiding judge of the court may designate any judge to rule on this matter.

4. WAIVER OF APPEARANCE

Petitioner/applicant understands there is a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without petitioner/applicant's appearance.

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PETITIONER/APPLICANT OR ATTORNEY)

Proof of Service for Petition/Application under Health and Safety Code Section 11361.8—Adult Crimes (form CR-401) may be used to provide proof of service of this petition/application.

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PROOF OF SERVICE FOR PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES Method of Service (only one): <input type="checkbox"/> Personal Service <input type="checkbox"/> Mail	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

1. Person serving: I am over the age of 18 and **not a party to this action.**
 - a. Name:
 - b. Residence or Business Address:
 - c. Telephone:
2. I served a copy of the **Petition/Application under Health and Safety Code Section 11361.8—Adult Crimes** on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date Served:
 - d. Time Served: AM PM
3. The documents were served by the following means (*specify*):
 - a. **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
 - (1) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at

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

Date: _____

 SIGNATURE OF DECLARANT

 (PRINTED NAME OF DECLARANT)

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):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT Not approved by the Judicial Council</p>
<p style="text-align: center;">SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
<p style="text-align: center;">PROSECUTING AGENCY RESPONSE TO PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8— ADULT CRIMES</p>	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> DATE: TIME: DEPARTMENT:

PROSECUTING AGENCY RESPONSE (Choose all that apply):

1. The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.
2. The prosecuting agency requests a hearing and objects to the granting of the petition/application because
 - a. petitioner/applicant was not convicted of an eligible offense.
 - b. Other:
3. Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.
4. The prosecuting agency does not object to petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated:

(TYPE OR PRINT NAME)

▶ _____

SIGNATURE OF PROSECUTING ATTORNEY

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:	CASE NUMBER:
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**PROOF OF SERVICE
FOR PROSECUTING AGENCY RESPONSE
Method of Service (only one):**

Personal Service **Mail**

1. Person serving: I am over the age of 18 and **not a party to this action.**
 - a. Name:
 - b. Residence or business address:
 - c. Telephone:
2. I served a copy of *Prosecuting Agency Response to Petition/Application* under Health and Safety Code section 11361.8—**Adult Crimes** on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date served:
 - d. Time served: AM PM
3. The documents were served by the following means (*specify*):
 - a. **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*)
 - (1) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

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

Date:

_____ (TYPE OR PRINT NAME)



_____ SIGNATURE OF DECLARANT

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
THE PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
ORDER AFTER PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES <input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

From the petition/application filed in this matter, the records of the court, and any other evidence presented in this matter, the court orders as follows:

1. RESENTENCING GRANTED

- a. The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime and enters the following additional orders:
 The following crime is resentenced as misdemeanor infraction
(specify crime) (more than one may be listed):
- b. The following sentence is imposed for the commission of the crime:
- c. The petitioner is given credit for time served of (days):
- d. Petitioner is required to complete a period of supervision of months days
 parole postrelease community supervision mandatory supervision (Pen. Code, section 1170(h))
 formal probation informal probation
- e. The court releases the petitioner from any form of postconviction supervision.
- f. The court **DISMISSES** the following crime for the reason that the conviction is legally invalid:
- g. Other:

2. REDESIGNATION GRANTED

- The applicant is eligible for the requested relief. The application is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime and enters the following additional orders:
- a. The following crime is redesignated as misdemeanor infraction:
(specify crime) (more than one may be listed):
- b. The court **DISMISSES** the following crime for the reason that the conviction is legally invalid *(specify crime) (more than one may be listed):*
- c. Other:

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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3. RESENTENCING/REDESIGNATION DENIED

- The petitioner/applicant is ineligible for the requested relief. The request for resentencing, redesignation, dismissal, or sealing is **DENIED** as to crime:
 - a. The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.
 - b. The petitioner's/applicant's age at the time the crime was committed makes petitioner/applicant ineligible for the requested relief.
 - c. The nature of the marijuana substance constituting the basis of the crime makes petitioner/applicant ineligible for the requested relief.
 - d. The quantity of the marijuana substance constituting the basis of the crime makes petitioner/applicant ineligible for the requested relief.
 - e. Although petitioner is eligible for relief, for reasons stated on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.
 - f. Other:

4. MISDEMEANOR/INFRACTION FOR ALL PURPOSES

Any misdemeanor resentenced as an infraction as a result of this order will thereafter be an infraction for all purposes. Any felony conviction resentenced as a result of this order as a misdemeanor or infraction will be a misdemeanor or infraction for all purposes.

5. REGISTRATION

- The petitioner/applicant is relieved from the requirement to register as a narcotics offender under Health and Safety Code section 11590.

6. SEALING OF CONVICTION

- The court's record of conviction is ordered sealed. No access to the information shall be permitted without court order.

IT IS SO ORDERED.

Date:

JUDICIAL OFFICER

Before using this form, read *Information on How to File a Petition to Seal Arrest and Related Records* (form CR-409-INFO), available at www.courts.ca.gov/forms.

Note to petitioner: Arrests that happened on or after January 1, 1973, may qualify for automatic arrest record relief if they did not result in a conviction and they meet certain other conditions. (Pen. Code, § 851.93.) A petition to seal may be unnecessary if automatic relief has been granted. To find out if automatic relief was granted, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition.

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Fill in the name and street address of the court that you are filing the petition in:

Superior Court of California, County of

Fill this out if a criminal complaint was filed or charged against the petitioner and there is a case number and case name for that criminal case. Do not fill this out if an arrest happened but no criminal complaint was filed or charged in court:

Trial Court Case Number:

Trial Court Case Name:
People of the State of California
v. _____

1 Petitioner's Information

a. **Your Full Name:** _____
Date of birth: _____ (mm/dd/yyyy)
Your Lawyer (if you have one for this case):
Name: _____ State Bar No.: _____
Firm Name: _____

b. **Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead.)**
Street: _____
City: _____ State: _____ Zip: _____
Telephone: _____
Email Address: _____

2 Notice of Court Hearing (Clerk fills out section below)

A court hearing is scheduled on this petition as follows:

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____
Name and address of court if different from above:

If an interpreter is needed, please specify the language: _____

3 Information About Your Case (provide as much information as you can)

- a. Date of the arrest you are requesting to be sealed: _____ (mm/dd/yyyy)
- b. Where did the arrest happen? Include the city and county: _____
- c. What law enforcement agency made the arrest? If it was a police department, include the city (for example, ABC City Police Department). If it was a county sheriff, list the county (for example, XYZ County Sheriff): _____
- d. What is the arrest report number or police report number, if available? _____

3 e. What were the offenses for which you were arrested (for example, Penal Code section 242 for battery)?

f. If the prosecutor filed a case against you, what were the charges the prosecutor filed (for example, Penal Code section 242 for battery)?

g. If you would like to explain the information provided, please do so below, or complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.

h. Check any box that applies:
I am entitled to have this arrest (the arrest described in item 3 of this petition) sealed as a matter of right because the arrest did not result in a conviction, and I satisfy the requirements of Penal Code section 851.91.
I am requesting to have the arrest sealed in the interests of justice (Pen. Code, § 851.91(c)(2)(B)). (Describe below how this is in the interests of justice. In deciding whether to grant this request, the court may consider any important factors, including hardship and difficulties caused by the arrest; statements or evidence regarding your good character; statements or evidence regarding the arrest; your record of convictions; or any other important factors. You may provide statements or evidence from you, from others, or both.)

Please attach any additional signed and dated statements with the petition. Additional statements from you should be submitted on the Attached Declaration (form MC-031).

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

Type or print your name

Signature of Petitioner or Attorney

This information sheet does not cover all of the questions that may arise in a case. Do *not* deliver this information sheet to the court clerk.

1 What is a petition to seal arrest and related records?

The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. A separate petition must be filed for each arrest for which sealing is requested.

2 What information do I include in the petition?

Refer to *Petition to Seal Arrest and Related Records* (form CR-409) to see what information must be included in your petition. Because form CR-409 is an optional form, you may fill out the form or you may write your own petition.

You should carefully fill out all parts of form CR-409 or, if writing your own petition, include the same information as in the form. The court may deny your filing if you provide incomplete information.

3 How will the court make its decision?

To have the arrest sealed as a matter of right, the court will determine whether the arrest did not result in a conviction (Pen. Code, § 851.91(a)(1)). The court will NOT seal the arrest as a matter of right if

- (1) you may still be charged with any of the offenses upon which the arrest was based;
- (2) the arrest or case was filed for murder or any other offense for which there is no statute of limitations (except if you have been acquitted or found factually innocent), or
- (3) you intentionally evaded law enforcement efforts to prosecute the arrest, including by engaging in identity fraud. (Pen. Code, § 851.91(a)(2).)

To have the arrest sealed in the interests of justice (Pen. Code, § 851.91(c)(2)(B)), you must describe how sealing the arrest is in the interests of justice through a personal statement from you and/or statements from others.

4 What do I do with the petition once I fill it out?

If a criminal case was filed based on the arrest you want to have sealed, take or mail this petition to the clerk's office in the court where the case was filed.

If no criminal case was filed or charged against you, take or mail this petition to the clerk's office in the court that handles criminal matters for the city or county where the arrest happened. If you don't know which court this is, you may want to contact a court in the county to ask.

The clerk will give you a court date for the hearing, which should be at least 15 days from the date you file the petition. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

5 Must anyone else get the petition?

A copy of the petition must be served (delivered by hand, mail, or electronically) on the prosecutor of the city or county where the arrest happened *and* the law enforcement agency that made the arrest, at least 15 days before the hearing on the petition. After you have served the petition on the prosecutor and the law enforcement agency, you will need to file a "proof of service" with the court. You may use *Proof of Service-Criminal Record Clearing* (form CR-106), available at www.courts.ca.gov/forms.



6 What happens if the court grants my petition (request)?

If the court grants the petition, it will send a copy of the order to law enforcement and the California Department of Justice to update the arrest record, noting that the arrest is sealed. Records that are sealed under the court's order will not be disclosed except to you or a criminal justice agency (which includes courts, peace officers, prosecuting attorneys, city attorneys pursuing specific actions, defense attorneys, probation officers, parole officers, and correctional officers). Criminal history providers may disclose information to other criminal history providers. For more information, see Penal Code section 851.92.

7 Are translations of the petition available?

Translations of the petition are available in Spanish, Chinese, Vietnamese, and Korean at the California Courts website at www.courts.ca.gov/forms.htm.

8 Are there other ways to seal or limit arrest records?

Yes. Arrests that happened on or after January 1, 1973, may qualify for automatic arrest record relief if they did not result in a conviction and they meet certain other conditions. (Pen. Code, § 851.93.) A petition to seal is unnecessary if automatic relief has been granted. To find out if automatic relief was granted, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice.

You may also request the court to deem an arrest a detention under Penal Code section 849.5; request a determination of factual innocence under section 851.8; receive an acquittal and a determination of factual innocence under section 851.85; have your conviction set aside based on a determination of factual innocence under section 851.86; and request relief after completion of a prefiling diversion program under section 851.87.

Clerk stamps date here when form is filed.

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the Judicial Council**

Before using this form, read *Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew (Pen. Code, § 1203.4b)* (form CR-430-INFO), available at www.courts.ca.gov/forms.

A copy of this petition must be served on the prosecuting attorney and a proof of service must be filed with the court (you may use *Proof of Service* (form CR-106), available at www.courts.ca.gov/forms).

Note to petitioner: Your conviction(s) may have already been automatically dismissed under Penal Code section 1203.425. If so, this petition may be unnecessary. To find out if your conviction has already been dismissed, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition.

Fill in court name and street address:

Superior Court of California, County of

**People of the State of California v.
Defendant:**

Case Number:

For Court use only:

Date:

Time:

Department:

1 Petitioner’s Information

a. **Your Full Name:** _____

Date of birth: _____ (mm/dd/yyyy)

Your Lawyer (if you have one for this case):

Name: _____ **State Bar No.:** _____

Firm Name: _____

Local Identifying Number (if known): _____

CDCR No. (while in fire camp or institutional firehouse, if known): _____

Name of fire camp or institutional firehouse (if known): _____

Approximate dates in fire camp or institutional firehouse (if known): _____ to _____
(month/year) (month/year)

b. **Your Address (If you have a lawyer, give your lawyer’s information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead.)**

Street: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Email Address: _____

2 Eligibility for relief under Penal Code section 1203.4b

a. Petitioner was not convicted of any of the following offenses: murder; kidnapping; rape (as defined in Penal Code section 261(a)(2), (a)(6), or Penal Code section 262(a)(1), (a)(4)); lewd acts on a child under 14 years of age (as defined in Penal Code section 288); any felony punishable by death or imprisonment in the state prison for life; any sex offense requiring registration pursuant to Penal Code section 290; escape from a secure perimeter within the previous 10 years; or arson.



2 b. While serving a sentence in this case, petitioner successfully participated as a member of (check one):

(1) An incarcerated individual hand crew in the California Conservation Camp program (fire camp operated by the California Department of Corrections and Rehabilitation)

(2) An incarcerated individual hand crew in a county fire camp program (name of county): _____

(3) An institutional firehouse (name of institution): _____

c. Petitioner adequately performed the hand crew or institutional firehouse duties and did not engage in any conduct that warranted removal from the program.

d. Petitioner has been released from custody and has no pending criminal charges.

e. In this case number: _____, petitioner is currently (check one):

on probation on parole on supervised release not on supervision.

f. Petitioner requests early termination of: probation parole supervised release.

g. Petitioner requests permission to withdraw the plea of guilty or nolo contendere, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered, and that the court dismiss this action in its discretion and in the interests of justice under Penal Code section 1203.4b.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) and attach it to this petition.)

Date: _____

Type or print your name



Signature of Petitioner or Attorney

Penal Code section 1203.4b allows eligible former inmates to ask the court to dismiss a conviction and take other actions that can improve their criminal record (“record clearing”).

Read this information carefully to learn whether you may be eligible for § 1203.4b relief, and how to complete *Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant* (form CR-430) to request relief. (Form CR-430 is available at www.courts.ca.gov/forms.)

1 Who is eligible to apply for relief under Penal Code § 1203.4b?

You must meet ALL of these requirements to be eligible to apply (petition) for relief under § 1203.4b:

- You were incarcerated in state prison or county jail.
- While in state prison or in county jail, you successfully participated as a hand crew member (“grade eligible”) in a California Conservation Camp program operated by the California Department of Corrections and Rehabilitation (CDCR);

OR

While in county jail, you successfully participated in an incarcerated individual fire camp hand crew program operated by a county agency (for example, the sheriff’s department).

OR

While incarcerated, you successfully participated at an institutional firehouse.

- You have been released from custody (i.e., you are not in state prison or county jail).
- You are not currently charged with committing any offense.

NOTE: You are NOT eligible for Penal Code § 1203.4b relief if your conviction was for any of these offenses: murder; kidnapping; rape (as defined in Penal Code §§ 261(a)(2), (6) or 262(a)(1), (4)); a violation of Penal Code § 288 (specified sex offenses); any felony punishable by death or imprisonment in the state prison for life; any sex offense requiring registration under Penal Code § 290; escape from a secure perimeter within the previous 10 years; or arson.

2 I’m still on probation, parole, or supervised release. Can I apply for § 1203.4b relief now?

- Yes, you can still petition for a § 1203.4b dismissal even if you are on a term of probation, parole, or supervised release. The law says that you are *not* required to complete your term of supervision before you can ask the court to dismiss your conviction.
- If you are still on a term of supervision and have not violated any terms or conditions of your supervision, and the court grants your petition for a § 1203.4b dismissal, the court will also order early termination of supervision.

3 What information do I need to include on my petition?

Form CR-430 is the form for requesting § 1203.4b relief. It is available at www.courts.ca.gov/forms. You do not have to use form CR-430 for your petition, but it helps organize the information for the court.

You will need to file a separate petition for each case. You will need to list on your petition:

- The case number; and
- Your local identifying number (if any, and if known).

It is helpful to provide details about your participation in a CDCR fire camp or an institutional firehouse program:

- The CDCR number you had while participating in fire camp or an institutional firehouse;
- The name of the fire camp or institutional firehouse; and
- The approximate dates that you were in fire camp or at an institutional firehouse.
For example: CDCR No. TK12345; Eel River Camp, August – November, 2020

You are *not* required by law to provide this information in your petition. It can help speed up the court’s decision on your request by making it easier for CDCR to locate and confirm your participation in fire camp or an institutional firehouse and report back to the court.

Tip: If you were a county jail inmate and participated in a fire camp, it is *very likely* the fire camp was operated by CDCR. You would have been given a CDCR number during your time in fire camp.



You may also explain why granting a dismissal would be in the interests of justice. You can write in the allotted space on the form, or you can use *Attached Declaration* (form MC-031), available at www.courts.ca.gov/forms.

4 Where and how do I file my § 1203.4b petition with the court?

- a. **You must file your petition with the court. File in the county where you were sentenced for the conviction you want the court to dismiss.**

First, check with the court clerk or check the court's website to see whether there are any local rules about filing and service of the petition, as well as how to obtain proof of filing.

- In many counties, you must serve the original § 1203.4b petition with the court, have the court file-stamp one copy, and then you must serve the file-stamped copy of the petition on the prosecuting attorney.
- If you “file first,” as described in b. and c. below, the court has a chance to add a hearing date to the petition before you serve it.
- Some courts require you to first serve a copy of the § 1203.4b petition on the prosecuting attorney and *then* file the original petition with the court, together with a completed and signed proof of service. (See 5 and 6 for information on service and proof of service.)

- b. Fill out petition form CR-430, *and make at least two copies*. You will use one copy to notify the prosecuting attorney. Be sure to keep the other copy for your own records.

- c. File the original § 1203.4b petition with the court by:

- Taking the original petition and a copy to the court in person and handing it to the court clerk; *or*
- Mailing the petition and a copy to the court; *or*
- Filing the petition electronically, if the local court rules permit this type of filing.

- d. When the court files the original petition, ask the court clerk to file-stamp the copy of the petition and return it to you. *This is an important step because, in many counties, the file-stamped copy must be served on the prosecuting attorney.* If you file the petition by mail, include the copy for the court clerk to file-stamp and then return to you. Include a self-addressed, stamped envelope for the clerk to use to mail the file-stamped copy back to you.

5 How do I “serve” a copy of my § 1203.4b petition on the prosecuting attorney?

- a. “Serving” a petition means delivering a copy of the petition to the prosecuting attorney.
- b. You must serve a copy of your § 1203.4b petition on the prosecuting attorney in the county where you filed your petition with the court.
- c. You can serve the petition by:

- **Personal service:** You *or another person over age 18* go in person to hand-deliver a copy of the petition to the prosecuting attorney's office during business hours by handing it to an employee. Be sure to get the name of the employee for your proof of service.
- **Service by mail:** Mail a copy of the petition to the prosecuting attorney's office. You may mail the petition by first-class mail or by certified mail with a return receipt requested.
- **Electronic service:** Contact the prosecuting attorney's office to see if they accept electronic service. If they do, the court may require proof of their consent to electronic service. You can use *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV), available at www.courts.ca.gov/forms.



6 How do I prove that I served my § 1203.4b petition on the prosecuting attorney?

- a. It is very important that you properly serve your § 1203.4b petition and then file proof with the court. This “proof of service” tells the court that you gave the prosecuting attorney the required notice of your § 1203.4b petition.
- b. You will need to confirm that you served the petition by filing a proof of service form that describes who, when, where, and how you served your § 1203.4b petition. You can use *Proof of Service—Criminal Record Clearing* (form CR-106) for this purpose.
- c. Fill out form CR-106. (Follow the directions on form CR-106-INFO. Both forms are available at www.courts.ca.gov/forms). Form CR-106 has spaces for you to write how you served the prosecuting attorney with your § 1203.4b petition. If you had someone else help you serve the petition on the prosecuting attorney, that person will have to fill out the proof of service form.
- d. After filling out the proof of service (form CR-106), make a copy for you to keep.
- e. You must file the original proof of service with the court to prove that you gave the prosecuting attorney the required notice of your § 1203.4b petition. You can file the proof of service form the same way you filed the petition.

7 What happens next?

- a. **The court can consider your petition 15 days after you serve the prosecuting attorney with your petition. The prosecuting attorney can object to your petition at any time before the court grants or denies the petition.**
- b. If the prosecuting attorney does object, you will receive a copy of the objection in the mail and the court will schedule a hearing. (See **10** for more information about the hearing.)
- c. Before the court can grant your § 1203.4b petition, the court must get certification of your participation in fire camp or an institutional firehouse from CDCR or the appropriate county authority.

8 What is "certification" by CDCR or the appropriate county authority?

- a. In order for the court to decide whether to grant your § 1203.4b petition, the court must have “certification” from CDCR or the county authority that:
 - You successfully participated in fire camp as a hand crew member or at an institutional firehouse; AND
 - You participated in fire camp or an institutional firehouse during the time you were incarcerated for the conviction you are asking the court to dismiss.
- b. After you file your § 1203.4b petition, the court will contact CDCR or the appropriate county authority and ask for a written statement that confirms (“certifies”) your successful participation in fire camp or an institutional firehouse.
- c. “Successful participation” in fire camp or an institutional firehouse means that you adequately performed your hand crew duties and did not have any violations that could have led to your removal from fire camp or institutional firehouse.

9 When will the court make a decision?

- a. The court will not make a decision until it hears from CDCR or the appropriate county agency certifying participation.
- b. The law does not set a time frame, but the court may ask CDCR or the appropriate county authority to respond to a request for certification by a certain date.
- c. After CDCR or the appropriate county authority certifies whether your participation in fire camp or an institutional firehouse was successful, the court likely will contact you and the prosecuting attorney. But the law does not require the court to contact you, so you may want to check with the court to confirm that the certification has been received.



10 Will I have to attend a hearing?

- a. The law does not *require* the court to hold a hearing in order to make a decision on your § 1203.4b petition. The court can make a decision on your petition without holding a hearing. But the law allows the court to hold a hearing if it chooses to do so.
- b. The law allows the prosecuting attorney to request a hearing and to ask the court to deny your § 1203.4b petition.
- c. If the court schedules a hearing, you will be notified of the hearing date and time. You have a right to attend the hearing and to explain why your § 1203.4b petition should be granted and your conviction dismissed.
- d. *Note:* Even if the prosecuting attorney does not object to your § 1203.4b petition, the court may ask the prosecuting attorney to tell the court whether there is anything it should consider when deciding whether to grant your petition.

11 How will the court make its decision?

- a. If you meet all of the eligibility factors, and the court receives certification of your successful participation in fire camp or at an institutional firehouse, the court may grant your § 1203.4b petition *if it is in the interests of justice*.
- b. If the court determines that it's not in the interests of justice to grant relief, the court can deny your petition even if you meet all the eligibility requirements. You may resubmit your petition in the future if you think the court's decision was incorrect.
- c. Once the court makes a decision on your § 1203.4b petition, it will issue an order (likely on form CR-432) that states whether the court granted or denied your petition. If the court grants your petition, the order will state which convictions have been dismissed and whether supervision has been terminated. The court will also report this change in your record to the Department of Justice so that your statewide criminal history summary can be updated.

12 If the court grants relief, what happens to my conviction?

- a. If the court grants relief and dismisses the conviction, you will be released from most of the penalties and restrictions that are connected to the conviction. The law keeps certain penalties in place.
- b. A dismissal will NOT:
 - Reinstate your right to possess firearms.
 - Prevent suspension of your driver's license in some cases.
 - Allow you to omit the conviction from applications for the California Commission on Teacher Credentialing, a position as a peace officer, public officer, or for contracting with the California State Lottery Commission.
 - Permit you to hold public office if the law prohibits people from holding public office as a result of that conviction.
 - Seal or remove the court file from public inspection.
 - Prevent the conviction from being used as a "prior" in the future.
 - Remove from your record the fact that an arrest occurred.
 - Release you from the terms and conditions of an unexpired criminal protective order that has not been modified or terminated by the court.

Court Cover Letter and Agency Certification — Incarcerated Individual Hand Crew or Institutional Firehouse Participant

Clerk stamps date here when form is filed.

Secretary, California Department of Corrections and Rehabilitation

c/o Camp Liaison Captain
1515 S Street, 330 N-113
Sacramento, California 95811

Appropriate county authority (name): _____

Address: _____

Superior Court of California, County of

Attached is a copy of a petition for relief under Penal Code section 1203.4b filed by:

Your Full Name: _____

Date of birth: _____ (mm/dd/yyyy)

CDCR No. (while in fire camp or institutional firehouse, if known): _____

Case Number:

Name of fire camp or institutional firehouse, if known: _____

Approximate dates in fire camp or institutional firehouse: _____ to _____
(month/year) (month/year)

Please certify, by (date): _____, whether the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse and has been released from custody.

Date: _____

Court Clerk: _____ Court Contact Information (optional): _____

Agency Certification

NOTE TO CERTIFYING AGENCY: Please fill out this certification and mail this form to the court at the address above.

The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority certifies that, on case number: _____ (check one):

The petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse and has been released from custody.

Dates of participation: _____ to _____
(month/year) (month/year)

The petitioner participated but was not successful as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.

The petitioner did not participate as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.

Date: _____

Agency: _____

Type or print your name

Signature of Agency Representative

Order on Petition—Incarcerated Individual Hand Crew or Institutional Firehouse Participant

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council**

1 Your Full Name: _____
 Mailing Address: _____
 City: _____ State: _____ Zip: _____
 CDCR No. (if known): _____
 Name of fire camp or institutional firehouse (if known): _____

Superior Court of California, County of _____

Case Number: _____

For Court use only:

Date: _____

Time: _____

Department: _____

2 The court finds:

- a. The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority has certified to the court that the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.
- b. The petitioner has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief under Penal Code section 1203.4b. The court orders early termination of (check one):
 probation parole supervised release.
- c. It is in the interests of justice to dismiss the accusations or information against the petitioner and release the petitioner from all penalties and disabilities resulting from the offense of which the petitioner has been convicted, except as provided in Vehicle Code Section 13555.

3 The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code section 1203.4b (check one):

- a. for all convictions in case number: _____ or
- b. for only the following convictions in case number: _____
 (specify charges and date of conviction): _____



As to these convictions, it is ordered that the petitioner’s plea of guilty or nolo contendere be withdrawn and a plea of not guilty be entered, or the verdict of guilt be set aside. The court dismisses the accusations or information against the petitioner with respect to these charges.

Petitioner is released from all penalties and disabilities resulting from the convictions in this case for which the court is granting relief, except as follows:

- Suspension of petitioner’s driver’s license except as provided in Vehicle Code section 13555.
- In any subsequent prosecution, this conviction may have the same effect as if the accusation or information had not been dismissed.
- Petitioner must still disclose the conviction in response to any direct question in any questionnaire or application for licensure by the California Commission on Teacher Credentialing, for a position as a peace officer, for public office, or for contracting with the California State Lottery Commission.
- Petitioner may still be prohibited from owning, possessing, or having in petitioner’s custody or control any firearm.
- Petitioner may still be prohibited from holding public office as a result of the dismissed conviction.
- Petitioner may still be subject to the terms and conditions of any unexpired criminal protective order issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), or 646.9(k).

- 4 The court **DENIES** the petition without prejudice because (check all that apply):
- a. Petitioner's conviction is for an offense that is ineligible for relief under Penal Code section 1203.4b(a)(1)(A)–(H).
 - b. Petitioner is in custody.
 - c. Petitioner is currently charged with the commission of any other offense.
 - d. The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority did not certify to the court that the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.
 - e. Petitioner was not serving a sentence for this conviction at the time of participation in fire camp or an institutional firehouse.
 - f. The court finds that granting relief would not serve the interests of justice because:
 - g. Other:

Date: _____

Signature of Judicial Officer

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Family law: Summary Dissolution Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms FL-800 and FL-810

Committee or other entity submitting the proposal:
 Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Gabrielle D.Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Ongoing Projects and Activities. Item 12. FL-800 Joint Petition for Summary Dissolution. Update to reflect change in the Consumer Price Index (CPI) per Family Code section 2400(b) as a technical change.

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

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

There is an ongoing requirement to revise the summary dissolution forms to reflect a significant adjustment in the CPI. The last adjustment was approved by the Judicial Council on March 19, 2019, as a technical change (that did not need to circulate for comment).

The Family and Juvenile Law Advisory Committee has gone beyond the scope of the annual agenda. The agenda provides that only form FL-800 would be revised to include changes to the consumer price index. The committee inadvertently omitted form FL-810 from the description of item in the annual agenda. Form FL-810 must also be included because it requires the same changes in the dollar limitations for summary dissolutions that are shown in form FL-800. In addition, form FL-810 provides instructions for completing form FL-800 and includes information to self-represented litigants about the summary dissolution process in general. Thus, the proposal would be incomplete and inaccurate if form FL-810 were not included. Because the current proposal would include substantive changes to form FL-810, the committee recommends that this item circulate for comment (in contrast to the classification of this item as a technical change report on the annual agenda).

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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

INVITATION TO COMMENT

SPR23-15

Title

Family Law: Summary Dissolution Forms

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Revise forms FL-800 and FL-810

Proposed Effective Date

January 1, 2024

Proposed by

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

Contact

Gabrielle D. Selden, 415-865-8085
gabrielle.selden@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends revising two family law summary dissolution forms, which are mandated by Family Code section 2400, to reflect an increase in the California Consumer Price Index. The committee also proposes additional changes to the forms to respond to issues raised by court professionals that would help joint petitioners more accurately complete and file the forms needed to request a summary dissolution judgment.

Background

A summary dissolution is a simplified way to get a divorce or end a domestic partnership, as it does not require as much paperwork as the regular divorce process. Under Family Code section 2400, the summary dissolution process is only available for couples who have been married (or registered domestic partners) for less than five years, have no children together, own or owe property whose value does not exceed the dollar limitations that are specified by law, do not want spousal or domestic partner support, and who agree on how to divide any property and liabilities.

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

Mandated revisions

Family Code section 2400(b) requires that on January 1 of each odd-numbered year, the dollar limitations on items indicated in Family Code section 2400(a)(6) and (a)(7) be adjusted to reflect any change in the value of the dollar.¹ Section 2400(b) requires that the Judicial Council compute and publish the adjusted amounts. The adjustments are computed by multiplying the base amount by the percentage change in the California Consumer Price Index (the calculation is attached at page 6). The results are then rounded to the nearest thousand dollars and published in summary dissolution forms FL-800 and FL-810.

According to the calculation, increases in the annual averages of the California Consumer Price Index between 2020 and 2022 require a \$6,000 increase in the total fair market value of community and separate property assets for summary dissolution actions and a \$1,000 increase in the limit for unpaid community debts. Currently, to use the summary dissolution process, the parties' community property and separate property assets must not exceed \$47,000 each, and the limit for unpaid community debt must not exceed \$6,000. Those limits would increase to \$53,000 and \$7,000, respectively, to reflect an increase in the cost of living. To reflect these changes:

- *Joint Petition for Summary Dissolution* (form FL-800) would be modified to increase the limitation on assets from \$47,000 to \$53,000, and increase the \$6,000 limit for unpaid community debts to \$7,000.
- The instructional booklet titled *Summary Dissolution Information* (form FL-810) would be modified to reflect the changes in form FL-800. The Spanish translation of the booklet (form FL-810 S) would also be updated.

Other proposed revisions

In addition, the committee proposes the following changes to form FL-810:

- Reformatting the separate property worksheets to be consistent with the format of community property worksheets by inserting a column to reflect the net fair market value of items being purchased on credit and including an automated calculation feature in this section;
- Updating various pages with instructions for parties who do not have community property assets or liabilities;
- Changing the instructions so that they are consistent with the language in the joint petition (form FL-800) by providing that the petitioners must either declare that they have

¹ Because the California Department of Industrial Relations published the annual average figures on February 14, 2023, these biannual modifications are made for the January 1, 2024, forms cycle.

no community property assets or liabilities or attach a community property settlement agreement to the judgment;

- Specifying in the instructions that the joint petitioners must attach their community property settlement agreement to the judgment, not to the joint petition (form FL-800);
- Revising the Sample Worksheets by replacing the term “pension plan benefits” with “retirement plan benefits” to be consistent with the language in Family Code section 2400, which does not specifically reference “pensions”;
- Changing the sample property settlement agreement to provide (1) that the parties can divide the items any way they want, even if one person receives a higher amount of the marital assets, as long as they both agree, and (2) a reference to Family Code section 2550;
- Making global updates to terms and names so that they reflect current usage, as highlighted throughout the form; and
- Revising the dates of marriage and separation, as well as the model years of property listed in the sample worksheets and settlement agreement so that they are more current.

Alternatives Considered

The committee considered developing a report to the Judicial Council to recommend nonsubstantive technical changes to forms FL-800 and FL-810 without circulating the forms for public comment. Under rule 10.22(d)(2) of the California Rules of Court, the adjustments proposed to forms FL-800 and FL-810 would be unlikely to create controversy.

The committee also considered recommending revoking form FL-820, as it has been more than 11 years since AB 939 changed the law about summary dissolution judgments and more than five years have passed since the committee first proposed revoking the form. However, the committee decided to propose circulating a separate proposal in a future cycle.

Although the committee does not specifically seek comment about the adjustments made to forms FL-800 and FL-810 based on the change to the Consumer Price Index, the committee decided to seek input from courts and family law professionals about the substantive changes proposed to form FL-810

Fiscal and Operational Impacts

Implementation of the revisions will require courts to incur standard reproduction costs for the 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?

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

Would the proposal provide cost savings? If so, please quantify.

What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?

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

How well would this proposal work in courts of different sizes?

Attachments and Links

1. *Asset and Debt Limits in Summary Dissolution Proceedings*, at page 6
2. Forms FL-800 and FL-810, at pages 7–29
3. Attachment A: Consumer Price Index Tables
4. Link A: Family Code section 2400,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=2400

**Asset and Debt Limits in Summary Dissolution Proceedings
(Fam. Code, § 2400)**

Formula

Under Family Code section 2400(b), the dollar limits for community property debts and community and separate property assets in actions for summary dissolution shall be adjusted by multiplying the base amount by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars.

$$\text{Adjusted limit} = \left[\frac{\text{CCPI(AA) 2022} - \text{CCPI(AA) 2020}}{\text{CCPI(AA) 2020}} + 1 \right] \times \text{Published limit}$$

Definition

CCPI(AA) is the California Consumer Price Index, Annual Average, as established by the California Department of Industrial Relations.

February 14, 2023, calculation and adjustment for community debts

Under Family Code section 2400(a)(6), effective January 1, 2024, there is a \$1,000 increase to the maximum dollar amount for unpaid obligations incurred by either or both of the parties after their date of marriage, excluding the amount of any unpaid obligation with respect to automobile community debts. The calculation is as follows:

$$\mathbf{\$6,713.08} = \left[\frac{319.224 - 285.315}{285.315} + 1 \right] \times \$6,000.00$$

The adjusted limit under Family Code section 2400(b), when rounded to the nearest thousand dollars, increases the current published limit to \$7,000.

February 14, 2023, calculation and adjustment for community and separate property assets

Under Family Code section 2400(a)(7), effective January 1, 2024, there is a \$6,000 increase in the total fair market value of community and separate property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan. The calculation is as follows:

$$\mathbf{\$52,585.83} = \left[\frac{319.224 - 285.315}{285.315} + 1 \right] \times \$47,000.00$$

The adjusted limit under Family Code section 2400(b), when rounded to the nearest thousand dollars, increases the current published limit to \$53,000.

PARTY WITHOUT ATTORNEY OR ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. : EMAIL ADDRESS: ATTORNEY FOR (Name):	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL 3/16/2023
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OR DOMESTIC PARTNERSHIP OF PETITIONER 1: PETITIONER 2:	
JOINT PETITION FOR SUMMARY DISSOLUTION <input type="checkbox"/> MARRIAGE <input type="checkbox"/> DOMESTIC PARTNERSHIP	CASE NUMBER:

We petition for a summary dissolution of marriage, registered domestic partnership, or both and declare that all the following conditions exist on the date this petition is filed with the court:

1. We have read and understand the *Summary Dissolution Information* booklet (form FL-810).
2. a. We were married on (date):
 b. We registered as domestic partners on (date):
3. We separated on (date):
4. Less than five years have passed between the date of our marriage and/or registration of our domestic partnership and the date of our separation.
5. a. One of us has lived in California for at least six months and in the county of filing for at least the three months preceding the date of filing. Or we are only asking to end a domestic partnership registered in California.
 b. We are the same sex and were married in California but are not residents of California. Neither of us lives in a place that will allow us to divorce. We are filing this case in the county in which we married.
6. There are no minor children who were born of our relationship before or during our marriage or domestic partnership or adopted by us during our marriage or domestic partnership. Neither one of us, to our knowledge, is pregnant.
7. Neither of us has an interest in any real property anywhere. **(You may have a lease for a residence in which one of you lives. It must terminate within a year from the date of filing this petition. The lease must not include an option to purchase.)**
8. Except for obligations with respect to cars, on obligations incurred by either or both of us during our marriage or domestic partnership, we owe no more than **\$7,000.**
9. The total fair market value of community property assets, not including what we owe on those assets and not including cars, is less than **\$53,000.**
10. Neither of us has separate property assets, not including what we owe on those assets and not including cars, in excess of **\$53,000.**
11. We each have filled out and given the other an *Income and Expense Declaration* (form FL-150).
12. We have complied with the preliminary disclosure requirements as follows:
 - a. We each have disclosed information about the value and division of our property by filling out and giving each other copies of the documents listed in (1) or (2) below (specify):
 - (1) The worksheets on pages 7, 9, and 11 of the *Summary Dissolution Information* booklet (form FL-810).
 - (2) A *Declaration of Disclosure* (form FL-140), a *Schedule of Assets and Debts* (form FL-142), or *Property Declaration* (form FL-160), and all attachments to these forms.
 - b. We have told each other in writing about any investment, business, or other income-producing opportunities that came up after we were separated based on investments made or work done during the marriage or domestic partnership and before our separation.
 - c. We have exchanged all tax returns each of us has filed within the two years before disclosing the information described in 12a.

PETITIONER 1: PETITIONER 2:	CASE NUMBER:
--------------------------------	--------------

13. (Check whichever statement is true.)
- a. We have no community assets or liabilities.
 - b. We have signed an agreement listing and dividing all our community assets and liabilities and have signed all the papers necessary to carry out our agreement. A copy of our agreement is attached to the *Judgment of Dissolution and Notice of Entry of Judgment* (form [FL-825](#)).
14. Irreconcilable differences have caused the irremediable breakdown of our marriage and/or domestic partnership, and each of us wishes to have the court dissolve our marriage and/or domestic partnership without our appearing before a judge.
15. a. Petitioner 1 desires to have a former name restored. That name is (specify):
 b. Petitioner 2 desires to have a former name restored. That name is (specify):
16. We each give up our rights to appeal and to move for a new trial after the effective date of our *Judgment of Dissolution*.
17. **Each of us forever gives up any right to spousal or domestic partner support from the other.**
18. We each agree to keep the court and each other informed of any change of mailing address or phone number occurring within six months from the filing of this joint petition using the *Notice of Change of Address or Other Contact Information* (form MC-040).
19. We are submitting the original and three copies of the proposed *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) and two stamped envelopes together with this petition. One envelope is addressed to Petitioner 1 and the other to Petitioner 2.
20. We agree that this matter may be determined by a commissioner sitting as a temporary judge.

21. **Mailing address of Petitioner 1**

22. **Mailing address of Petitioner 2**

Name:
 Address:

 City:
 State:
 Zip Code:

Name:
 Address:

 City:
 State:
 Zip Code:

23. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

Date:

Date:


 (SIGNATURE OF PETITIONER 1)


 (SIGNATURE OF PETITIONER 2)

NOTICES

Your marriage and/or domestic partnership will end six months from the date of filing this joint petition. Both petitioners will receive a stamped copy from the court of the *Judgment of Dissolution and Notice of Entry of Judgment* (form [FL-825](#)) stating the effective date of your dissolution. Until the effective date specified on form FL-825 for the dissolution of your marriage and/or domestic partnership, either one of you can stop this joint petition by filing a *Notice of Revocation of Petition for Summary Dissolution* (form [FL-830](#)). If you stop this joint petition, you will STILL be married or in a domestic partnership.

Dissolution may automatically cancel the rights of a spouse or domestic partner under the other spouse's or domestic partner's will, trust, retirement plan, power of attorney, pay-on-death bank account, transfer-on-death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar instrument. It does not automatically cancel the rights of a spouse or domestic partner as beneficiary of the other spouse's or domestic partner's life insurance policy. You should review these matters, as well as any credit card accounts, other credit accounts, insurance policies, and credit reports to determine whether they should be changed or whether you should take any other actions. However, some changes may require the agreement of your spouse or domestic partner or a court order. (See Fam. Code, §§ 231–235.)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

DRAFT -- NOT APPROVED BY THE JUDICIAL COUNCIL 3.16.2023)

SUMMARY DISSOLUTION INFORMATION

This booklet is available in English and Spanish from the office of the court clerk in the superior court of each county in California, or at www.courts.ca.gov/documents/fl810.pdf and www.courts.ca.gov/documents/fl810s.pdf.

Este folleto puede obtenerse en inglés y en español en la Dirección de Registro Público del Condado (Office of the Court Clerk) o en la Corte Superior (Superior Court) de cada condado en el estado de California o en el sitio www.courts.ca.gov/documents/fl810.pdf y www.courts.ca.gov/documents/fl810s.pdf.

ITC, page 8

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I. WHAT IS THIS BOOKLET ABOUT?

This booklet describes a way to end a marriage, a domestic partnership, or both through a kind of divorce called **summary dissolution**.

The official word for **divorce** in California is **dissolution**. There are two ways of getting a divorce, or dissolution, in California. The usual way is called a **regular dissolution**.

Summary dissolution is a shorter and easier way. But not everybody can use it. Briefly, a summary dissolution is possible for couples who

1. have no children together;
2. have been married and/or in a domestic partnership five years or less (this means that the time between the date you married or registered your domestic partnership and the date you separated from your spouse or domestic partner is five years or less);
3. do not own very much;
4. do not owe very much;
5. do not want spousal or domestic partner support from each other; and
6. have no disagreements about how their belongings and their debts are going to be divided up once they are no longer married to or in a domestic partnership with each other.

With this procedure, you will not have to appear in court. You may not need a lawyer, but it is in your best interest to see a lawyer about the ending of your marriage or domestic partnership. See page 19 for more details about how a lawyer can help you.

For a summary dissolution, you prepare and file a *Joint Petition for Summary Dissolution* (form FL-800), together with a property settlement agreement,* with the superior court clerk in your county. You will also prepare and turn in a *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825). Your divorce, ending your marriage and/or your domestic partnership, will be final six months after you file your *Joint Petition for Summary Dissolution*. During the six months while you wait for your divorce to become final, either of you can stop the process of summary dissolution if you change your mind. One of you can file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830), and that will stop the divorce. If either one of you still wants to get divorced, then that person will have to file for a regular dissolution with a *Petition—Marriage/Domestic Partnership* (form FL-100) unless you both agree to start a new summary dissolution process.

IMPORTANT! Domestic partners who qualify for a summary dissolution can choose to use the process described in this booklet OR a special summary dissolution for domestic partners through the California Secretary of State. You can find the California Secretary of State forms at www.sos.ca.gov. **There is no filing fee for this process.** If you choose to file to terminate your domestic partnership through the Secretary of State, do not use this guide.

This booklet will tell you

1. who can use the summary dissolution procedure;
2. what steps you must take to get a summary dissolution;
3. when it would help to see a lawyer; and
4. what risks you take when you use this procedure rather than the regular dissolution procedure.

If you wish to use the summary dissolution procedure, you must, at the time you file the joint petition, sign a statement that says you have read and understood this booklet. It is important for you to read the whole booklet very carefully.

Save this booklet for at least six months if you decide to start a summary dissolution. If you decide you want to stop the summary dissolution process and revoke your petition, it will tell you how to do that.

SPECIAL WARNING

If you are an undocumented person who became a lawful permanent resident on the basis of your marriage to a U.S. citizen or to a lawful permanent resident, obtaining a dissolution within two years of your marriage may lead to your deportation. You should consult a lawyer before obtaining a divorce.

* A property settlement agreement is an agreement that the two of you write or have someone write for you after you fill out the worksheets in this booklet. The agreement spells out how you will divide what you own and what you owe.

II. SOME TERMS YOU NEED TO KNOW

In the following pages, you will often see the terms *community property*, *separate property*, and *community obligations*. Those terms are explained in this section.

As a married couple or domestic partners, the two of you are, in the eyes of the law, a single unit. There are certain things that you **own together** rather than separately. And there may be certain debts that you **owe together**. If one of you borrows money or buys something on credit, the other one can be made to pay.

If your marriage or domestic partnership breaks up, you become two separate individuals again. Before that can happen, you have to decide what to do with the things you *own* as a couple and the money you *owe* as a couple.

The laws that cover these questions contain the terms *community property*, *separate property*, and *community obligations*. To understand what these terms mean, you should have a clear idea of the **length of time you lived together as spouses or domestic partners**. This is the period between the day you married or registered your domestic partnership and the day you separated.

It may not be easy to decide exactly when you separated. In most cases, the day of the separation is the day the couple stopped living together. However, you may want to choose the day when you definitely decided to get a divorce and took some action to show this (like telling your spouse or domestic partner that you wanted a divorce).

Community Property

Community property is everything spouses or registered domestic partners **own together**.

In most cases that includes

1. money you now have that either of you earned during the time you were living together as spouses or domestic partners; and
2. anything either of you bought with money earned during that period. It does not matter if only one of you earned or spent the money.

Separate Property

Separate property is everything spouses or registered domestic partners **own separately from each other**.

In most cases that includes

1. anything either of you owned before you got married or registered your domestic partnership;
2. anything either of you earned or received after your separation; and
3. anything either of you received, as a gift or by inheritance, at any time.

Community Obligations

Community obligations are the debts spouses or registered domestic partners **owe together**.

In most cases that includes anything you still owe on any debts either of you acquired during the time you were living together as spouses or registered domestic partners. (For instance, if you bought furniture on credit while you were married or domestic partners and living together, the unpaid balance is a part of your community obligations.) It usually does not matter if the debt was in the name of one spouse or domestic partner only, like on a credit card.

NOTE: If you have any questions about your separation date or about your property, it would be good to see a lawyer as these issues can be complicated. Also, if you lived together before your marriage or domestic partnership, you may wish to see a lawyer about possible additional rights either of you may have.

III. WHO CAN USE THE SUMMARY DISSOLUTION PROCEDURE?

You can use the summary dissolution procedure only if **all** of the following statements are true about you at the time you file the *Joint Petition for Summary Dissolution* (form [FL-800](#)). Check this list very carefully. If even *one* of these statements is not true for you, you cannot get a divorce in this way.

- 1. We have both read this booklet, and we both understand it.
- 2. We have been married or registered as domestic partners five years or less between the date that we got married and/or registered our domestic partnership and the date we separated. (*Note that if you are trying to end both a marriage AND a domestic partnership at the same time through a summary dissolution, both your marriage and domestic partnership must have lasted five years or less.*)
- 3. No children were born to the two of us together before or during our marriage and/or domestic partnership.
- 4. We have no adopted children under 18 years of age.
- 5. Neither one of us is pregnant.
- 6. Neither of us owns any part of any land or buildings.
- 7. Our community property is not worth more than **\$53,000**. (Do not count cars in this total.)
- 8. Neither of us has separate property worth more than **\$53,000**. (Do not count cars in this total.)
- 9. The total of our community obligations (other than cars) is **\$7,000** or less.

For deciding on statements 7, 8, and 9, use the guide on pages 5–11.

- 10. a. At least one of us has lived in California for the past six months or longer *and* has lived in the county where we are filing for dissolution for the past three months or longer; or
 - b. We are only asking to end a domestic partnership registered in California; or
 - c. We are the same sex and were married in California but are not residents of California. Neither of us lives in a place that will allow us to divorce. We are filing this case in the county in which we married.
- 11. We have prepared and signed an agreement that states how we want our community assets and debts to be divided between us (or declared in the Joint Petition that we do not have community assets and debts).
- 12. We have both signed the joint petition and all other papers needed to carry out this agreement.
- 13. Together with the joint petition, we will turn in the judgment of dissolution forms and two self-addressed stamped envelopes to the superior court.
- 14. We both want to end the marriage and/or domestic partnership because of serious, permanent differences.
- 15. We have both agreed to use the summary dissolution procedure rather than the regular dissolution procedure.
- 16. We are both aware of the following facts:
 - a. There is a six-month waiting period, and either of us can stop the divorce at any time during this period.
 - b. The date that appears on the *Judgment of Dissolution of Marriage and Notice of Entry of Judgment* (form [FL-825](#)) we receive from the court as the "effective date" of the dissolution is the date our divorce will be final, unless one of us has asked to stop the divorce prior to that effective date.
 - c. After the dissolution becomes final, neither of us has any right to expect money or support from the other except that which is included in the property settlement agreement.
 - d. By choosing the summary dissolution procedure, we give up certain legal rights that we would have if we had used the regular dissolution procedure. These rights are explained on page 4.

IV. AN IMPORTANT DIFFERENCE BETWEEN SUMMARY DISSOLUTION AND REGULAR DISSOLUTION

With a regular dissolution, either spouse or domestic partner can ask for a court hearing or trial. And with a regular dissolution, if either spouse or domestic partner is unhappy with the judge's final decision, it is possible to challenge that decision. This can be done, for example, by asking for a new trial. It is also possible to **appeal** the decision by taking the case to a higher court.

With a summary dissolution, there is no trial or hearing. Couples who choose this method of getting a divorce do not have the right to ask for a new trial (since there is no trial) or the right to appeal the case to a higher court.

There are, however, some cases in which a divorce agreement under a summary dissolution can be challenged. You will have to see a lawyer about this. The court *may* have the power to set aside the divorce if you can show that one of the following things happened:

1. You were treated unfairly in the property settlement agreement.

This is possible if you find out that the things you agreed to give your spouse or domestic partner were much more valuable than you thought at the time of the dissolution.

2. You went through the dissolution procedure against your will.

This is possible if you can show that your spouse or domestic partner used threats or other kinds of unfair pressure to get you to go along with the divorce.

3. There are serious mistakes in the original agreement.

Some kinds of mistakes can make the dissolution invalid, but you will have to go to court to prove the mistakes. It may be that one or both of you had a lot of property that you had forgotten about when you drew up the property settlement agreement. Or maybe a bank account mentioned in the agreement had much more money or much less money in it than your agreement states.

4. Neither of you complied with preliminary disclosure requirements.

California law requires that you fully share all information about your property and debts as well as your income. You have to share this information before you sign your property settlement agreement.

In summary dissolution cases, this means that you and your spouse or domestic partner must each complete and exchange: (1) an *Income and Expense Declaration* (form FL-150), (2) all tax returns you filed in the last two years, and (3) the property worksheets on pages 7, 9, and 11 (or a *Declaration of Disclosure* (form FL-140) and either a *Schedule of Assets and Debts* (form FL-142) or a *Property Declaration* (form FL-160)).

In addition, each spouse or domestic partner must complete and give to the other spouse or domestic partner a written statement about any investment opportunity, business opportunity, or other income-producing opportunity that developed since the date you separated which was based on any investment made, significant business done, or other income-producing opportunity that was presented to you between the date you married or became domestic partners and the date you separated.

Correcting mistakes and unfairness in a summary dissolution proceeding can be expensive, time-consuming, and difficult. It is very important for both of you to be honest, cooperative, and careful when you or your lawyers do the paperwork for the dissolution.

V. HOW DO YOU FIGURE OUT THE VALUE OF YOUR PROPERTY AND THE AMOUNT OF YOUR DEBTS?

Section III, page 3, lists statements that must be true if you want to use the summary dissolution procedure.

Statement 7 reads: “Our community property is not worth more than \$53,000.”

Your community property is the money and things you own jointly as spouses or domestic partners. This was explained on page 2. The value of your community property is determined by adding together (1) the amount of **money** you have as community property and (2) the “fair market value” of the **possessions** you have as community property.

The **fair market value** is an estimate of the amount of money you could get if you sold these items to a stranger—for example, through a classified ad in the newspaper. It does **not** mean what you paid for it originally, and it does **not** mean how much it would cost you to replace it if you lost it.

One way of estimating the fair market value of your goods is to use prices for equivalent items in other people's classified ads for secondhand goods.

Three kinds of items go into figuring out your community property:

1. Money (as in bank accounts and credit union accounts);
2. Things you own outright (furniture that is already paid for, for example); and
3. Things you are buying on credit.

When you include things you still owe money on, subtract the amount of money you still owe on them from the fair market value.

You should not include the value of a car in this list.

Statement 8 reads: “Neither of us has separate property worth more than \$53,000.”

Separate property is property that each spouse or domestic partner owns separately. The term is explained on page 2. Separate property includes the same kinds of things used in determining community property. And again, you should not include cars in this list.

Statement 9 reads: “The total of our community obligations (other than cars) is \$7,000 or less.”

Your community obligations are the debts that you and your spouse or domestic partner owe jointly. The term is explained on page 2. List all the debts you have that you took on while you were living together as spouses or domestic partners. If you borrowed money before you got married or registered your domestic partnership, you do **not** have to include that in your community obligations. If you bought furniture on credit after you got married or registered your domestic partnership but before you separated, you **have to** include the amount of money you still owe on the furniture. If you bought a stereo after you separated, you do **not** have to include that.

Do not include car loans in this list.

NOTICE: The law for summary dissolution allows you to leave out cars when you figure out whether you are **eligible** for this kind of divorce. But if you do have cars as part of your community property, you still have to decide who is going to own them (and who is going to pay for them) after your divorce. You must include them in your property settlement agreement.

Worksheets to help you figure out these amounts are found on pages 6–11. You may use the following forms in this booklet to figure out the total of your community and separate property assets and obligations: (1) the worksheet on **page 7** (Value of Separate Property), (2) the worksheet on page 9 (Value and Division of Community Property), and (3) the worksheet on page 11 (Community Obligations and Their Division). Sample forms showing how to fill out those worksheets are on pages 6, 8, and 10.

PETITIONER 1: Sam	CASE NUMBER:
PETITIONER 2: Alex	

VI. SAMPLE WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **separate property of one spouse/domestic partner** cannot be more than **\$53,000**. The total fair market value of the **separate property of the other spouse/domestic partner** cannot be more than **\$53,000**. Separate property is anything that either of you owned or earned before you got married or registered your domestic partnership, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage or domestic partnership. Do not include cars.

*Note: The information on this form is for an imaginary couple, **Sam** and **Alex**, who are married. (When you fill out your worksheet, use your **own** information.)*

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.				Sam's Property—Fair Market Value	Alex's Property—Fair Market Value
Item					
Credit union savings— Sam (before marriage)				\$420.00	
Savings bonds— Alex (bought before marriage)					\$250.00
Retirement plan— Sam (before marriage and after separation)				\$1,500.00	
Retirement plan— Alex (before marriage and after separation)					\$1,300.00
B. Items owned outright					
Item					
Clothes— Sam (bought before marriage)				\$350.00	
Stocks— Sam (birthday present from father)				\$375.00	
Furniture— Sam (owned before marriage)				\$460.00	
Camera— Alex (owned before marriage)					\$229.00
Smartwatch— Alex (bought after separation)					\$142.00
Clothes— Alex (bought after separation)					\$250.00
C. Items being bought on credit					
Item	Fair Market Value	Minus Amount Owed	= Net Fair Market Value		
TV set— Sam (after separation)	\$400.00	\$350.00	\$50.00	\$50.00	
Clothes— Sam (after separation)	\$220.00	\$170.00	\$50.00	\$50.00	
GRAND TOTALS: Sam and Alex SEPARATE PROPERTY				\$3,205.00	\$2,171.00

PETITIONER 1:	CASE NUMBER:
PETITIONER 2:	

VI. WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **separate property of one spouse/domestic partner** cannot be more than **\$53,000**. The total fair market value of the **separate property of the other spouse/domestic partner** cannot be more than **\$53,000**. Separate property is anything that either of you owned or earned before you got married or registered your domestic partnership, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage or domestic partnership. Do not include cars.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.	PETITIONER 1 Property— Fair Market Value (FMV)	PETITIONER 2 Property— Fair Market Value (FMV)				
Item						
B. Items owned outright						
Item						
C. Items being bought on credit						
Item	Fair Market Value	Minus Amount Owed	=	Net Fair Market Value		
GRAND TOTALS: PETITIONER 1'S AND PETITIONER 2'S SEPARATE PROPERTY						

PETITIONER 1: Sam	CASE NUMBER:
PETITIONER 2: Alex	

VI. SAMPLE WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY

Note: The information on this form is for an imaginary couple, **Sam** and **Alex**, who are married. (When you fill out your worksheet, use your **own** information.)

This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The grand total value of your community property cannot be more than **\$53,000**.

This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.				Sam Receives	Alex Receives
Item	Amount				
Home Savings Credit Union savings account	\$150.00			\$150.00	
Life insurance (cash value)	\$250.00			\$250.00	
Retirement Plan— Sam	\$600.00			\$600.00	
Retirement Plan— Alex	\$500.00				\$500.00
Home Savings Credit Union checking account	\$180.00				\$180.00
Subtotal A				\$1,000.00	\$680.00
B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry; do not include cars)				Sam Receives	Alex Receives
Item	Fair Market Value				
Furniture & furnishings— Sam's apartment	\$775.00			\$775.00	
Furniture & furnishings— Alex's apartment	\$300.00				\$300.00
Terriers season tickets	\$285.00				\$285.00
Savings bonds	\$200.00			\$200.00	
Jewelry— Sam	\$200.00			\$200.00	
Pet parrot and cage	\$40.00				\$40.00
Subtotal B				\$1,175.00	\$625.00
C. Items you are buying on credit (for example, audio equipment , appliances, furniture, tools; do not include cars)				Sam Receives	Alex Receives
Item	Fair Market Value	Minus Amount Owed	= Net Fair Market Value		
Home entertainment system	\$305.00	\$150.00	\$155.00		\$155.00
Television	\$400.00	\$100.00	\$300.00		\$300.00
Golf clubs	\$350.00	\$50.00	\$300.00		\$300.00
Subtotal C				\$755.00	\$755.00
Grand total value of community property = A + B + C				\$4,235.00	\$2,060.00

PETITIONER 1: PETITIONER 2:	CASE NUMBER:
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**VI. WORKSHEET FOR DETERMINING VALUE AND
DIVISION OF COMMUNITY PROPERTY**

This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The grand total value of your community property cannot be more than **\$53,000**.

This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	Amount
Subtotal A	

PETITIONER 1 Receives	PETITIONER 2 Receives

B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry; do not include cars)

Item	Fair Market Value
Subtotal B	

PETITIONER 1 Receives	PETITIONER 2 Receives

C. Items you are buying on credit (for example **audio equipment**, appliances, furniture, tools; do not include cars)

Item	Fair Market Value	Minus Amount Owed	=	Net Fair Market Value
Subtotal C				

PETITIONER 1 Receives	PETITIONER 2 Receives

Grand total value of community property = A + B + C

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PETITIONER 1: Sam PETITIONER 2: Alex	CASE NUMBER:
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VI. SAMPLE WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION

*Note: The information on this form is for an imaginary couple, Sam and Alex, who are married. (When you fill out your worksheet, use your **own** information and make sure you indicate if you are married, in a domestic partnership, or both.)*

This side of the worksheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The total amount of your community obligations (debts) cannot be more than **\$7,000**. Do not include car loans. Be sure you include any other debts you took on while you were living together as spouses or domestic partners. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property**. Then add all other debts and bills, including loans, charge accounts, medical bills, and taxes you owe.

This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement**.

	Amount Owed	Sam Will Pay	Alex Will Pay
Audio equipment	\$150.00		\$150.00
Television	\$100.00		\$100.00
Golf clubs	\$50.00		\$50.00
Dr. R.C. Himple	\$74.00		\$74.00
Richardson Drug Store	\$32.00		\$32.00
College loan	\$500.00		\$500.00
Cogwell's charge account	\$275.00	\$275.00	
Mister Charge account	\$68.00		\$68.00
Green's Furniture	\$123.00	\$123.00	
Dr. Irving Roberts	\$37.00	\$37.00	
Sam's parents	\$150.00	\$150.00	
TOTAL	\$1,559.00	\$585.00	\$974.00

Sam's Share of Community Obligations

Alex's Share of Community Obligations

PETITIONER 1: PETITIONER 2:	CASE NUMBER:
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VI. WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION

This side of the worksheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The total amount of your community obligations (debts) cannot be more than **\$7,000**. Do not include car loans. Be sure you include any other debts you took on while you were living together as spouses or domestic partners. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property**. Then add all other debts and bills, including loans, charge accounts, medical bills, and taxes you owe.

This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement**.

	Amount Owed	Petitioner 1 Will Pay	Petitioner 2 Will Pay
TOTAL			

Petitioner 1
Share of Community
Obligations

Petitioner 2
Share of Community
Obligations

VII. WHAT SHOULD BE INCLUDED IN THE PROPERTY SETTLEMENT AGREEMENT?

NOTE:

If after reviewing the community property worksheets on the previous pages you and your spouse or domestic partner agree that you do not have community assets or liabilities, you do not need to complete a property settlement agreement. Skip to page 16.

A property settlement agreement should contain at least five parts:

I. Preliminary Statement

This part identifies the spouses or domestic partners, states that the marriage and/or domestic partnership is being ended, and states that both spouses or domestic partners agree on the details of the agreement.

II. Division of Community Property

This part has two sections:

1. What the one spouse or domestic partner receives; and
2. What the other spouse or domestic partner receives.

III. Division of Community Obligations

This part has two sections:

1. The amount one spouse or domestic partner must pay and whom he or she must pay it to.
2. The amount the other spouse or domestic partner must pay and whom he or she must pay it to.

IV. Waiver of Spousal Support

This part states that each spouse or domestic partner gives up all rights of financial support from the other.

V. Date and Signature

Both spouses or domestic partners must write the date and sign the agreement.

An example of a property settlement agreement is found on pages 13–15.

VIII. SAMPLE PROPERTY SETTLEMENT AGREEMENT

Below is a sample of an acceptable **property settlement agreement**. You may use it as a model for your own agreement or you may complete another version of the agreement found at <https://www.courts.ca.gov/documents/propagreement.pdf>

- The parts that are underlined will fit most cases. You can copy these parts for your own agreement. Since many of the words have special meanings in the law, you may wish to talk to a lawyer if you want to change the words.
- The parts printed in regular type (not underlined) are based on an imaginary couple. You will need to replace these parts with items that apply to your situation.
- The numbered notes in *italics* in the right-hand column are **not** part of the agreement. They are there to help you understand it. (Do not include the references to notes 1 and 2 in your agreement.)
- The sample below is for a married couple, so it refers to marriage. If you are ending a domestic partnership, you should say that in your agreement. If you are ending both a marriage and a domestic partnership with the same person, say both and write in the dates of both your marriage and the registration of your domestic partnership.

- Remember** • You can divide the items any way you want (even if one of you receives more of the marital assets).
- As long as you both agree, the court will accept it.*
 - If you cannot agree about the division of your property and debts, you should file a regular dissolution.

SAMPLE PROPERTY SETTLEMENT AGREEMENT

I. We are **Alex** P. Smedlap, hereafter called **Alex**, and **Sam** T. Smedlap, hereafter called **Sam**.^[1] We were married on October 7, 2018, and separated on December 5, 2022. Because irreconcilable differences^[2] have caused the permanent breakdown of our marriage, we have made this agreement together to settle once and for all what we owe to each other and what we can expect from each other. Each of us states here that nothing has been held back and that we have honestly included everything we could think of in listing the money and goods that we own; and each of us states here that we believe the other has been open and honest in writing this agreement. Each of us agrees to sign and exchange any papers that might be needed to complete this agreement.

¹ *If you prefer, you can also write "hereafter called wife [or husband]" or "hereinafter called Partner A [or Partner B]," whichever applies. Just make sure it is clear to whom you are referring.*

² *This means there are problems in your marriage or domestic partnership that you think can never be solved. **Irreconcilable differences** is the only legal grounds for getting a **summary dissolution**.*

* See Family Code section 2550. At the trial in a regular dissolution, a judge would set a value on and divide community property and debts into two approximately equal parts as provided by the Family Code.

Each of us also understands that even after a *Joint Petition for Summary Dissolution* is filed, this entire agreement will be canceled if either of us revokes the dissolution proceeding.³

³ *This means that the property agreement is a part of the dissolution proceeding. If either of you decides to stop the dissolution proceeding by turning in a Notice of Revocation of Petition for Summary Dissolution (form FL-830) (see page 18), this entire agreement will be canceled.*

II. Division of Community Property⁴

We divide our community property as follows:

⁴ *Community property is property that you own as a couple (see page 2).*

1. Alex transfers to Sam as Sam's sole and separate property:

If you have no community property, replace Part II with the simple statement "We have no community property."

- A. All household furniture and furnishings located at the apartment at 180 Needlepoint Way, San Francisco.⁵
- B. All rights to cash in savings account at Home Savings Credit Union.
- C. All cash value in life insurance policy insuring life of Sam through Sun Valley Life Insurance.
- D. All retirement plan benefits earned by Sam during marriage.
- E. Two U.S. Savings Bonds, Series E.
- F. Sam's jewelry.
- G. 2015 Chevrolet 4-door sedan.

⁵ *If the furniture and household goods in one apartment are to be divided, they may have to be listed item by item.*

2. Sam transfers to Alex as Alex's sole and separate property:

- A. All household furniture and furnishings located at the apartment on 222 Bond Street, San Francisco.
- B. All retirement plan benefits earned by Alex during marriage.
- C. Season tickets to Golden State Terriers basketball games.
- D. Home entertainment system.
- E. One set of Jock Nicklaus golf clubs.
- F. One television.
- G. 2014 Ford Explorer SUV.
- H. One pet parrot named Arthur, plus cage and parrot food.
- I. All rights to cash in checking account at Bank of America.

III. Division of Community Property (Debts)⁶

⁶ If you have no unpaid debts, replace Part III with the simple statement **"We have no unpaid community obligations."**

1. Alex will pay the following debts and will not at any time hold Sam responsible for them:

- A. Mister Charge account.
- B. Debt to Dr. R.C. Himple.
- C. Debt to Richardson Drug Store
- D. Debt to UC Berkeley for college education loan to Alex.⁷
- E. Debt to Golf Store for golf clubs.
- F. Debt to Everything Electronics for TV and audio equipment.
- G. Debt to Used Ford Store for 2014 Ford Explorer SUV.

⁷ A general rule for dividing debts is to give the debt over to the person who benefited more from the item. In the sample agreement, because Alex received the education, Alex should pay off the loan.

2. Sam will pay the following debts and will not at any time hold Alex responsible for them:

- A. Cogwell's charge account.
- B. Debt to Sam's parents, Mr. and Mrs. Joseph
- C. Debt to Green's Furniture.
- D. Debt to Dr. Irving Roberts.
- E. Debt to Friendly Finance Company for 2015 Chevrolet 4-door sedan.

IV. Waiver of Spousal/Partner Support⁸

⁸ You each give up the right to have your spouse or partner support you.

Each of us waives any claim for spousal/domestic partner support now and for all time.

V. Dated:

Dated:

Alex P. Smedlap

Sam T. Smedlap

IX. WHAT STEPS DO YOU HAVE TO TAKE TO GET A SUMMARY DISSOLUTION?

If after reviewing the information in this booklet, you feel your marriage or your domestic partnership will qualify for a summary dissolution, you should carefully go through the following 15 steps. You can fill out the forms, worksheets, and agreements in the summary dissolution section

- online, for free, at www.courts.ca.gov/selfhelp; or
- with neat printing.

1. _____ Complete and give your spouse or domestic partner a list of community and separate property assets and obligations. This information is needed to comply with the requirement to exchange a preliminary declaration of disclosure in summary dissolution cases. Use the forms listed below in 1a or 1b for this purpose.
 - a. _____ A *Declaration of Disclosure* (form FL-140) and a *Schedule of Assets and Debts* (form FL-142) (or a *Property Declaration* (form FL-160)). These forms are not included in this booklet. You may find them online at www.courts.ca.gov/forms.htm. Give one copy to your spouse or domestic partner and keep one for your records; or
 - b. _____ The worksheets in this booklet on pages 7, 9, and 11.
 - (1) _____ Turn to page 7 and complete the Worksheet for Determining Value of Separate Property. See page 6 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or domestic partner and keep one for your records.
 - (2) _____ Turn to page 9 and complete the Worksheet for Determining Value and Division of Community Property. See page 8 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or domestic partner and keep one for your records.
 - (3) _____ Turn to page 11 and complete the Worksheet for Determining Community Obligations and Their Division. See page 10 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or domestic partner and keep one for your records.
2. _____ Along with the documents listed in **step 1**, give your spouse or domestic partner all tax returns you filed in the last two years. Give one copy to your spouse or domestic partner and keep one copy for your records.
3. _____ Fill out an *Income and Expense Declaration* (form FL-150). You each need to fill out this form and give it to your spouse or domestic partner before you sign your property settlement agreement or complete your divorce. Make one extra copy of your form after it has been completed. Give one copy to your spouse or partner and keep one for your records.
4. _____ Complete a written statement about business and investments opportunities and give it to your spouse or domestic partner before you sign a property settlement agreement or complete your divorce. Keep a copy for your records.

Note: The written statement must describe any investment opportunity, business opportunity, or other income-producing opportunity that developed since the date you separated that was based on any investment made, significant business done, or other income-producing opportunity **that** was presented to you between the date you married or became domestic partners and the date you separated (there is no specific form for this purpose).

5. _____ **Do you have community assets or debts?**
 - a. _____ **Yes.** Type or print your property settlement agreement. Both of you must date and sign it. Make two extra copies. See pages 12–15 for an example and instructions. You can also find a version that you can fill in online at www.courts.ca.gov/selfhelp in the information on summary dissolution at: selfhelp.courts.ca.gov/divorce-california/summary-dissolution.
 - b. _____ **No.** Check box 13a on *Joint Petition for Summary Dissolution* (form FL-800) if you have no community assets or liabilities. No separate agreement is needed, but you must complete steps 1 through 4 above.
6. _____ Fill out a *Joint Petition for Summary Dissolution* (form FL-800). Both of you must sign and date this petition. Make two extra copies of this form. (This is the form you need to **START** the process.)

Note: When signing your joint petition and your property settlement agreement, you are signing these documents under penalty of perjury under the laws of the State of California, which is the same as being sworn to testify in court. **You may not sign each other's name.**

7. _____ Make three sets of forms that include copies of your property settlement agreement and a copy of your *Joint Petition for Summary Dissolution* (form FL-800).
8. _____ Fill out the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) as noted below and make three copies of it.
 - a. _____ Fill out the caption (top part of the judgment form).
 - b. _____ Check item 1b or 1c if either of you wants your name restored. Specify the name to be restored.
 - c. _____ Fill in the address of Petitioner 1 and Petitioner 2 on page 2.
9. _____ If you have a property settlement agreement, staple it to the *Judgment* (Form FL-825). Make three sets.
10. _____ Make one extra copy of a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) so each of you has one, and hold on to it. This is the form you would need to **STOP** the process. You may wish to use it during the waiting period if you change your mind and want to stop the process. You should keep one copy. See page 18 for more information.
11. _____ Take your *Joint Petition for Summary Dissolution* (form FL-800), *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825), and all of your copies to the superior court clerk's office together with two self-addressed, stamped envelopes (one addressed to each spouse or domestic partner). The location of your superior court clerk's office can be found in the phone book or online at www.courts.ca.gov/find-my-court.htm. The clerk will stamp the date on all copies, will keep one copy of each document, and will return the other two to you. One copy is for each spouse or domestic partner.
12. _____ Pay the superior court clerk's filing fee. If you cannot afford to pay the filing fee, you may qualify for a fee waiver based on your income. If one of you qualifies for a fee waiver but the other one does not, the one who does not qualify will have to pay the filing fee. To request a fee waiver, see *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO). You will need to prepare a *Request to Waive Court Fees* (form FW-001) and an *Order on Court Fee Waiver* (form FW-003).
13. _____ The clerk will file your joint petition and return the copies to you and your spouse or partner. The court may also process the *Judgment of Dissolution* at that time, in the next few weeks, or after the six-month waiting period has expired and give or mail it to you and your spouse or domestic partner. The *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) will have a date on which the dissolution ending your marriage, domestic partnership, or both will be final. That is the effective date of your dissolution and it will be six months from the date you file your joint petition. The six-month waiting period is mandated by law.
14. _____ Put your copies of all documents in a safe place.
15. _____ Wait for six months. If either one of you wants to stop the summary dissolution case, fill out and file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) before the six months run out.
16. _____ On the day that appears on your *Judgment of Dissolution* and *Notice of Entry of Judgment* (form FL-825) as the effective date of your dissolution:
 - a. Your marriage or domestic partnership (or both) is ended;
 - b. The agreements you made in your property settlement agreement are binding—you will then own the property assigned to you, and you will have to pay the bills assigned to you;
 - c. Except for those agreements, you and your spouse or domestic partner have no further obligations to each other; and
 - d. You are legally free to remarry or register a new domestic partnership.

REMEMBER: Either of you can stop the process by filling out a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) and bringing it to the superior court clerk during the six-month waiting period before the date your dissolution is effective according to the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) that you received from the court.

X. WHAT YOU SHOULD KNOW ABOUT REVOCATION

It is important to realize that the *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) is not just another form you are supposed to fill out and turn in.

Do not fill it out and do not bring it to the superior court clerk unless you want to stop the divorce!

What is the notice of revocation for?

This is the form you need if you want to stop the divorce. **Revoking** the agreement is canceling or stopping it.

What reasons are there for revoking?

There are three reasons you might have for wanting to stop the summary dissolution:

1. You have decided to return to your spouse or domestic partner and continue the marriage or domestic partnership;
2. You want to change over to the regular dissolution as a better way of getting your divorce; or
3. You learn that one of you is pregnant.

Why might you want to change over to the regular dissolution?

You may come to believe that you will get a better settlement if you go to court than with the agreement you originally made with your spouse or domestic partner. (Maybe, after thinking it over, you feel you are not receiving a fair share of the community property.)

How do you do it?

At the time you picked up the joint petition forms, you and your spouse or partner also received a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). Fill out the form, sign it, make two copies, and bring them to the superior court clerk's office. You must also send a copy of form FL-830 to your spouse or domestic partner by first-class mail, postage prepaid, to his or her last known address. You can do this alone. This form does not need your spouse's or partner's signature.

If you do this at any time during the six-month waiting period, before the effective date of your dissolution, you will stop this divorce proceeding.

Can the dissolution be stopped once the waiting period is over?

NO. After the date the court wrote on your *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) as the date your marriage or domestic partnership is ended (the date the divorce is effective), you can no longer revoke the dissolution by filing the revocation form. You may have other legal options, but you will need to talk to a lawyer about them.

If you change over to a regular dissolution, what happens to the part of the waiting period that has passed? You can apply the amount of time you waited on the summary dissolution to your regular dissolution. For example, if four months went by before you decided to revoke the summary dissolution, the waiting period for the regular dissolution will be shortened by four months.

However, you can save this time **only** if you file for a regular dissolution within 90 days of revoking the summary dissolution.

XI. SHOULD YOU SEE A LAWYER?

Must you have a lawyer to use the summary dissolution procedure?

No. You can do the whole thing by yourselves. But it would be wise to see a lawyer before you decide to do it yourselves. You should not rely on this booklet only. It is not intended to take the place of a lawyer.

If you want legal advice, does that mean you have to hire a lawyer?

No. You may hire a lawyer, of course, but you can also just visit a lawyer once or twice for advice on how to carry out the dissolution proceeding. Do not be afraid to ask the lawyer in advance what fee will be charged. It may be surprisingly inexpensive to have a lawyer handle your divorce.

Do you have to accept your lawyer's advice?

No, you do not. And if you are not pleased with what one lawyer advises, you can feel free to go to another one.

How can a lawyer help you with the summary dissolution procedure?

First, a lawyer can advise you, on the basis of your personal situation, whether you ought to use the regular dissolution procedure rather than the summary dissolution procedure.

Second, a lawyer can read your property settlement agreement to help you figure out if you have thought of everything you should have. (It is easy to forget things you do not see very often, such as savings bonds and safe deposit boxes.)

Third, in many situations it is not easy to figure out what should count as community property and what should count as separate property. Suppose one of you had money before the marriage (or domestic partnership) and put it into a bank account in both of your names and then both of you used money from that account. It may not be easy to decide how the money remaining in that account should be divided. A lawyer can advise you on how to make these decisions.

Fourth, there may be special situations in which your property settlement is not covered by the sample agreement on pages 13–15.

A lawyer can help you put the agreement in words that are legally precise and cannot be challenged or misinterpreted later.

Where can you find a lawyer?

You can locate organizations that can help you find a lawyer in the yellow pages of your telephone directory under "Attorneys," "Attorney Referral Service," or "Lawyer Referral Service." In many cases you will be able to find an attorney who will charge only a small fee for your first visit. You can get information about free or low-cost legal services through the county bar association in your county. You can find information about certified lawyer referral services at www.courts.ca.gov/selfhelp or on the State Bar website at www.calbar.ca.gov.

XII. SOME GENERAL INFORMATION

What about income taxes?

If you have filed a joint tax return, both of you will still be responsible for paying any unpaid taxes even after your divorce.

If you are receiving a tax refund, you should agree in the property settlement agreement on how it should be divided.

The amount of money that you will owe, or that will be taken out of your paycheck, for income taxes may be greater after you are single again. If that is the case, you should prepare yourself for a bigger tax obligation.

It would be a good idea to consult the Internal Revenue Service or a tax expert on how the divorce is going to affect your taxes. You should probably do this before you make your property settlement agreement.

What about bank accounts and credit cards?

If you have a joint bank account, it may be a good idea to close it when you separate and get two individual bank accounts. That way it will be easier to keep your money separate.

If you have credit card accounts that you both have been using, you should destroy the cards and take out separate accounts.

What about cars?

If both of your names are on a title to a car and you agree that one of you is going to own the car, you need to take action to change the ownership. You should call or visit the Department of Motor Vehicles to find out how to do that. You should also talk to the lender to get the debt into one person's name and change the insurance coverage after both the title and debt are transferred.

What if your spouse or domestic partner does not pay the debts as agreed

If your spouse or domestic partner does not pay a debt as agreed, the person who loaned the money may be able to collect it from you. But then a court may order your spouse or domestic partner to reimburse you. If you have any reason to worry about this, a lawyer can explain your rights to you.

Can you take back your former name?

If you changed your name when you were married or registered your domestic partnership, you have the right to give up that name and get your former name back. You can do this by requesting it in the joint petition. If you do not request this in the joint petition, you can file a form called *Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order* ([form FL-395](#)). Your spouse or domestic partner cannot make you change your name.

What if I am not happy with my final judgment?

When your divorce is final, all your rights and duties connected with your marriage or domestic partnership have ended and you cannot appeal. But if you decide later that you were cheated or pressured by your spouse or domestic partner, or if you believe that a mistake was made in the paperwork connected with the divorce, the court may be able to set aside the divorce. A lawyer can explain your rights.

ATTACHMENT A

State of California
 Department of Industrial Relations
<http://www.dir.ca.gov/OPRL>

Office of the Director- Research Unit
 P.O. Box 420603, San Francisco, California 94142

CALIFORNIA CONSUMER PRICE INDEX (1955-2022)

ALL ITEMS (1982 - 1984 = 100)

Year	Month	All Urban Consumers	Urban Wage Earners and Clerical Workers
2022	Annual	319.224	310.424
2022	December	323.148	313.159
2022	October	324.819	315.900
2022	August	322.275	313.374
2022	June	322.043	313.931
2022	April	316.847	308.468
2022	February	311.048	302.122
2021	Annual	297.371	288.595
2021	December	306.109	297.426
2021	October	302.793	294.211
2021	August	299.815	291.317
2021	June	297.447	288.784
2021	April	294.274	285.139
2021	February	289.632	280.644
2020	Annual	285.315	275.568
2020	December	287.367	277.885
2020	October	286.843	277.443
2020	August	286.388	276.751
2020	June	284.835	274.921
2020	April	283.006	273.050
2020	February	284.886	274.917

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Family law: Child Custody and Visitation Orders Involving Gender-Affirming Health Care

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 5.151

Committee or other entity submitting the proposal:
Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Gabrielle D.Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Item 1: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

Item 1.j. SB 107 (Weiner) Gender-affirming health care (Ch. 810, Stats. of 2022) Provides that the presence of a child in this state for the purpose of obtaining gender-affirming health care or gender-affirming mental health care is sufficient to grant a court in this state the jurisdiction to make an initial child custody determination for the child. Provides that a court of this state has temporary emergency jurisdiction over a child if the child is present in the state because the child has been unable to obtain gender-affirming health care or gender-affirming mental health care. Provides that a law of another state that authorizes a state agency to remove a child from their parent or guardian based on the parent or guardian allowing their child to receive gender-affirming health care or gender-affirming mental health care is against the public policy of this state and shall not be enforced or applied in a case pending in a court in this state.

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

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

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-16

Title

Family Law: Child Custody and Visitation
Orders Involving Gender-Affirming Health
Care

Action Requested

Review and submit comments by May 12,
2023

Proposed Effective Date

January 1, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 5.151

Contact

Gabrielle D. Selden, 415-865-8085

gabrielle.selden@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulse, Cochair

Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending one rule of court, effective January 1, 2024, to implement Senate Bill 107 (Stats. 2022, ch. 810). SB 107 amends Family Code sections 3421 and 3424 and adopts a new public policy in Family Code section 3453.5 that supports a parent's ability to seek gender-affirming health care and gender-affirming mental health care for a child in the state of California without penalty. The proposed amendments to the rule would provide procedures for situations in which a parent seeks emergency child custody orders in family court because the laws of another state prohibit that parent from providing gender-affirming health care or gender-affirming mental health care for their child.

Background

SB 107 adds subdivision (d) to Family Code section 3421 and extends the court's jurisdiction (under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)) to make initial child custody determinations if

[t]he presence of a child in this state for the purpose of obtaining gender-affirming health care or gender-affirming mental health care, as defined by Section 16010.2

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.

of the Welfare and Institutions Code, is sufficient to meet the requirements of paragraph (2) of subdivision (a).

In addition, the bill amends Family Code section 3424 to provide that

[a] court of this state has temporary emergency jurisdiction if the child is present in this state ... because the child has been unable to obtain gender-affirming health care or gender-affirming mental health care, as defined by Section 16010.2 of the Welfare and Institutions Code.

Further, it adds section 3453.5 to the Family Code, which provides (in part) that:

(a) A law of another state that authorizes a state agency to remove a child from their parent or guardian based on the parent or guardian allowing their child to receive gender-affirming health care or gender-affirming mental health care is against the public policy of this state and shall not be enforced or applied in a case pending in a court in this state.

The Proposal

In response to SB 107's changes to the UCCJEA, the committee proposes that the Judicial Council amend rule 5.151 to specify the procedures and forms that a parent or guardian must use to ask the court for temporary emergency orders when the issue relates to gender-affirming health care or gender-affirming mental health care—care that is prohibited by the law of another state or unavailable in another state. The rule with proposed amendments is provided in its entirety for context at pages 7–11.

Generally, the procedures specified in rule 5.151(d)(5) cover requests for temporary emergency orders involving child custody or visitation (parenting time). The proposal would add subdivision (d)(6), titled “Applications for child custody or visitation (parenting time) when the child is in the state for gender-affirming health care or gender-affirming medical care.”

Cases with no out-of-state child custody orders

Under Family Code sections 3421(d) and 3424(c) the courts of this state have jurisdiction to make an initial child custody determination if (1) the child is in this state for the purpose of obtaining gender-affirming health care or gender-affirming mental health care and (2) there is no previous child custody determination that is entitled to be enforced in this state. The party seeking child custody orders would file an action in family court and then seek this specific relief as part of a request for child custody orders.

Cases with out-of-state child custody orders

Generally, under Family Code section 3446(b), a California court must recognize and enforce a registered child custody determination of a court of another state but may not modify the order. The same statute, however, makes an exception: “except in accordance with Chapter 2 (commencing with Section 3421).”

The exceptions to the prohibition on modifying an out-of-state child custody order are noted in Family Code sections 3424, 3427, and in case law.

- Family Code section 3424(a) provides that a court of this state has temporary emergency jurisdiction if, among other reasons, the child is present in this state because the child has been unable to obtain gender-affirming health care or gender-affirming mental health care.
- Under Family Code section 3424(c), if there is a previous child custody order or proceeding in another state having jurisdiction, a court of this state may issue a temporary emergency order, but the court must specify in the order a period of time that the court considers adequate until an order is obtained in the other state within the period specified or the period expires. There are different procedures for cases in which there are no previous child custody orders ¹
- Under the new provisions of Family Code section 3427(f)(1), a California court cannot determine that this state is an inconvenient forum where the law or policy of the other state limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for their child.
- Under Family Code section 3424(d), a California court issuing a temporary emergency order would still have to communicate with the out-of-state court to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order. ²

Based on the foregoing, a court of this state is authorized to modify a child custody order issued in another state, at least temporarily.

The proposed amendment to rule 5.151 would require the party to file a case in family court and then file the documents specified in subdivision (c) of the rule to ask that the California court

¹ Section 3424(b) provides:

If there is no previous child custody determination that is entitled to be enforced under this part and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 3421 to 3423, inclusive, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 3421 to 3423, inclusive. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 3421 to 3423, inclusive, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

² However, “[e]ven though emergency jurisdiction ordinarily is intended to be short term and limited, [a court] may continue to exercise its authority as long as the risk of harm creating the emergency is ongoing.” (*In re Angel L.* (2008) 159 Cal.App.4th 1127, 1139.)

issue temporary emergency orders to modify an out-of-state child custody order so that the child can obtain gender-affirming health care or gender-affirming mental health care in this state. In some situations, a party might decide to file a petition for dissolution of marriage or legal separation, a petition to determine a parental relationship, or a petition for custody and support and include the out-of-state child custody order with the initial filing.

The proposed rule would, however, also account for situations in which none of the previously mentioned petitions apply. For example, a party may simply want to register the out-of-state child custody orders in this state and then ask the court to issue temporary orders that modify those orders so that their child can obtain gender-affirming health care or gender-affirming mental health care in California. To provide a pathway for this type of action, the rule would require that the party file *Registration of Out-of-State Custody Order* (form FL-580) as the initial pleading. This would reflect the procedure that is currently used if there has already been a previous custody determination in another state.

In addition, the rule (at subdivision (d)(6)(B) and (C)) would reference the forms, documents, and content that a party must provide to ask for temporary emergency orders that relate to children who are in California to obtain gender-affirming health care or gender-affirming mental health care. This subdivision would be distinguished from subdivision (d)(5) (Applications regarding child custody or visitation) in that Family Code section 3064 does not apply to these cases. Therefore, a party would not have to show in the application immediate harm to a child or an immediate risk of a child's removal from the state of California before the court can issue a temporary order involving a child who is present in this state because the child has been unable to obtain gender-affirming health care or gender-affirming mental health care. However, the proposed rule would cross-reference some of the requirements listed in (d)(5) that would apply to these case types; for example, the requirement to (1) advise the court of the existing custody and visitation arrangement and how they would be changed by the request for emergency orders and (2) include a completed form FL-105 if the form was not already filed or has changed since it was filed (see proposed subdivision (d)(6)(C)).

Alternatives Considered

The committee considered not proposing changes to rules of court or forms because SB 107 does not specifically require that the Judicial Council take any action to implement the changes to the UCCJEA. However, the committee determined that developing statewide, uniform rules in this subject area would (1) provide statewide consistency in practice and procedure, (2) acknowledge the policy rationale and legislative intent of Family Code sections 3453.5 and 3424 to assist families from other states seeking gender-affirming health care for their children, and (3) support an important judicial branch strategic plan goal: access, fairness, diversity, and inclusion.³

The committee also considered whether to develop a separate rule of court and a new form set to implement SB 107. After review, the committee, instead, decided to propose amending rule

³ *The Strategic Plan for California's Judicial Branch* (July 19, 2019) is available at www.courts.ca.gov/documents/Strategic_Plan_Companion_2022.pdf.

5.151 to include requests under SB 107. Rule 5.151 currently provides guidance to courts and to parties about the forms and procedures required to request temporary emergency orders specifically relating to child custody and visitation (parenting time). Requests for orders about a child who is in the state to obtain gender-affirming health care and gender-affirming mental health care would be a new category of temporary emergency orders that the child's parent could request, and thus, would naturally fit into rule 5.151.

Further, because the remedies specified in SB 107 also apply to cases filed under the Domestic Violence Prevention Act (DVPA), but the forms and procedures in rule 5.151 do not apply to DVPA cases, the committee considered two options. Option A would be a proposal to include an advisory committee comment to rule 5.151. Option B was a proposal to adopt a new rule in chapter 11, article 1 (Domestic Violence Prevention Act Cases), that would specify that applications for child custody or visitation (parenting time) involving gender-affirming health care (including gender-affirming mental health care) for a child may also be requested under the Domestic Violence Prevention Act. The majority of members voted for option A rather than expand the proposal to two rules to address the changes in the Family Code under SB 107.

Fiscal and Operational Impacts

The impact to the courts includes the cost to educate judicial officers and court staff about the changes in the law and procedures to implement the law. Courts may also need to update their case management systems and create new docket codes for this new type of filing as a request for a temporary emergency order.

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?

What other changes, if any, would be needed to the new procedures proposed in rule 5.151 to assist parties seeking initial or modified orders for child custody and visitation?

Would this proposal make it easier or more difficult for self-represented litigants and attorneys to seek changes to an out-of-state child custody order to obtain gender-affirming health care or gender-affirming mental health care for a child?

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

Would this proposal make it easier or more difficult for the courts to make orders in cases involving parties with out-of-state child custody orders who seek to modify the order and obtain gender-affirming health care or gender-affirming mental health care for a child?

Would the proposal provide cost savings? If so, please quantify.

What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?

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

How well would this proposal work in courts of different sizes?

Attachments and Links

Cal. Rules of Court, rule 5.151, at pages 7–10

Link A: Senate Bill 107,

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB107

Link B: Fam. Code, § 3421,

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3421

Link C: Fam. Code, § 3424,

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3424

Link D: Fam. Code, § 3453.5,

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3453.5

Rule 5.151 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 5.151. Request for emergency orders; application; required documents**

2
3 **(a)–(b)** * * *

4
5 **(c) Required documents**

6
7 (1) *Request for Order*

8
9 A request for emergency orders must be in writing and must include all of the
10 following completed documents:

11
12 (A) *Request for Order* (form FL-300) that identifies the relief requested.

13
14 (B) When relevant to the relief requested, a current *Income and Expense*
15 *Declaration* (form FL-150) or *Financial Statement (Simplified)* (form
16 FL-155) and *Property Declaration* (form FL-160).

17
18 (C) *Temporary Emergency (Ex Parte) Orders* (form FL-305) to serve as the
19 proposed temporary order;

20
21 (D) A written declaration regarding notice of application for emergency
22 orders based on personal knowledge. *Declaration Regarding Notice*
23 *and Service of Request for Temporary Emergency (Ex Parte) Orders*
24 (form FL-303), a local court form, or a declaration that contains the
25 same information as form FL-303 may be used for this purpose.

26
27 (E) A memorandum of points and authorities only if required by the court.

28
29 (2) *Request to reschedule hearing*

30
31 A request to reschedule a hearing must comply with the requirements of rule
32 5.95.

33
34 **(d) Contents of application and declaration**

35
36 (1) *Identification of attorney or party*

37
38 An application for emergency orders must state the name, address, and
39 telephone number of any attorney known to the applicant to be an attorney
40 for any party or, if no such attorney is known, the name, address, and
41 telephone number of the party, if known to the applicant.
42

1 (2) *Affirmative factual showing required in written declarations*

2
3 The declarations must contain facts within the personal knowledge of the
4 declarant that demonstrate why the matter is appropriately handled as an
5 emergency hearing, as opposed to being on the court’s regular hearing
6 calendar.

7
8 An applicant must make an affirmative factual showing of irreparable harm,
9 immediate danger, or any other statutory basis for granting relief without
10 notice or with shortened notice to the other party.

11
12 (3) *Disclosure of previous applications and orders*

13
14 An applicant should submit a declaration that fully discloses all previous
15 applications made on the same issue and whether any orders were made on
16 any of the applications, even if an application was previously made upon a
17 different state of facts. Previous applications include an order to shorten time
18 for service of notice or an order shortening time for hearing.

19
20 (4) *Disclosure of change in status quo*

21
22 The applicant has a duty to disclose that an emergency order will result in a
23 change in the current situation or status quo. Absent such disclosure,
24 attorney’s fees and costs incurred to reinstate the status quo may be awarded.

25
26 (5) *Applications regarding child custody or visitation (parenting time)*

27
28 Applications for emergency orders ~~granting or modifying~~ involving child
29 custody or visitation (parenting time) under Family Code section 3064 must:

30
31 (A) Provide a full, detailed description of the most recent incidents
32 showing:

33
34 (i) Immediate harm to the child as defined in Family Code section
35 3064(b); or

36
37 (ii) Immediate risk that the child will be removed from the ~~S~~state of
38 California.

39
40 (B) Specify the date of each incident described in (A);
41

- 1 (C) Advise the court of the existing custody and visitation (parenting time)
2 arrangements and how they would be changed by the request for
3 emergency orders;
4
- 5 (D) Include a copy of the current custody orders, if they are available. If no
6 orders exist, explain where and with whom the child is currently living;
7 and
8
- 9 (E) Include a completed *Declaration Under Uniform Child Custody*
10 *Jurisdiction and Enforcement Act (UCCJEA)* (FL-105) if the form was
11 not already filed by a party or if the information has changed since it
12 was filed.
13

14 **(6) Applications for child custody or visitation (parenting time) when the child is**
15 **in the state for gender-affirming health care and gender-affirming mental**
16 **health care**

17
18 **When a child is in the state for the purpose of obtaining gender-affirming**
19 **health care or gender-affirming mental health care, applications for**
20 **emergency orders for child custody or visitation (parenting time) under**
21 **Family Code sections 3427, 3428, and 3453.5 must:**
22

23 **(A) Be filed with, or include after filing, either:**

24
25 **(i) A petition appropriate for the case type (for example, a petition**
26 **for dissolution of marriage or legal separation, a petition to**
27 **determine parental relationship, or a petition for custody and**
28 **support); or**

29
30 **(ii) Registration of Out-of-State Custody Order (form FL-580), if**
31 **there is a previous custody determination in another state and the**
32 **party does not intend to file a petition under (i).**
33

34 **(B) Include the documents listed in subdivision (c) of this rule.**

35
36 **(C) Include the information specified in subdivision (d)(5)(C)–(E).**
37

38 **(e) Contents of notice and declaration regarding notice of emergency hearing**

39
40 **(1) Contents of notice**

41
42 When notice of a request for emergency orders is given, the person giving
43 notice must:

- 1
2 (A) State with specificity the nature of the relief to be requested;
3
4 (B) State the date, time, and place for the presentation of the application;
5
6 (C) State the date, time, and place of the hearing, if applicable; and
7
8 (D) Attempt to determine whether the opposing party will appear to oppose
9 the application (if the court requires a hearing) or whether ~~he or she~~ **the**
10 **opposing party** will submit responsive pleadings before the court rules
11 on the request for emergency orders.
12

13 (2) *Declaration regarding notice*

14
15 An application for emergency orders must be accompanied by a completed
16 declaration regarding notice that includes one of the following statements:
17

- 18 (A) The notice given, including the date, time, manner, and name of the
19 party informed, the relief sought, any response, and whether opposition
20 is expected and that, within the applicable time under rule 5.165, the
21 applicant informed the opposing party where and when the application
22 would be made;
23
24 (B) That the applicant in good faith attempted to inform the opposing party
25 but was unable to do so, specifying the efforts made to inform the
26 opposing party; or
27
28 (C) That, for reasons specified, the applicant should not be required to
29 inform the opposing party.
30

31 **Advisory Committee Comment**

32 **Applications for child custody or visitation (parenting time), including applications involving a**
33 **child who is present in this state to obtain gender-affirming health care or gender-affirming**
34 **mental health care under Family Code sections 3427, 3428, and 3453.5, may also be requested**
35 **under the Domestic Violence Prevention Act (DVPA) (Family Code sections 6200-6460).**
36 **Different forms and procedures apply to DVPA cases.**
37
38

To Be Distributed

Withdrawn

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Family and Juvenile Law: Implementation of Assembly Bill 2495

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Rule 5.451, ADOPT-050-INFO, ADOPT-200, ADOPT-215, ADOPT-310

Committee or other entity submitting the proposal:
 Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Diana Glick, 916-643-7012, diana.glick@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. 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.

1h. AB 2495 (Patterson) The parent and child relationship (Stats. 2022, ch.159)

Makes multiple changes to adoption and family law in California, including changing rules for determining whether an embryo donor is an intended parent, clarifying rules regarding not concealing a prospective adoptive child from the adoption agency, clarifying who can file for an adoption and when, and expanding venue options for step-parent adoptions and readoptions of children adopted in other countries.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

INVITATION TO COMMENT

SPR23-18

Title	Action Requested
Family and Juvenile Law: Implementation of Assembly Bill 2495	Review and submit comments by May 12, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.451; revise forms ADOPT-050-INFO, ADOPT-200, ADOPT-215, and ADOPT-310	January 1, 2024
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulse, Cochair Hon. Amy M. Pellman, Cochair	Diana B. Glick, 916-643-7012 diana.glick@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes to amend one rule of the California Rules of Court and revise four forms to conform with recent statutory changes enacted by Assembly Bill 2495 (Patterson; Stats. 2022, ch. 159) regarding various topics related to adoptions, including when to display a child's preadoption name on adoption request and order forms, procedures for filing a postadoption contact order, and venue for adoption requests. The committee also proposes technical changes to correct errors and respond to partner and stakeholder feedback.

Background

California law sets forth a statutory scheme in the Family Code that organizes adoptions into four major categories:

1. Agency Adoptions (Fam. Code, § 8700 et seq.), including Relative Caregiver/Foster Parent Adoptions and Agency Joinder Adoptions (Fam. Code, §§ 8714.5, 8730–8736)
2. Independent Adoptions (Fam. Code, § 8800 et seq.)

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

3. Intercountry (International) Adoptions (Fam. Code, § 8900 et seq.)
4. Stepparent Adoptions (Fam. Code, § 9000 et seq.), including Stepparent Adoptions to Confirm Parentage (Fam. Code, § 9000.5)

Assembly Bill 2495 made statutory changes affecting a variety of processes and procedures related to each of these types of adoptions. The following changes are those that affect the contents of the California Rules of Court and Judicial Council forms.

Venue for the filing of an adoption request

AB 2495 expands the possible counties in which an adoption request may be filed by authorizing an adoption request for a nondependent minor to be filed with the court in the county in which an office of the agency that is filing the adoption request is located. This expansion of venue requires a revision to *Adoption Request* (form ADOPT-200).

Postadoption contact agreements, filing requirements, and authorized relatives

AB 2495 attempts to standardize provisions for the four types of adoptions to consistently refer to Family Code section 8616.5 for information about the process for developing and filing, enforcing, modifying, and terminating a postadoption contact agreement. These changes provide an opportunity to streamline rule 5.451 of the California Rules of Court.

Adoption request and order: listing of child's name before adoption

Prior to the enactment of AB 2495, the child's name before the adoption was listed only on the adoption request for independent, stepparent, or tribal customary adoptions. With the bill's amendment of Family Code section 8912(b), intercountry adoptions are added to this list. This will require a change to *Adoption Request* (form ADOPT-200).

Similarly, prior to AB 2495, the child's name before the adoption was not listed on the adoption order. With the bill's amendments to Family Code sections 8714(f), 8802(f), 8912(d), and 9000(e), the child's name before the adoption must now be listed on the adoption order for agency adoptions, independent adoptions, intercountry adoptions, and stepparent adoptions. This will require a change to *Adoption Order* (form ADOPT-215).

The Proposal

The committee proposes amendments and revisions to rule 5.451 and to ADOPT forms based on statutory changes. The committee further proposes technical and nonsubstantive revisions to respond to concerns expressed by courts and stakeholders and to correct an erroneous code citation.

Rule 5.451

This rule of court was originally adopted in 1998 as a description of the process related to "kinship adoption agreements" and postadoption contact agreements that were authorized only in relative agency adoptions. In 1998, access to statutory materials via electronic devices and online

resources was far less available to judicial officers and the public than at present. To ensure that courts and the public had comprehensive information about the requirements in these situations, the original drafters of the rules paraphrased or directly included extensive sections of the relevant underlying statutes in the rules.

Since that time, the law surrounding postadoption contact agreements has been applied to other types of adoptions. The rule amendments frequently lag the underlying statutory amendments by a year or more due to the time needed for the Judicial Council rule-making process. At the same time, the growth of online legal resources such as the California Legislative Information website allows judicial officers and the public to access up-to-date statutory materials easily at no cost.

This change in the information infrastructure for courts warrants a reexamination of the role of the rules of court in these proceedings. The committee therefore proposes to delete those provisions of the rule that restate statutory text and to retain those sections of the rule that provide court operations information and guidance. These changes would streamline the rule and reduce the frequency with which the rule needs to be amended to reflect changes in the statutory text.

Specifically, the committee proposes the following amendments to the rule:

- Amend subdivision (a) to properly reflect the applicability of Family Code section 8616.5 to all types of adoptions. Delete language that restates provisions of Family Code section 8714.5.
- Delete subdivision (b), which restates provisions of Family Code section 8616.5.
- Amend and re-letter subdivision (c) as (b) and provide information about the use of mandatory form ADOPT-310, Contact After Adoption Agreement. Delete remaining language on court approval, which restates statutory provisions.
- Delete subdivision (d) and re-letter as (c) with the new title “Enforcement, modification, or termination of the agreement.” Include the language of subdivisions (h) and (i), describing which court retains jurisdiction to enforce these agreements, the mandatory use of form ADOPT-315 to enforce an agreement, and the mandatory use of form ADOPT-315 to modify or terminate an agreement.
- Delete subdivision (e) and re-letter as (d) with the new title “Costs and fees.” Include the language of subdivision (j) with information about limits on the filing fee for form ADOPT-315.
- Delete subdivision (f), which restates provisions of Family Code section 8616.5.
- Delete subdivision (g), which restates provisions of Family Code section 8715.
- Delete remaining language of subdivisions (h), (i), and (j), which restate provisions of Family Code section 8616.5
- Delete subdivision (k), which restates provisions of Family Code section 8616.5.

How to Adopt a Child in California (form ADOPT-050-INFO)

Concerns have been raised regarding a lack of clarity and legal precision in this information sheet in the explanation of the required steps in a stepparent adoption to confirm parentage. To address these concerns, the committee proposes the following:

- On page 1, remove references to the specific steps required for a stepparent/domestic partner adoption and for a stepparent adoption to confirm parentage.
- On page 2, add a note under the first item 2 to explain that in a stepparent adoption to confirm parentage, a home investigation and a hearing are only required if the court orders them for good cause.

In addition, the committee proposes the following technical revisions, most to conform to Judicial Council form style:

- Throughout the document, remove underlining of section headers.
- On page 1, first paragraph, update the name of the California Courts self-help web resource.
- On page 1 footer, add a citation to the Family Code.
- On page 2, substitute the word “form” for “the” immediately before “ADOPT-210.”
- On page 2, include the full title of the Family Code in the reference to section 8617(b).
- On page 4, text assigned to first check box, correct apostrophe in “child’s.”

Adoption Request (form ADOPT-200)

In response to legislative language expanding venue to include the county in which an office of the agency that files the request for adoption is located, the committee proposes to add this language to item 2.

In item 5, the committee proposes to add intercountry adoptions to the list of adoptions for which the child’s name before adoption must be listed on the request. In order to make this information fit, the committee proposes to reword the instructions slightly and remove capitalization.

To address concerns about the explanation of the required steps in a stepparent adoption to confirm parentage, the committee proposes to add a check box option to item 12e. The new option would read, “This is an adoption to confirm parentage. Investigation not required unless ordered by court for good cause.”

The committee proposes the following additional revisions to this form to conform to Judicial Council form style, unless noted otherwise:

- In item 1, change “e-mail” to “email.”
- In items 11d and 12f, the first check box options in each item will be reworded for plain language.

- In item 12e, the first check box option will be reworded for clarity and plain language.
- The full title of the Family Code will be substituted for the abbreviated instances.
- The titles of codes cited in the form’s footer will be abbreviated.

ADOPT-215 Adoption Order (form ADOPT-215)

Assembly Bill 2495 requires the name of the child before adoption to be listed on the adoption order for the following types of adoptions: nonrelative agency, independent, intercountry, and stepparent adoption. The one exception to this rule is for an adoption of a dependent child by a relative filed pursuant to Family Code section 8714.5, which states that the child’s name before adoption should only be listed on the order upon request by the adopting relative, or by the minor child, if that child is 12 years of age or older. Therefore, the committee proposes adding a field to item 2 to collect this information, with a statement immediately below describing the exception.

The committee also proposes the following revisions to conform to Judicial Council style, except as noted:

- In item 1, change “e-mail” to “email.”
- In item 4, add a check box option next to the instructions for an attachment and revise the instructions to conform to the standard language for attachments.
- The full title of the Family Code will be substituted for the abbreviated instances in the text.
- The titles of codes cited in the form’s footer will be abbreviated.

Contact After Adoption Agreement (form ADOPT-310)

With the enactment of Senate Bill 182 (Stats. 2003, ch. 251), the provision of the Family Code governing and describing procedures for postadoption contact agreements was renumbered from 8714.7 to 8616.5. The committee proposes to update the reference to this code section that appears in item 2d and to provide the full name of the Family Code in the citation.

In addition, the committee proposes to reconfigure the table in item 3, which collects information about the types of postadoption contact that have been agreed on by the parties. Currently, the table cannot be used when the form is filled out online and is not screen-reader accessible.

The committee proposes to abbreviate the names of codes cited in the footer of this form.

Alternatives Considered

The committee is developing a proposal to reorganize and redesign the ADOPT forms, to be brought forward in the winter 2023-2024 cycle. The reorganization effort will potentially result in a streamlined form ADOPT-200, which solicits information applicable to all types of adoptions, and the development of attachments corresponding to the various types of adoptions, which will each solicit information relative only to that specific type of adoption. Consideration was given to incorporating items in the current proposal into this larger effort; however, it was

determined that because AB 2495 took effect on January 1, 2023, the committee needed to act quickly to make the forms and rules of court consistent with the law.

Fiscal and Operational Impacts

The substantive changes to the forms are minimal and should not require extensive education and retraining. Courts that maintain paper versions of the forms will incur the costs of replacing old forms with the revised forms. Because there are revisions to forms ADOPT-050-INFO, ADOPT-200, and ADOPT-215, which have been translated into Spanish and other languages, the Judicial Council will incur costs in updating these translated versions should the forms ultimately be revised by the Judicial Council.

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?
- As noted in the Alternatives Considered section, the committee is planning a larger proposal to reorganize the forms in the ADOPT series. The committee welcomes early feedback and comments regarding a redesign of the ADOPT-200 form, to possibly include attachments corresponding with specific types of adoption. The committee requests that these comments be provided separately from comments about the specific changes proposed above. These comments will inform a future proposal and will not be addressed in the proposal for changes that go into effect January 1, 2024.

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 5.451, at pages 7–12
2. Forms ADOPT-050-INFO, ADOPT-200, ADOPT-215, and ADOPT-310, at pages 13–26
3. Link A: Assem. Bill 2495,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2495

Rule 5.451 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 Title 5. Family and Juvenile Rules

2
3 Division 2. Rules Applicable in Family and Juvenile Proceedings

4
5 Chapter 1. Contact and Coordination

6
7 Rule 5.451. Contact after adoption agreement

8
9 (a) Applicability of rule

10
11 This rule applies to any adoption of a child filed under Family Code section 8714,
12 8714.5, 8802, 8910, or 9000. ~~The adoption petition must be filed under Family~~
13 ~~Code sections 8714 and 8714.5. If the child is a dependent of the juvenile court, the~~
14 ~~adoption petition may be filed in that juvenile court and the clerk must open a~~
15 ~~confidential adoption file for the child, and this file must be separate and apart from~~
16 ~~the dependency file, with an adoption case number different from the dependency~~
17 ~~case number. For the purposes of this rule, a “relative” is defined as follows:~~

- 18
19 (1) ~~An adult related to the child or the child’s sibling or half sibling by blood or~~
20 ~~affinity, including a relative whose status is preceded by the word “step,”~~
21 ~~“great,” “great great,” or “grand”;~~ or
22
23 (2) ~~The spouse or domestic partner of any of the persons described in (1) even if~~
24 ~~the marriage or domestic partnership was terminated by dissolution or the~~
25 ~~death of the spouse related to the child.~~

26
27 ~~(b) Contact after adoption agreement~~

28
29 ~~An adoptive parent or parents; a birth relative or relatives, including a birth parent~~
30 ~~or parents or any siblings of a child who is the subject of an adoption petition; or an~~
31 ~~Indian tribe that the child is a member of and the child may enter into a written~~
32 ~~agreement permitting postadoption contact between the child and birth relatives,~~
33 ~~including the birth parent or parents or any siblings, or an Indian tribe. No~~
34 ~~prospective adoptive parent or birth relative may be required by court order to enter~~
35 ~~into a contact after adoption agreement.~~

36
37 ~~(e)(b) Court approval; time of decree~~ Preparing the agreement

38
39 Any agreement must be prepared and submitted on *Contact After Adoption*
40 *Agreement* (form ADOPT-310) and include all terms required under section
41 8616.5.
42

Rule 5.451 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 If, at the time the adoption petition is granted, the court finds that the agreement is
2 in the best interest of the child, the court may enter the decree of adoption and grant
3 postadoption contact as reflected in the approved agreement.
4

5 **(d)(c) Terms of agreement Enforcement, modification, or termination of the**
6 **agreement**

7
8 (1) The court that grants the petition for adoption and approves the contact after
9 adoption agreement must retain jurisdiction over the agreement.

10
11 (2) Any petition for enforcement of an agreement must be filed on *Request to:*
12 *Enforce, Change, End Contact After Adoption Agreement* (form ADOPT-
13 315).

14
15 (3) Any petition for modification or termination of an agreement must be filed on
16 *Request to: Enforce, Change, End Contact After Adoption Agreement* (form
17 ADOPT-315).

18
19 ~~The terms of the agreement are limited to the following, although they need not~~
20 ~~include all permitted terms:~~

21
22 (1) ~~Provisions for visitation between the child and a birth parent or parents;~~

23
24 (2) ~~Provisions for visitation between the child and other identified birth relatives,~~
25 ~~including siblings or half-siblings of the child;~~

26
27 (3) ~~Provisions for contact between the child and a birth parent or parents;~~

28
29 (4) ~~Provisions for contact between the child and other identified birth relatives,~~
30 ~~including siblings or half-siblings of the child;~~

31
32 (5) ~~Provisions for contact between the adoptive parent or parents and a birth~~
33 ~~parent or parents;~~

34
35 (6) ~~Provisions for contact between the adoptive parent or parents and other~~
36 ~~identified birth relatives, including siblings or half-siblings of the child;~~

37
38 (7) ~~Provisions for the sharing of information about the child with a birth parent~~
39 ~~or parents;~~

40
41 (8) ~~Provisions for the sharing of information about the child with other identified~~
42 ~~birth relatives, including siblings or half-siblings of the child; and~~

Rule 5.451 of the California Rules of Court would be amended, effective January 1, 2024, to read:

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~~(9) — The terms of any contact after adoption agreement entered into under a petition filed under Family Code section 8714 must be limited to the sharing of information about the child unless the child has an existing relationship with the birth relative.~~

~~(e)~~(d) Child a party Costs and fees

The fee for filing *Request to: Enforce, Change, End Contact After Adoption Agreement* (form ADOPT-315) must not exceed the fee assessed for the filing of an adoption petition.

~~The child who is the subject of the adoption petition is a party to the agreement whether or not specified as such.~~

~~(1) — Written consent by a child 12 years of age or older to the terms of the agreement is required for enforcement of the agreement, unless the court finds by a preponderance of the evidence that the agreement is in the best interest of the child and waives the requirement of the child’s written consent.~~

~~(2) — If the child has been found by a juvenile court to be described by section 300 of the Welfare and Institutions Code, an attorney must be appointed to represent the child for purposes of participation in and consent to any contact after adoption agreement, regardless of the age of the child. If the child has been represented by an attorney in the dependency proceedings, that attorney must be appointed for the additional responsibilities of this rule. The attorney is required to represent the child only until the adoption is decreed and dependency terminated.~~

~~(f)~~ Form and provisions of the agreement

~~The agreement must be prepared and submitted on *Contact After Adoption Agreement* (form ADOPT-310) with appropriate attachments.~~

~~(g)~~ Report to the court

~~The department or agency participating as a party or joining in the petition for adoption must submit a report to the court. The report must include a criminal record check and descriptions of all social service referrals. If a contact after adoption agreement has been submitted, the report must include a summary of the agreement and a recommendation as to whether it is in the best interest of the child.~~

Rule 5.451 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **(h) — Enforcement of the agreement**

2
3 The court that grants the petition for adoption and approves the contact after
4 adoption agreement must retain jurisdiction over the agreement.

5
6 (1) — Any petition for enforcement of an agreement must be filed on *Request to:*
7 *Enforce, Change, End Contact After Adoption Agreement* (form ADOPT-
8 315). The form must not be accepted for filing unless completed in full, with
9 documentary evidence attached of participation in, or attempts to participate
10 in, mediation or other dispute resolution.

11
12 (2) — The court may make its determination on the petition without testimony or an
13 evidentiary hearing and may rely solely on documentary evidence or offers of
14 proof. The court may order compliance with the agreement only if:

15
16 (A) — There is sufficient evidence of good faith attempts to resolve the issues
17 through mediation or other dispute resolution; and

18
19 (B) — The court finds enforcement is in the best interest of the child.

20
21 (3) — The court must not order investigation or evaluation of the issues raised in the
22 petition unless the court finds by clear and convincing evidence that:

23
24 (A) — The best interest of the child may be protected or advanced only by
25 such inquiry; and

26
27 (B) — The inquiry will not disturb the stability of the child's home to the
28 child's detriment.

29
30 (4) — Monetary damages must not be ordered.

31
32 **(i) — Modification or termination of agreement**

33
34 The agreement may be modified or terminated by the court. Any petition for
35 modification or termination of an agreement must be filed on *Request to: Enforce,*
36 *Change, End Contact After Adoption Agreement* (form ADOPT-315). The form
37 must not be accepted for filing unless completed in full, with documentary
38 evidence attached of participation in, or attempts to participate in, mediation or
39 other appropriate dispute resolution.

40
41 (1) — The agreement may be terminated or modified only if:
42

Rule 5.451 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 (A) ~~All parties, including the child of 12 years or older, have signed the~~
2 ~~petition or have indicated on the *Answer to Request to: Enforce,*~~
3 ~~*Change, End Contact After Adoption Agreement* (form ADOPT-320)~~
4 ~~their consent or have executed a modified agreement filed with the~~
5 ~~petition; or~~

6
7 (B) ~~The court finds all of the following:~~

8
9 (i) ~~The termination or modification is necessary to serve the best~~
10 ~~interest of the child;~~

11
12 (ii) ~~There has been a substantial change of circumstances since the~~
13 ~~original agreement was approved; and~~

14
15 (iii) ~~The petitioner has participated in, or has attempted to participate~~
16 ~~in, mediation or appropriate dispute resolution.~~

17
18 (2) ~~The court may make its determination without testimony or evidentiary~~
19 ~~hearing and may rely solely on documentary evidence or offers of proof.~~

20
21 (3) ~~The court may order modification or termination without a hearing if all~~
22 ~~parties, including the child of 12 years or older, have signed the petition or~~
23 ~~have indicated on the *Answer to Request to: Enforce, Change, End Contact*~~
24 ~~*After Adoption Agreement* (form ADOPT-320) their consent or have executed~~
25 ~~a modified agreement filed with the petition.~~

26
27 (j) ~~Costs and fees~~

28
29 ~~The fee for filing a *Request to: Enforce, Change, End Contact After Adoption*~~
30 ~~*Agreement* (form ADOPT-315) must not exceed the fee assessed for the filing of an~~
31 ~~adoption petition. Costs and fees for mediation or other appropriate dispute~~
32 ~~resolution must be assumed by each party, with the exception of the child. All costs~~
33 ~~and fees of litigation, including any court-ordered investigation or evaluation, must~~
34 ~~be charged to the petitioner unless the court finds that a party other than the child~~
35 ~~has failed, without good cause, to comply with the approved agreement; all costs~~
36 ~~and fees must then be charged to that party.~~

37
38 (k) ~~Adoption final~~

39
40 ~~Once a decree of adoption has been entered, the court may not set aside the decree,~~
41 ~~rescind any relinquishment, modify or set aside any order terminating parental~~
42 ~~rights, or modify or set aside any other orders related to the granting of the~~

Rule 5.451 of the California Rules of Court would be amended, effective January 1, 2024, to read:

- 1 ~~adoption petition, due to the failure of any party to comply with the terms of a~~
- 2 ~~postadoption contact agreement or any subsequent modifications to it.~~

DRAFT

General Information on Adoptions

Seek legal advice about your family's options before beginning any adoption. Every family is different and adoption may not be necessary for some families. Visit the [Self-Help Guide to the California Courts](#) adoption page to get copies of adoption forms, look for organizations that provide legal help with adoptions, and learn how to complete the adoption process on your own if you do not have a lawyer: www.courts.ca.gov/selfhelp-adoption.htm. You can also get copies of adoption forms at your local court clerk's office.

In California there are several kinds of adoption. This information sheet provides steps for the following types:

- Independent or agency adoptions in the United States
- Stepparent/domestic partner adoptions
- Intercountry adoptions
- Stepparent/domestic partner confirmation of parentage

Page 4 also has information about open adoptions and special requirements for the adoption of Indian (Native American) children.

Stepparent/Domestic Partner Adoptions

If you wish to adopt the child of your spouse or domestic partner, you may be eligible for a stepparent adoption. There are two types of stepparent adoptions. Answer these questions to figure out which process is right for you:

- Were you in a union with the child's legal parent **at the time the child was born** and are you **still in a union** with the legal parent? (A "union" means a marriage, a California registered domestic partnership, or a registered domestic partnership or civil union from another state that is legally equivalent to a marriage.)
- Did your **spouse or domestic partner give birth to the child** or was the child born through a **gestational surrogacy process** brought about by one or both of you?

If you answered no to **either** question, complete the items below for a **stepparent/domestic partner adoption**.

If you answered yes to **both** questions, complete the items below for a **stepparent adoption to confirm parentage**.

1 Fill out court forms

- | | | | |
|--------------------------|-------------|---|--|
| <input type="checkbox"/> | ADOPT-200 | <i>Adoption Request</i> | This tells the judge about you and the child you are adopting. |
| <input type="checkbox"/> | ADOPT-210 | <i>Adoption Agreement</i> | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| <input type="checkbox"/> | ADOPT-215 | <i>Adoption Order</i> | The judge signs this form if your adoption is approved. |
| <input type="checkbox"/> | ICWA-010(A) | <i>Indian Child Inquiry Attachment</i> | This lets the judge know that you have asked whether the child may be an Indian child. |
| <input type="checkbox"/> | ICWA-020 | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status. |

Additional Forms for Stepparent Adoption to Confirm Parentage

- | | | | |
|--------------------------|--|---|--|
| <input type="checkbox"/> | ADOPT-205 (or an equivalent declaration) | <i>Declaration Confirming Parentage in Stepparent Adoption</i> | This tells the court how you conceived your child and whether there are any other parents. Only use this if you are seeking a stepparent adoption to confirm parentage. See above for more information on this type of adoption. Both the birth parent and the adopting parent must complete a separate declaration. |
| -OR- | | | |
| <input type="checkbox"/> | ADOPT-206 (or an equivalent declaration) | <i>Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy</i> | This tells the court how you conceived your child and whether there are any other parents. Only use this if you are seeking a stepparent adoption to confirm parentage because the child was conceived through a gestational surrogate and was born outside of California, and the state where the child was born only allowed one intended parent to be named as a legal parent on the child's birth certificate. |



2 Take your forms to court

Take the completed forms to the court clerk in the county where you live. The court will charge a filing fee. Or take the forms to your lawyer or adoption agency, if you are using one. If there is no hearing, **form ADOPT-210** must be signed in front of the court clerk or a notary.

Note: In a **stepparent adoption to confirm parentage**, no home investigation or hearing is required unless ordered by the court for good cause. Sign form ADOPT-210 in front of a notary or the court clerk when you file the forms and a judge will review your request. If the paperwork is complete and you meet the requirements, the judge will sign the Adoption Order and the adoption is complete. If the judge orders an investigation and hearing, go to the next steps.

3 The social worker writes a report

In most adoptions, a social worker writes a report. This report gives important information to the judge about the adopting parents and the child. The social worker will ask you questions. You may have to fill out forms. You may be required to pay a fee for this report. The social worker will file the report with the court and send you a copy. When you get the report, ask the clerk for a date for your adoption hearing.

4 Go to court on the date of your hearing

Bring: The child you are adopting Form ADOPT-210 Form ADOPT-215
 A camera, if you want a photo of you and your child with the judge (*optional*) Friends/relatives (*optional*)

Independent or Agency Adoptions in the United States

If this is an independent or agency adoption in the United States, complete items 1 through 4 below.

Note: The rights of the existing parents usually terminate with adoptions. In an independent adoption, if the existing and adopting parents agree, the rights of the existing parent(s) do not have to be terminated. See Family Code section 8617(b).

1 Fill out court forms

- | | | |
|---------------------------------------|---|--|
| <input type="checkbox"/> ADOPT-200 | <i>Adoption Request</i> | This tells the judge about you and the child you are adopting. |
| <input type="checkbox"/> ADOPT-210 | <i>Adoption Agreement</i> | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| <input type="checkbox"/> ADOPT-215 | <i>Adoption Order</i> | The judge signs this form if your adoption is approved. |
| <input type="checkbox"/> ADOPT-230 | <i>Adoption Expenses</i> | This lets the judge know what payments were made that relate to the child you are adopting. |
| <input type="checkbox"/> ICWA-010(A)* | <i>Indian Child Inquiry Attachment</i> | This lets the judge know that the required questions have been asked to determine whether the child may be an Indian child. |
| <input type="checkbox"/> ICWA-020* | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status. |

*The agency or adoption service provider is responsible for getting these forms completed and making them part of the adoption file.

2 Take your forms to court

Take the completed forms to the court clerk in the county where you live. The court will charge a filing fee. Or take the forms to your lawyer or adoption agency, if you are using one.

3 The social worker writes a report

In most adoptions, a social worker writes a report. This report gives important information to the judge about the adopting parents and the child. The social worker will ask you questions. You may have to fill out forms. You may be required to pay a fee for this report. The social worker will file the report with the court and send you a copy. When you get the report, ask the clerk for a date for your adoption hearing.

4 Go to court on the date of your hearing

Bring: The child you are adopting Form ADOPT-210 Form ADOPT-215 Form ADOPT-230
 A camera, if you want a photo of you and your child with the judge (*optional*) Friends/relatives (*optional*)



Intercountry Adoptions

If this is an intercountry (international) adoption, complete items 1 through 6 below.

Note: You must follow this process to adopt your child under California law, even if the adoption was previously finalized in a foreign country. If the child's adoption was finalized in a foreign country, you must file the *Adoption Request* within the earlier of 60 days of the child's entry to the United States, or the child's 16th birthday.

1 Fill out court forms

- | | | | |
|--------------------------|-------------|---|--|
| <input type="checkbox"/> | ADOPT-200 | <i>Adoption Request</i> | This tells the judge about you and the child you are adopting. |
| <input type="checkbox"/> | ADOPT-210 | <i>Adoption Agreement</i> | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| <input type="checkbox"/> | ADOPT-215 | <i>Adoption Order</i> | The judge signs this form if your adoption is approved. |
| <input type="checkbox"/> | ADOPT-230 | <i>Adoption Expenses</i> | This lets the judge know what payments were made that relate to the child you are adopting. |
| <input type="checkbox"/> | ICWA-010(A) | <i>Indian Child Inquiry Attachment</i> | This lets the judge know that you have asked whether the child may be an Indian child. |
| <input type="checkbox"/> | ICWA-020 | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status. |

2 Postadoption or postplacement visits and reports

If the child's adoption was finalized in a foreign country, there will be at least one postadoption visit provided by the international adoption agency. The report of this visit must be submitted to the court as described below. If the child was born in a foreign country and placed with a California family for adoption in this state, the adoption agency must provide postplacement supervision with up to four visits. These reports are also provided to the court.

3 Attach documentation

If the child's adoption was finalized in a foreign country, you must attach the following documents to your *Adoption Request*:

- A certified or otherwise official copy of the foreign decree, order, or certification of adoption that reflects finalization of the adoption in the foreign country;
- A certified or otherwise official copy of the child's foreign birth certificate;
- A certified translation of all required documents that are not written in English;
- Proof that the child was granted lawful entry into the United States as an immediate relative of the adoptive parent or parents;
- A report from at least one postplacement home visit by an intercountry adoption agency or a contractor of that agency licensed to provide intercountry adoption services in the state of California; and
- A copy of the home study report previously completed for the international finalized adoption by an adoption agency authorized to provide intercountry adoption services, in accordance with Family Code section 8900.

4 Take your forms to court

Take the completed forms and any required documents to the court clerk in the county where you live. The court will charge a filing fee. Or take the forms to your lawyer or adoption agency, if you are using one.

5 Provide a copy of the forms and documents

If the child's adoption was finalized in a foreign country, provide a copy of the forms and documentation you filed with the court to any adoption agency that provided services to you for your international adoption.

6 Go to court on the date of your hearing

Bring: The child you are adopting Form ADOPT-210 Form ADOPT-215 Form ADOPT-230
 A camera, if you want a photo of you and your child with the judge (*optional*) Friends/relatives (*optional*)



Inquiry and Notice Under the Indian Child Welfare Act

- The child and other people in the **child's** life must be asked specific questions in order to determine whether the child may be an Indian child. The *Indian Child Inquiry Attachment* (form [ICWA-010\(A\)](#)) should be attached to the *Adoption Request*. In agency adoptions, it is the responsibility of the agency to ensure that this inquiry is conducted and that the form is made part of the adoption file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible. For more information about the duty of inquiry, see form [ICWA-005-INFO](#).
- A completed version of *Parental Notification of Indian Status* (form [ICWA-020](#)) for each birth parent should be attached to the *Adoption Request*, OR it should be shown that a good faith attempt was made to provide the form to each birth parent, the Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court. In agency adoptions, it is the responsibility of the agency to ensure that this form is provided to the birth parents and made part of the adoption file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.
- If there is **reason to believe** that the child is or may be an Indian child, additional inquiry is required. For more information about the duty of inquiry, see form [ICWA-005-INFO](#).
- If, after additional inquiry, there is **reason to know** that the child is an Indian child, notice must be provided of the adoption request to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form [ICWA-030](#)). This form must be served by registered or certified mail, with return receipt requested.
- If it is determined that the child **is an Indian child** or this is a tribal customary adoption, see Adoption of an Indian Child, below.

Adoption of an Indian Child

If you are adopting an Indian child, fill out and bring to court the following additional forms:

- Adoption of Indian Child* (form ADOPT-220); and
- Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225).

If this is a tribal customary adoption, a copy of the tribal customary adoption order must be attached to the petition and the order.

“Open” Adoption

If you want your child to have contact with their birth family, use *Contact After Adoption Agreement* (form [ADOPT-310](#)) to describe the kind of contact the birth family will have with your child. Fill out this form and bring it to your hearing.

ADOPT-200 Adoption Request

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

Clerk stamps date here when form is filed.

DRAFT 3.16.2023
NOT APPROVED BY
THE JUDICIAL
COUNCIL

1 Adopting parent(s)

a. Name: _____

b. Name: _____

Relationship to child: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

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

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

2 County of filing

This *Adoption Request* is filed in this court because (check all that apply):

- The adopting parent or parents live in this county;
- The child was born in or the child now lives in this county;
- An office of the agency that placed the child or is filing the request for adoption is located in this county;
- An office of the department or public adoption agency that is investigating the request is located in this county;
- The placing birth parent or parents lived in this county when the adoptive placement agreement, consent, or relinquishment was signed;
- The placing birth parent or parents lived in this county when the request was filed;
- The child was freed for adoption in this county.

(Note: If the child is a dependent of the court, the *Adoption Request* must be filed in the county where the child was freed for adoption or the county where the adopting parent or parents reside. See Family Code section 8714.)

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

Hearing Date

Hearing is set for:

Date: _____

Time: _____

Dept.: _____ Room: _____

Name and address of court if different from above:

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

3 Type of adoption

Check one of the following:

Agency (name): _____ Relative Nonrelative

Tribal customary adoption (attach tribal customary adoption order)

Independent: Relative Nonrelative Additional Parent(s)

Intercountry (name of agency): _____

Stepparent adoption

Stepparent adoption to confirm parentage. See form [ADOPT-050-INFO](#) to determine whether you are eligible for the stepparent adoption to confirm parentage process.

Joinder:

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

Joinder will be filed.



Your name: _____

4 Information about the child

- a. The child's new name will be: _____
- b. Sex: Female Male Nonbinary
- c. Date of birth: _____ Age: _____
- d. Child's address (if different from address of adopting parent or parents):
 Street: _____ City: _____ State: _____ Zip: _____
- e. Place of birth (if known): City: _____ State: _____ Country: _____
- f. If the child is 12 or older, does the child agree to the adoption? Yes No
- g. Date child was placed in the physical care of the adopting parents: _____
- h. The child was conceived by assisted reproduction in compliance with Family Code section 7613.
- i. The child is a dependent of the court. Juvenile Case No. _____ County: _____

5 Child's name before adoption (only for independent, intercountry, stepparent, or tribal customary adoption)

Child's name before adoption: _____

6 Birth parents

Names of birth parents, if known: _____

7 Legal guardianDoes the child have a legal guardian? Yes No (If yes, attach *Letters of Guardianship* and fill out below.)

- a. Date guardianship ordered: _____ c. Case number: _____
- b. County: _____

8 Inquiry and notice under the Indian Child Welfare Act

- a. The inquiry required under law to determine whether the child may be an Indian child has been made, and a completed *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
 Note: In agency adoptions, it is the responsibility of the agency to ensure that this inquiry is conducted and the form is made part of the file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.
- b. A completed version of *Parental Notification of Indian Status* (form ICWA-020) is attached OR a good faith attempt has been made to provide the form to the parents, Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court.
 Note: In agency adoptions, it is the responsibility of the agency to ensure that these forms are made part of the file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.
- c. There is **reason to know** that this child is an Indian child. Notice of the adoption request will be provided to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030).

9 Adoption of an Indian child

- a. This is an adoption of an Indian child. The adopting parents have filled out and attached *Adoption of Indian Child* (form ADOPT-220) and will bring *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225) to the hearing.
- b. This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption.



Your name: _____

10 Agency adoption questions

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

11 Independent adoption questions

- a. A copy of the Independent Adoptive Placement Agreement from the California Department of Social Services is attached. (This is required in most independent adoptions; see Family Code section 8802.)
- b. All persons with parental rights agree to the adoption and have signed the Independent Adoptive Placement Agreement or consent on the appropriate California Department of Social Services form. Yes No
(If no, list the name and relationship to child of each person who has not signed the agreement form):
- c. I/We will file promptly with the department or delegated county adoption agency the information required by the department in the investigation of the proposed adoption.
- d. This is an independent adoption involving additional parent(s):
 All persons with existing parental rights agree to this adoption and will keep those parental rights.
 An agreement waiving termination of parental rights, signed by both the existing parent(s) and the adopting parent(s) is attached.

12 Stepparent adoption and confirmation of parentage questions

- a. The birth parent (name): _____ has signed a consent will sign a consent.
- b. The birth parent (name): _____ has signed a consent will sign a consent.
- c. The adopting parent married or entered into a registered domestic partnership with the legal parent on (date): _____
(For court use only. This does not affect social worker's recommendation. There is no waiting period.)
- d. I am seeking a stepparent adoption to confirm my parentage. At the time the child was born, I was married to or in a state-registered domestic partnership with the parent who gave birth or whose parentage was established through a gestational surrogacy process, and we remain in that union. See attached:
 Form ADOPT-205, Declaration Confirming Parentage in Stepparent Adoption
 Form ADOPT-206, Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy
 Declaration describing the circumstances of the child's conception.
- e. The investigation or written report will be completed as follows (choose one):
 I will choose someone to do an investigation or written report and will pay them directly. I understand that this person must be a licensed clinical social worker, a licensed marriage and family therapist, or work for a licensed private adoption agency.
 I would like the court to choose someone to do an investigation. I understand that the court can charge me money for this investigation.
 This is an adoption to confirm parentage. Investigation not required unless ordered by court for good cause.
- f. This is a stepparent adoption involving an additional parent:
 All persons with existing parental rights agree to this adoption and will keep those parental rights.
 An agreement waiving termination of parental rights, signed by both the existing parent(s) and the adopting parent(s) is attached.



Your name: _____

13 Intercountry adoption questions

- a. This adoption may be subject to the Hague Adoption Convention (*form [ADOPT-216](#) must be filed with this request*).
- b. This is an adoption conducted under the requirements of the Hague Adoption Convention and the child has already moved with the adopting parent(s) to another Hague Convention member country or will be moving at the conclusion of this adoption.
Child will be moving or has moved to (name of country): _____
Adopting parent(s): seek(s) a California adoption will be petitioning for a Hague Adoption Certificate
 will be seeking a Hague Custody Declaration.
- c. This is an intercountry adoption that was finalized in another country before the child entered the United States with the adopting parent(s).
Date the child entered the United States: _____
See form [ADOPT-050-INFO](#) for a list of documents to attach to this *Adoption Request*.

14 Contact after adoption

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

15 Consent for adoption

Complete all sections that apply to your adoption:

- a. The consent of the birth parent is not necessary because (*check the applicable reasons under [Family Code section 8606](#)*):
- (1) The parent has been judicially deprived of the custody and control of the child.
 - (2) The parent has voluntarily surrendered the right to custody and control of the child in a judicial proceeding in another jurisdiction, under a law of that jurisdiction providing for the surrender.
 - (3) The parent has deserted the child without providing information to identify the child.
 - (4) The parent has relinquished the child under Family Code section 8700.
 - (5) The parent has relinquished the child for adoption to a licensed or authorized child-placing agency in another jurisdiction.
- b. The child has a presumed parent under Family Code section 7611. The consent of the presumed parent is not required because:
- (1) The presumed parent did not become a presumed parent before the mother's relinquishment or consent became irrevocable or the mother's parental rights were terminated. ([Family Code section 8604\(a\)](#).)
 - (2) The presumed parent signed a Waiver of the Right to Further Notice of Adoption Proceedings pursuant to Family Code section 7660.5.
- c. Termination of parental rights of an alleged father is not required because:
- (1) The relationship to the child was previously terminated or determined not to exist by a court.
 - (2) The alleged father was served as prescribed in Family Code section 7666 with a written notice of alleged parentage and the proposed adoption, and has failed to bring an action pursuant to Family Code section 7630(c) within 30 days of service of the notice or the birth of the child, whichever is later. (*Attach proof of notice to this Adoption Request.*)
 - (3) The alleged father has executed a written form to waive notice, deny parentage, relinquish the child for adoption, or consent to the adoption of the child.



Case Number: _____

Your name: _____

15 d. A court ended the parental rights of:
 Name: _____ Relationship to child: _____ on (date): _____
 Name: _____ Relationship to child: _____ on (date): _____
 (Enter the date of the court order ending parental rights and attach a copy of the order.)

e. The child is the subject of a tribal customary adoption order under Welfare and Institutions Code section 366.24, which has modified the parental rights of (attach a copy of the order):
 Name: _____ Relationship to child: _____ on (date): _____
 Name: _____ Relationship to child: _____ on (date): _____
 Name: _____ Relationship to child: _____ on (date): _____

f. I/We will ask the court to end the parental rights of (attach copy of Petition to Terminate Parental Rights or Application for Freedom From Parental Custody, if filed):
 Name: _____ Relationship to child: _____
 Name: _____ Relationship to child: _____

g. Adopting parent has custody of the child by court order or by agreement with the other parent, and each of the following persons with parental rights has not contacted the child and has not paid for the child’s care, support, and education for one year or more when able to do so. (Family Code section 8604(b).)
 Name: _____ Relationship to child: _____
 Name: _____ Relationship to child: _____
 Name: _____ Relationship to child: _____

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

i. Each of the following persons with parental rights has died:
 Name: _____ Relationship to child: _____
 Name: _____ Relationship to child: _____

16 **Suitability for adoption**

Each adopting parent:

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



Case Number: _____

Your name: _____

17 Requests to court

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

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

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

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

18 If a lawyer is representing you in this case, the lawyer must sign here:

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

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

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

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

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

ADOPT-215 Adoption Order

Clerk stamps date here when form is filed.

DRAFT 3.16.2023
NOT APPROVED BY
THE JUDICIAL
COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Adopting parent(s)

a. Name: _____

b. Name: _____

Relationship to child: _____

Street address: _____

City: _____ State: _____ Zip: _____

Daytime telephone number: _____

Lawyer (if any) (name, address, telephone number, email address, and State Bar number): _____

2 Information about the child

Name before adoption: _____

If adoption is under Family Code section 8714.5, the child's name before adoption only appears on the order if requested by the adopting relative, or by the child being adopted if 12 years of age or older.

Name after adoption: _____

Date of birth: _____ Age: _____

Place of birth (if known): _____

City: _____ State: _____ Country: _____

3 Name of adoption agency (if any): _____

4 Hearing details

Hearing date: _____ Dept.: _____ Div.: _____ Rm.: _____

Judicial officer: _____ Clerk's office telephone number: _____

People present at the hearing:

Adopting parent(s) Lawyer for adopting parent(s)

Child Child's lawyer

Parent keeping parental rights: _____

Other people present (list each name and relationship to child):

a. _____

b. _____

Check here if there are more names. Attach a sheet of paper, write "ADOPT-215, Item 4" at the top, and list the additional names and each person's relationship to child. You may use form MC-025, Attachment.

The hearing is waived pursuant to Family Code section 9000.5 (Check this box only if this is an adoption confirming parentage of a parent who was married to or in a state-registered domestic partnership, including a registered domestic partnership or civil union from another jurisdiction, with the legal parent at the time the child was born.)

Judge will fill out section below.

5 The judge finds that the child (check all that apply):

a. Is 12 or older and agrees to the adoption

b. Is under 12

c. Is not required to consent because this is a tribal customary adoption.



Your name: _____

- 6 The judge has reviewed the report and other documents and evidence and finds that each adopting parent:
 - a. Is at least 10 years older than the child or meets the criteria in Family Code section 8601(b);
 - b. Will treat the child as their own;
 - c. Will support and care for the child;
 - d. Has a suitable home for the child; and
 - e. Agrees to adopt the child.
- 7 This case is an adoption by a relative petitioned under Family Code section 8714.5.
 - The adopting relative The child, who is 12 or older, has requested that the child’s name before adoption be listed on this order. (Family Code section 8714.5(g).) The child’s name before adoption was: First name: _____ Middle name: _____ Last name: _____
- 8 The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act or that there is good cause to give preference to these adopting parents. The clerk will fill out 13 below.
- 9 The judge approves the Contact After Adoption Agreement (ADOPT-310)
 - As submitted As amended on ADOPT-310
- 10 This is a tribal customary adoption. The tribal customary adoption order of the _____ tribe dated _____ containing _____ pages and attached hereto is fully incorporated into this order of adoption.
- 11 This is an adoption under the Hague Adoption Convention. Verification of Compliance with Hague Adoption Convention Attachment (form ADOPT-216) is attached and fully incorporated into this order.
- 12 This is an adoption involving an additional parent or parents. All persons with existing parental rights agreed to this adoption and will maintain their existing parental rights. An agreement waiving termination of parental rights, signed by both the existing parent(s) and the adopting parent(s), was filed with the court.
- 13 The judge believes the adoption is in the child’s best interest and orders this adoption. The child’s name after adoption will be: First name: _____ Middle name: _____ Last name: _____
The adopting parent or parents and the child are now parent and child under the law, with all the rights and duties of the parent-child relationship or, in the case of a tribal customary adoption, all the rights and duties set out in the tribal customary adoption order and Welfare and Institutions Code section 366.24.
 The judge believes it will serve public policy and the best interest of the child to grant the request of the adopting parent or parents for the court to make this order effective as of (date): _____.

Date: _____
(Date of Signature)

Judge (or Judicial Officer)

Clerk will fill out section below.

14 Clerk’s Certificate of Mailing

For the adoption of an Indian child, the clerk certifies:

I am not a party to this adoption. I placed a filed copy of:

- Adoption Request (form ADOPT-200) Adoption of Indian Child (form ADOPT-220)
- Adoption Order (form ADOPT-215) Contact After Adoption Agreement (form ADOPT-310)

in a sealed envelope, marked “Confidential” and addressed to:

Chief, Division of Social Services
Bureau of Indian Affairs
1849 C Street, NW
Mail Stop 310-SIB
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The envelope was mailed by U.S. mail, with full postage, from:

Place: _____ on (date): _____

Date: _____ Clerk, by: _____, Deputy

ADOPT-310

Contact After Adoption Agreement

Original Change

Clerk stamps date here when form is filed.

DRAFT 3.16.2023
NOT APPROVED BY
THE JUDICIAL
COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Your name(s):
 a. _____
 b. _____
 Relationship to child: _____
 Your address (skip this if you have a lawyer)
 Street: _____
 City: _____ State: _____ Zip: _____
 Your phone number: _____
 Your lawyer (if you have one) (name, address, phone number, and State Bar number):

2 Information about the child
 a. Child's name (after adoption): _____
 b. Date of birth: _____ Age: _____
 c. Is the child a dependent of Juvenile Court? No Yes
 If yes, list juvenile court and juvenile case number:
 County: _____ Case number: _____
 d. If the child has a lawyer, fill out below. If item 2c is yes, child must have a lawyer (Family Code section 8616.5(d)).
 Name of child's lawyer: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone number: _____ State Bar number: _____

3 The people below agree with the requesting party/parties in **1** about contact with the child after adoption. If the agreement is confidential, write "Confidential" instead of the person's name.
 If you need more space, attach a sheet of paper. Write "ADOPT-310, Item 3—Other Relatives" at the top.

Type of Contact (check all that apply):						
	Visits	Phone	Email	Letter	Share Info	Other*
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name	Relationship to Child
a.	
b.	
c.	
d.	
e.	
f.	
g.	

*Explain type of contact on a sheet of paper. Write "ADOPT-310, Item 3—Other Types of Contact" at the top.

Number of pages attached: _____



Case Number: _____

Your name: _____

- 4 If you have a signed, written agreement about Contact After Adoption, attach a copy.
Number of pages attached: _____
- 5 The parties have discussed the reasons for continued contact between the child and the specified relatives or other parties, considering the best interests of the child.

Notice

1. After the judge signs the Adoption Order for this child, the adoption is final. It can never be canceled or changed, even if anyone who signed this agreement:

- Does not follow the agreement, and/or
- Files form ADOPT-315 (to change, end, or enforce this agreement).

2. Before this agreement can be changed by the court, all of the people who signed it have to try to fix any problems with it through a dispute resolution program, like mediation.

- 6 Everyone involved in this agreement must sign below (including the child, if 12 or older, and the child’s attorney).

Date: _____		▶	
	<i>Type or print your name and relationship to child</i>		<i>Sign your name</i>
Date: _____		▶	
	<i>Type or print your name and relationship to child</i>		<i>Sign your name</i>
Date: _____		▶	
	<i>Type or print your name and relationship to child</i>		<i>Sign your name</i>
Date: _____		▶	
	<i>Type or print your name and relationship to child</i>		<i>Sign your name</i>
Date: _____		▶	
	<i>Type or print your name and relationship to child</i>		<i>Sign your name</i>

If more relatives need to sign, attach a sheet of paper. Write “ADOPT-310, Item 6—Signatures of Other Relatives,” at the top.

Number of pages attached: _____

Date: _____

Judge (or Judicial Officer)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Juvenile Law: Psychiatric Residential Treatment Facility Voluntary Admission

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

Adopt Cal. Rules of Court, rule 5.519; adopt forms JV-172, JV-173, JV-174, JV-175, JV-176, and JV-177

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Kerry Doyle, 415-865-8791, kerry.doyle@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: Item 1. As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

Item 1o. AB 2317 (Ramos) Requires the Department of Health Care Services (DHCS) to license psychiatric residential treatment facilities (PRTFs) serving those under the age of 21 for the provision of the psychiatric mental health services benefit under the Medicaid program. Provides that youth under the jurisdiction of a juvenile court must have court oversight and review of a placement in a PRTF.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

INVITATION TO COMMENT

SPR23-19

Title

Juvenile Law: Psychiatric Residential
Treatment Facility Voluntary Admission

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 5.519; adopt
forms JV-172, JV-173, JV-174, JV-175, JV-
176, and JV-177

Proposed Effective Date

January 1, 2024

Contact

Kerry Doyle, 415-865-8791
kerry.doyle@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 recommends adopting one rule of the California Rules of Court and adopting six forms to conform to recent statutory changes enacted by Assembly Bill 2317 (Ramos; Stats. 2022, ch. 589) regarding court oversight of the voluntary admission of a child, nonminor, or nonminor dependent to a psychiatric residential treatment facility.

Background

Assembly Bill 2317 was a comprehensive bill that made findings and declarations relating to the urgent need to provide alternatives to hospitals for children and youth experiencing severe mental health crises, and the need for psychiatric residential treatment facilities (PRTFs).¹ It defines a PRTF as a health facility licensed by the Department of Health Care Services (DHCS) and operated by a public agency or private nonprofit organization that provides inpatient psychiatric services to individuals under 21 years of age in a nonhospital setting.² The bill also

¹ Assem. Bill 2317, § 1.

² Health & Saf. Code, § 1250.10(a)(1).

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.

requires DHCS to set a statewide bed limit for PRTFs,³ and requires a PRTF to provide DHCS with specific data.⁴

The bill adds sections 361.23 and 727.13 to the Welfare and Institutions Code⁵ and establishes ex parte court procedures for when a parent, guardian, or Indian custodian seeks to admit their child who is under the jurisdiction of the juvenile court to a PRTF, for when a nonminor⁶ or nonminor dependent under the jurisdiction of the juvenile court has admitted themselves to a PRTF, and for when a child under the jurisdiction of the juvenile court seeks to voluntarily admit themselves to a PRTF.⁷

The law now requires the court—for a child, nonminor, or nonminor dependent admitted to a PRTF—to hold a hearing 60 days after the admission, and every 30 days thereafter, to review the placement in the facility based on the medical necessity of that placement.⁸ If the court finds at the review hearing that the parent, child, or nonminor dependent continues to consent; that the child or nonminor dependent continues to suffer from a mental disorder that may be reasonably expected to be cured or ameliorated by treatment at the PRTF; and that there is no other available less restrictive setting to serve the patient’s medical need, the bill allows the court to authorize the continued admission at the PRTF.⁹ There is a rebuttable presumption that, if the child or nonminor dependent has been at a PRTF for over 30 days, the facility is not the least restrictive alternative available to meet the patient’s needs and best interests.¹⁰

If the court finds at the hearing that the parent, child, or nonminor dependent no longer consents; that the child or nonminor dependent no longer suffers from a mental disorder that may reasonably be expected to be cured or ameliorated by treatment at the PRTF; or that there is another available less restrictive setting to serve the patient’s medical needs, the bill requires the social worker to immediately work with the PRTF to arrange for the child’s or nonminor dependent’s discharge to a different setting with the appropriate services and supports.¹¹

Whenever a child or nonminor dependent is discharged due to revocation of consent to admission, within two days of learning of the revocation of consent, the bill requires a county

³ Health & Saf. Code, § 1250.10(a)(4).

⁴ Health & Saf. Code, § 1250.10(d). The data includes the total number of patients admitted, certain demographics and treatment information about the patients served, durations of stay for each patient, and certain information about the use of restraints.

⁵ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated. All further rule references are to the California Rules of Court, unless otherwise indicated.

⁶ §§ 303(a), 361.23(k), 727.13(k); rule 5.501(25).

⁷ §§ 361.23(b), 727.13(b).

⁸ §§ 361.23(f)(1)(A), 727.13(f)(1)(A).

⁹ §§ 361.23(f)(1)(D), 727.13(f)(1)(D).

¹⁰ *Id.*

¹¹ §§ 361.23(f)(1)(E), 727.13(f)(1)(E).

child welfare agency or county probation office, as appropriate, to file a petition with the court requesting an order vacating the court's order authorizing the child or nonminor dependent's admission to the PRTF.¹² This provision does not require a court order for the discharge of a child when consent has been withdrawn.¹³

When a child or nonminor dependent has been admitted to a PRTF pursuant to the consent of a conservator, the court must review the placement at any six-month review hearing and may make any orders necessary to ensure that the child or nonminor dependent is discharged in a timely manner and with all the services and supports necessary for a successful transition to a less restrictive setting. The court may direct the social worker or probation officer to work with the facility and, where appropriate, with the conservator, to ensure the child or nonminor dependent is receiving all necessary child welfare services and to develop the aftercare plan.¹⁴

The Proposal

To conform to the statutory changes enacted by Assembly Bill 2317 regarding court oversight of the voluntary admission of a child, nonminor, or nonminor dependent to a PRTF, effective January 1, 2024, rule 5.619 of the California Rules of Court would be adopted to clarify and establish noticing requirements, and to require the use of the forms discussed below.

Effective January 1, 2024, the forms listed below would be adopted to ensure court oversight of voluntary admission to a psychiatric residential facility for children, nonminors, and nonminor dependents under the jurisdiction of the juvenile court.

- *Ex Parte Application for Voluntary Admission to a Psychiatric Residential Treatment Facility* (form JV-172) would be adopted for mandatory use by the social worker or probation officer to request a court order authorizing the voluntary admission to a PRTF.
- *Proof of Notice of Hearing on Application for Voluntary Admission to a Psychiatric Residential Treatment Facility* (form JV-173) would be adopted for mandatory use by the social worker or probation officer to inform the court of the parties who received notice of the hearing on the application for voluntary admission.
- *Order on Application for Voluntary Admission to a Psychiatric Residential Treatment Facility* (form JV-174) would be adopted for mandatory use by the court to make orders regarding the application for voluntary admission.
- *Review of Voluntary Admission of a Child to a Psychiatric Residential Treatment Facility* (form JV-175) would be adopted for mandatory use to record the court's findings and orders regarding a child at the hearings held 60 days after the admission, and every 30 days

¹² §§ 361.23(g), 727.13(g)(2).

¹³ *Id.*

¹⁴ §§ 361.23(h), 727.13(h).

thereafter, to review the placement in the facility based on the medical necessity of that placement.

- *Review of Voluntary Admission of a Nonminor Dependent to a Psychiatric Residential Treatment Facility* (form JV-176) would be adopted for mandatory use to record the court's findings and orders regarding a nonminor dependent at the hearings held 60 days after the admission, and every 30 days thereafter, to review the placement in the facility based on the medical necessity of that placement.
- *Admission to a Psychiatric Residential Treatment Facility by Consent of a Conservator—Additional Findings and Orders* (form JV-177) would be adopted for mandatory use to attach to a local minute order or Judicial Council findings and orders form¹⁵ to document the court's findings and orders regarding the placement at any six-month review hearing when the child has been placed at the facility by the consent of a conservator.

Alternatives Considered

The committee considered proposing the adoption of the forms only, but since the new statutes are not clear on the requirements for notice, the committee is proposing that a rule of court be adopted to provide clarity and guidance regarding hearing notice requirements, and to require the use of the Judicial Council forms proposed by the committee. The committee is aware that the rule repeats statutory requirements, but decided to include them so that the rule was easier to read and follow.

Fiscal and Operational Impacts

This proposal contains new procedures, hearings, and notice requirements, but these are now required by statute.

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly approved forms. Courts will also incur costs to incorporate the forms into the paper or electronic processes.

¹⁵ Forms JV-425, JV-426, JV-430, JV-435, JV-440, JV-445, JV-446, and JV-462.

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 [or other proponent] also seeks comments from *courts* on the following cost and implementation matters:

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

Attachments and Links

1. Cal. Rules of Court, rule 5.619, at pages 6–7
2. Forms JV-172, JV-173, JV-174, JV-175, JV-176, and JV-177, at pages 8–19
3. Link A: Assem. Bill 2317,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2317

Rule 5.619 of the California Rules of Court would be adopted, effective January 1, 2024, to read:

1 **Rule 5.619. Voluntary placement in psychiatric residential treatment facility (Welf.**
2 **& Inst. Code, §§ 361.23, 727.13)**

3
4 **(a) Applicability**

5
6 This rule applies to the court’s review under section 361.23 or 727.13 when a
7 voluntary admission into a psychiatric residential treatment facility is sought for a
8 child, nonminor, or nonminor dependent.

9
10 **(b) Notice and setting of hearing on application**

- 11
12 (1) The social worker or probation officer must use *Ex Parte Application for*
13 *Voluntary Admission to a Psychiatric Residential Treatment Facility* (form
14 JV-172) to request a hearing.
- 15
16 (2) After receiving a request for a hearing, the court must set a hearing under
17 section 361.23 or 727.13 for the next judicial day. The court must
18 immediately notify the social worker or probation officer and the child,
19 nonminor, or nonminor dependent’s counsel of the date, time, and location of
20 the hearing.
- 21
22 (3) The social worker or probation officer must orally notify the parties identified
23 in 361.23(b)(3), 361.23(e)(3), 727.13(a)(3), or 727.13(e)(3) of the date, time,
24 and location of the hearing.
- 25
26 (4) The social worker or probation officer must complete and file *Proof of Notice*
27 *of Hearing on Application for Voluntary Admission to a Psychiatric*
28 *Residential Treatment Facility* (form JV-173).

29
30 **(c) Conduct of the hearing on the application**

- 31
32 (1) The court must consider all evidence required by sections 361.23(c)(1),
33 366.21(e)(1), 727.13(b)(1), or 727.13(e)(4), and all evidence relevant to the
34 court’s determinations required under section 361.23(d), 361.23(e)(5),
35 727.13(d), or 727.13(e)(5).
- 36
37 (2) The court must use *Order on Application for Voluntary Admission to a*
38 *Psychiatric Residential Treatment Facility* (form JV-174) to document its
39 findings and orders.
- 40
41 (3) If the court authorizes the admission of the child, nonminor, or nonminor
42 dependent, the court must set a hearing to review the placement in the facility
43 no later than 60 days following the admission.

1 **(d) Notice of hearing on review of placement**

2
3 At least 10 days before the hearing, the child welfare agency or probation
4 department must provide notice of the date, time, and location of the hearing to
5 review the placement to all parties identified in section 361.23(b)(3), 361.23(e)(3),
6 727.13(a)(3), or 727.13(e)(3).

7
8 **(e) Conduct of the hearing on the review of placement**

9
10 (1) The court must consider all evidence required by sections 361.23(f)(1)(C),
11 361.23(f)(2)(C), 727.13(f)(1)(C), or 727.13(f)(2)(C) and all evidence relevant
12 to the court's determinations required under section 361.23(d), 361.23(e)(5),
13 727.13(d), or 727.13(e)(5).

14
15 (2) The court must use *Review of Voluntary Admission of a Child to a*
16 *Psychiatric Residential Treatment Facility* (form JV-175) or *Review of*
17 *Voluntary Admission of a Nonminor Dependent to a Psychiatric Residential*
18 *Treatment Facility* (form JV-176) to document its findings and orders.

19
20 (3) If the court authorizes the continued admission of the child, nonminor, or
21 nonminor dependent, the court must set a review hearing on the child's
22 placement in the facility no later than 30 days from the date of the review
23 hearing.

24
25 (4) If the court does not authorize the continued admission of the child,
26 nonminor, or nonminor dependent, the court must set a hearing in no later
27 than 30 days to verify that the child, nonminor, or nonminor dependent has
28 been discharged.

29
30 **(f) Placement by consent of conservator**

31
32 (1) At any review hearing under section 364, 366.21, 366.22, 366.3, or 366.31, if
33 a child or nonminor dependent has been admitted to a psychiatric residential
34 treatment facility by the consent of a conservator, the court must review the
35 child's case plan. The court must make findings and orders as required by
36 section 361.23(h).

37
38 (2) The court must use *Admission to a Psychiatric Residential Treatment Facility*
39 *by Consent of a Conservator—Additional Findings and Orders* (form JV-
40 177) to document its findings and orders, and attach the form to the findings
41 and orders document used for the review hearing.

Ex Parte Application for Voluntary Admission to a Psychiatric Residential Treatment Facility

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
Judicial Council
JV-172.v9.031523.ja**

1 Child or nonminor dependent's social worker probation officer
a. Name: _____
b. Address: _____
c. Phone: _____

2 a. The child resides with parent guardian
 Indian custodian and that person wants to have the child admitted to a psychiatric residential treatment facility.
b. The child the nonminor dependent wants to make a voluntary admission to a psychiatric residential treatment facility under Welfare and Institutions Code section 6552.

3 The social worker or probation officer requests a court order authorizing the voluntary admission.

4 The child or nonminor dependent's mental disorder is (describe): _____

5 The proposed psychiatric residential treatment facility is (specify): _____

6 The mental disorder may reasonably be expected to be cured or ameliorated by the treatment offered by the facility because (describe): _____

7 a. The facility is the least restrictive setting for care and there are no other available hospitals, programs, or facilities that might better serve the child's medical needs and best interests because (describe): _____

b. The nonminor dependent believes admission to a less restrictive facility would not adequately address their mental disorder because (describe): _____

8 The child or nonminor dependent's case plan is attached to this form.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

Court fills in case number when form is filed.

Case Number:



9 a. The parent, guardian, or Indian custodian is seeking the child's admission to the facility. The basis of their belief that the child's admission to a psychiatric residential treatment facility is necessary is *(describe)*: _____

b. The child is seeking admission to the facility and the parent, guardian, or Indian custodian does does not agree with the child's request for admission.

10 a. The mental health services, including community-based mental health services, that were offered or provided to the child were *(describe)*: _____

b. The services in (a) were not sufficient because *(describe)*: _____

c. No community-based services were provided because *(describe)*: _____

11 The child was given a chance to confer privately with their attorney about the admission *(describe how)*: _____

12 a. All members of the child's Child and Family Team agree to the admission.

b. 1. The following members of the child's Child and Family Team objects to the admission *(specify)*: _____

2. The reason the member objects to the admission is *(describe)*: _____

Date: _____

Type or print your name



Signature

Proof of Notice of Hearing on Application for Voluntary Admission to a Psychiatric Residential Treatment Facility

Clerk stamps date here when form is filed.

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JV-173.v7.031623.ja

The social worker or probation officer must provide notice of the hearing on the application for voluntary admission to a psychiatric residential treatment facility to all parties in the proceeding and their counsel of record, the child's tribe in the case of an Indian child, the child's court-appointed special advocate, if applicable, and any person designated as the child's educational or developmental representative.

The social worker or probation office must arrange for the child to be transported to the hearing.

Fill in court name and street address:
Superior Court of California, County of

① Notice of the hearing on the application for voluntary admission to a psychiatric residential treatment facility set for (date): _____ at (time): _____ in Department: _____ of the superior court at (address): _____

Fill in child's/nonminor's name and date of birth:
Child's/Nonminor's name:
Child's/Nonminor's date of birth:

Court fills in case number when form is filed.
Case Number:

was given to:

- a. Parent/legal guardian/Indian custodian (name): _____ Date notified: _____
 - (1) In person
 - (2) By phone at (specify): _____
- b. Parent/legal guardian/Indian custodian (name): _____ Date notified: _____
 - (1) In person
 - (2) By phone at (specify): _____
- c. Attorney for Parent/legal guardian/Indian custodian (name): _____ Date notified: _____
 - (1) In person
 - (2) By phone at (specify): _____
- d. Attorney for Parent/legal guardian/Indian custodian (name): _____ Date notified: _____
 - (1) In person
 - (2) By phone at (specify): _____
- e. Child or nonminor dependent (name): _____ Date notified: _____
 - (1) In person
 - (2) By phone at (specify): _____

- f. Attorney for child or nonminor dependent (*name*): _____
Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- g. The Indian child's tribe (*name*): _____ Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- h. Attorney for the Indian child's tribe (*name*): _____ Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- i. The child's court-appointed special advocate (*name*): _____
Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- j. The child's educational or developmental representative (*name*): _____
Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- k. Attorney for the child welfare agency (*name*): _____
Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- l. District Attorney (*name*): _____ Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
- m. Other (*name*): _____ Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
(3) Relationship to child (*specify*): _____
- n. Other (*name*): _____ Date notified: _____
(1) In person
(2) By phone at (*specify*): _____
(3) Relationship to child (*specify*): _____

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

Date: _____



Type or print your name

Sign your name

Order on Application for Voluntary Admission to a Psychiatric Residential Treatment Facility

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-174.v7.031523.ja**

- 1 a. Hearing date: _____ Time: _____ Dept.: _____
Room: _____
- b. Judicial officer: _____
- c. Parties and attorneys present:

Fill in court name and street address:

Superior Court of California, County of

- 2 The court has read and considered the following:
 - a. The report from the social worker probation officer filed on *(date)*: _____
 - b. CASA report dated: _____
 - c. Other *(specify)*: _____
 - d. Other *(specify)*: _____
 - e. Other *(specify)*: _____

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:
Child's/Nonminor's date of birth:

THE COURT FINDS AND ORDERS

- 3 a. Notice requirements were met. The people requiring notice in Welfare and Institutions Code section 361.23(b)(3) were notified as required by California Rules of Court, rule 5.619.
- b. Notice requirements were not met. The following people were not noticed as required by law:

Court fills in case number when form is filed.

Case Number:

- 4 The request for voluntary admission of a child to the psychiatric residential treatment facility identified in the placing agency's request is:
 - a. granted. The court finds by clear and convincing evidence all of the following:
 - (1) The child suffers from a mental disorder that may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility, or program in which the child wishes to be placed.
 - (2) The psychiatric residential treatment facility is the least restrictive setting needed to treat the child's mental disorder.
 - (3) There is no other available hospital, program, or facility that might better serve the child's medical needs and best interests, including community-based mental health services.
 - (4) The child has given knowing and intelligent consent to admission to the facility, and the consent was not made under fear of detention or initiation of conservatorship proceedings.
 - (5) The child, and where appropriate, the parent, legal guardian, or Indian custodian have been advised of the nature of inpatient psychiatric services, parent's rights, and their right to contact a patient rights advocate.



4 b. not granted.

5 The request for voluntary admission of a nonminor dependent to the residential psychiatric treatment facility identified in the placing agency's request is:

a. granted.

(1) The court finds that the nonminor or nonminor dependent has given knowing and intelligent consent. A court order is not needed to discharge the nonminor dependent if the nonminor dependent subsequently withdraws their consent.

(2) To ensure that the child welfare agency probation department promptly makes all necessary arrangements to ensure the nonminor dependent is discharged in a timely manner and with all services and supports in place as necessary for a successful transition into a less restrictive setting, the court orders the following (*specify*): _____

b. not granted.

(1) The nonminor dependent has not given knowing and intelligent consent. The social worker probation officer is ordered to inform the facility of this finding, direct the facility to discharge the nonminor dependent in accordance with the nonminor dependent's aftercare plan, and ensure that the aftercare plan is implemented to ensure integration with the nonminor dependent's family, school, and community upon discharge.

(a) A hearing to verify that the nonminor dependent has been discharged is scheduled on (*specify date no later than 30 days from today's hearing date*): _____ (*specify time*): _____ in dept. (*specify*): _____

6 The parent's legal guardian's Indian custodian's conduct may have contributed to the deterioration of the child's mental disorder. The child welfare agency must investigate whether the child may be safely returned to that person's custody when discharged from the facility and must take appropriate action including, but not limited to, taking the child into protective custody and filing a petition under section 342 or 387.

7 A review hearing on the child's placement in the facility based upon the medical necessity of that placement is scheduled on (*specify date that is no later than 60 days after the admission of the child or nonminor dependent to the psychiatric treatment facility*): _____ (*specify time*): _____ at in dept. (*specify*): _____

Judge's Signature

Date: _____

Judge or Judicial Officer

Review of Voluntary Admission of a Child to a Psychiatric Residential Treatment Facility

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-175.v9.031723.ja**

- 1 a. Hearing date: _____ Time: _____ Dept.: _____
Room: _____
- b. Judicial officer: _____
- c. Parties and attorneys present: _____

Fill in court name and street address:

Superior Court of California, County of

- 2 The court has read and considered the following:
 - a. The report from the social worker probation officer filed on *(date)*: _____
 - b. CASA report dated: _____
 - c. Other *(specify)*: _____
 - d. Other *(specify)*: _____
 - e. Other *(specify)*: _____

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

THE COURT FINDS AND ORDERS

- 3 a. Notice requirements were met. The people requiring notice in Welfare and Institutions Code section 361.23(b)(3) or 727.13(a)(3) were notified as required by law.
- b. Notice requirements were not met. The following people were not noticed as required by law:

Court fills in case number when form is filed.

Case Number:

- 4 The parent guardian Indian custodian
 does does not continue to consent to the voluntary admission to a residential psychiatric treatment facility.

- 5 a. The child continues to consent to the voluntary admission to a residential psychiatric treatment facility.
- b. The child does not continue to consent to the voluntary admission to a residential psychiatric treatment facility.
 - (1) The social worker probation officer must work immediately with the facility for discharge to a different setting with the appropriate and necessary supports in place.
 - (2) The court makes the following orders to ensure that the child welfare agency probation department makes all necessary arrangements for the child's discharge promptly and that all services and supports are in place for the child's successful transition to a different setting: _____



- b. (3) The social worker probation officer must work with the facility on the child's aftercare plans as appropriate based on the child's progress.
- (4) The child welfare agency probation department must file a section 388 section 778 petition within two court days of notice of the revocation of consent, requesting an order vacating the court's authorization of the child's admission to the facility.
- (5) A hearing to verify that the child has been discharged is (*specify date that is no later than 30 days from today*): _____ at (*specify time*): _____ in dept. (*specify*): _____

- 6 a. The child does continue to suffer from a mental disorder that may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility.
- b. The child does not continue to suffer from a mental disorder that may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility.
 - (1) The social worker probation officer must work immediately with the facility for discharge to a different setting with the appropriate and necessary supports in place.
 - (2) The court makes the following orders to ensure that the child welfare agency probation department makes all necessary arrangements for the child's discharge promptly and that all services and supports are in place for the child's successful transition to a different setting: _____

 - (3) The social worker probation officer must work with the facility on the child's aftercare plans as appropriate based on the child's progress.
 - (4) A hearing to verify that the child has been discharged is (*specify date that is no later than 30 days from today*): _____ at (*specify time*): _____ in dept. (*specify*): _____

- 7 a. There are no other available less restrictive hospital, program, facility, or community-based mental health services that might better serve the child's medical needs and best interests.
 - (1) The child has been at the facility for over 30 days. The court finds that the following facts overcome the presumption that the facility is not the least restrictive alternative to serve the child's medical needs and best interests: _____

- b. There are other available less restrictive hospital, program, facility, or community-based mental health services that might better serve the child's medical needs and best interests.
 - (1) The social worker probation officer must work immediately with the facility for discharge to a different setting with the appropriate and necessary supports in place.

7 b. (2) The court makes the following orders to ensure that the child welfare agency probation department makes all necessary arrangements for the child's discharge promptly and that all services and supports are in place for the child's successful transition to a different setting: _____

(3) The social worker probation officer must work with the facility on the child's aftercare plans as appropriate based on the child's progress.

(4) A hearing to verify that the child has been discharged is scheduled on (specify date that is no later than 30 days from today): _____ at (specify time): _____ in dept. (specify): _____

(5) A hearing to ensure that other services have been provided to the child is scheduled on (specify date that is no later than 60 days from the child's discharge): _____ at (specify time): _____ in dept. (specify): _____

8 The child continues to consent to admission, continues to suffer from a mental disorder that may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility, and there are no other available less restrictive hospital, program, facility, or community-based mental health services that might better serve the child's medical needs and best interests. The court authorizes the child's continued admission to the psychiatric residential treatment facility.

a. A review hearing on the child's placement in the facility based upon the medical necessity of that placement is scheduled on (specify date that is no later than 30 days from today): _____ (specify time): _____ in dept (specify): _____ at

9 The psychiatric residential treatment facility has failed to meet its legal obligation to provide services to the child.

a. The social worker probation officer must engage with the facility to ensure the child is receiving all necessary services.

b. The court has issued Notice of Hearing on Joinder—Juvenile (form JV-540).

Judge's Signature

Date: _____

Judge or Judicial Officer

**Review of Voluntary Admission of a
Nonminor Dependent to a
Psychiatric Residential Treatment
Facility**

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-176.v8.031623.ja**

- ① a. Hearing date: _____ Time: _____ Dept.: _____
Room: _____
- b. Judicial officer: _____
- c. Parties and attorneys present:

Fill in court name and street address:

Superior Court of California, County of

- ② The court has read and considered the following:
 - a. The report from the social worker probation officer
filed on *(date)*: _____
 - b. CASA report dated: _____
 - c. Other *(specify)*: _____
 - d. Other *(specify)*: _____
 - e. Other *(specify)*: _____

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

Court fills in case number when form is filed.

Case Number:

THE COURT FINDS AND ORDERS

- ③ a. Notice requirements were met. The people requiring notice in Welfare and Institutions Code section 361.23 (b)(3) were notified as required by California Rules of Court, rule 5.619.
- b. Notice requirements were not met. The following people were not noticed as required by:

- ④ a. The nonminor dependent continues to consent to the voluntary admission to a residential psychiatric treatment facility, and the evidence supports the nonminor dependent's need for care and treatment at the facility.
 - (1) The social worker probation officer must transmit this form to the nonminor dependent's interdisciplinary team.
 - (2) The social worker probation officer must work with the facility on the nonminor dependent's aftercare plan as appropriate based on the nonminor dependent's need to achieve independence.
 - (3) A hearing to review the nonminor dependent's placement in the facility based upon the medical necessity of that placement is scheduled for *(specify date that is no later than 30 days from today)*: _____
at *(specify time)*: _____ in dept. *(specify)*: _____



- 4 b. The nonminor dependent does not continue to consent to the voluntary admission to a residential psychiatric treatment facility.
- (1) The social worker probation officer must immediately notify the facility and immediately work with the nonminor dependent and the facility for discharge to a less restrictive setting with the appropriate and necessary services and supports in place.
- (2) The court makes the following orders to ensure that the child welfare agency probation department makes all necessary arrangements for the nonminor dependent's discharge promptly and that all services and supports are in place for the nonminor dependent's successful transition to a different setting: _____

- (3) The child welfare agency probation officer must file a section 388 section 778 petition within two court days of notice of the revocation of consent, requesting an order vacating the court's authorization of the nonminor dependent's admission to the facility.
- (4) A hearing to verify that the nonminor dependent has been discharged is scheduled on *(specify date that is no later than 30 days from today)*: _____ at *(specify time)*: _____ in dept. *(specify)*: _____
- (5) The nonminor dependent should receive treatment through another hospital, program, facility, or community-based mental health service. A hearing to ensure that the other services have been provided is scheduled on *(specify date that is no later than 60 days from discharge date)*: _____ at *(specify time)*: _____ in dept. *(specify)*: _____
- 5 The psychiatric residential treatment facility has failed to meet its legal obligation to provide services to the child.
- a. The social worker probation department must engage with the facility to ensure the child is receiving all necessary services.
- b. The court has issued *Notice of Hearing on Joinder—Juvenile* (form JV-540).

Judge's Signature

Date: _____

Judge or Judicial Officer

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/29/2023

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

Title of proposal: Juvenile Dependency Law: Counsel Collections Program Guidelines

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

Committee or other entity submitting the proposal:
 Family & Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Daniel Richardson, 415-865-7619, daniel.richardson@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): 11/02/2022

Project description from annual agenda: Item 10: Juvenile Dependency Law: Counsel Collections Program Guidelines

The Family and Juvenile Law Advisory Committee proposes changing the threshold income level for a presumptive inability to pay for counsel under the Juvenile Dependency Counsel Collections Program to match the civil fee waiver income threshold for automatic eligibility, which was recently updated. In 2012, the committee chose to use the amount for automatic income eligibility for a civil fee waiver in Government Code section 68632 (income of 125 percent of the federal poverty line) to establish the presumption of a parent's inability to pay for attorney's fees. With a recent amendment to section 68632 raising the figure to 200 percent of the federal poverty guideline, the committee proposes that the presumption of inability to pay also be adjusted for court-appointed dependency counsel in Appendix F to the California Rules of Court to that same amount.

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

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

Appendix F requires that amendments to the Guidelines take effect no sooner than 30 days after the council meeting at which they are adopted (Cal. Rules of Court, App. F, item 2). However, rather than the regular Spring cycle effective date of January 1st, the committee is proposing an effective date of April 1, 2024 to coincide with technical changes conforming the form to the 2024 federal poverty update. Prior to the proposal's consideration by the Family and Juvenile Law advisory committee and after gathering additional input on the fiscal impact of the proposed change, the proposal was reviewed by the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee's Joint Rules Subcommittee on January 19, 2023. The Joint Rules Subcommittee supported the proposed change to Appendix F.

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

SPR23-20

Title	Action Requested
Juvenile Law: Counsel Collections Program Guidelines	Review and submit comments by May 12, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, Appendix F	April 1, 2024
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulse, Cochair Hon. Amy M. Pellman, Cochair	Daniel Richardson, 415-865-7619 daniel.richardson@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending the *Guidelines for the Juvenile Dependency Counsel Collections Program (Guidelines)*, Appendix F of the California Rules of Court, to incorporate by reference Government Code section 68632(b)(1), which addresses eligibility for a court fee waiver, to determine the income level at or below which a responsible person is presumed unable to pay the cost of appointed counsel in a juvenile dependency proceeding. The proposed change would maintain the Judicial Council policy adopted with the original *Guidelines* in 2012 linking the presumption of a person’s inability to pay the cost of dependency counsel to the income amount in Government Code section 68632(b), which addresses eligibility for a court fee waiver. New legislation recently amended section 68632(b) to increase that amount from 125 percent to 200 percent of the federal poverty guidelines.

Background

Welfare and Institutions Code section 317¹ requires the juvenile court to appoint counsel to represent all children in dependency proceedings²—absent a finding that a particular child will

¹ All unspecified statutory references are to the Welfare and Institutions Code.

² Each child “who is the subject of a dependency proceeding is a party to that proceeding.” (§ 317.5(b).)

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.

not benefit from the appointment—as well as all indigent parents of children who have been placed out of the home or for whom out-of-home placement is recommended. Section 317 also authorizes the court to appoint counsel for all other indigent parents. Legislation in 2009, Assembly Bill 131 (Stats. 2009, ch. 413), required the Judicial Council to establish a program to collect reimbursements from parents and other responsible persons, to the extent they are able to pay, for the court cost of providing legal services to these persons and their children in juvenile dependency proceedings. Effective January 1, 2013, the Judicial Council adopted the *Guidelines* as Appendix F to the California Rules of Court. As required by the statute, the guidelines include a statewide standard for determining an obligated person’s ability to pay reimbursement, as well as policies and procedures to allow courts to recover costs associated with implementing the counsel collections program. (§ 903.47(a)(1).)

Appendix F includes a two-tiered standard for determining a person’s inability to pay, elaborated in item 6(d). In the first tier, a responsible person who meets the income or benefits standards that automatically qualify an applicant for a fee waiver under Government Code section 68632(a) and (b) as they existed before recent amendments is presumed unable to pay and eligible for a waiver of liability:

If a responsible person receives qualifying public benefits or has a household income *125 percent or less of the threshold established by the federal poverty guidelines* in effect at the time of the inquiry, then he or she is presumed to be unable to pay reimbursement and is eligible for a waiver of liability (italics added).

(Cal. Rules of Court, App. F, item 6(d)(1).)³

In the second tier, the guidelines permit a local court to make a policy determination as to whether circumstances in its jurisdiction warrant further inquiry into the financial condition of a person who meets these threshold requirements.

The Proposal

In its original adoption of the *Guidelines*, the Judicial Council chose to use the income level at which a responsible person qualifies for a fee waiver, then 125 percent of the federal poverty guidelines, in Government Code section 68632(b) as one way to establish a presumption that a

³ Qualifying benefits are those under Government Code section 68632(a), which are incorporated by reference in item 6(d)(1)(A) of Appendix F. These qualifying benefits are (1) Supplemental Security Income and State Supplementary Payment (Welf. & Inst. Code, § 12200 et seq.); (2) California Work Opportunity and Responsibility to Kids Act (*id.*, § 11200 et seq.) or a federal Tribal Temporary Assistance for Needy Families grant program (*id.*, § 10553.25); (3) Supplemental Nutrition Assistance Program (7 U.S.C. § 2011 et seq.) or the California Food Assistance Program (Welf. & Inst. Code, § 18930 et seq.); (4) County Relief, General Relief, or General Assistance (*id.*, § 17000 et seq.); (5) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (*id.*, § 18937 et seq.); (6) In-Home Supportive Services (*id.*, § 12300 et seq.); (7) Medi-Cal (*id.*, § 14000 et seq.); (8) California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program) (Health & Saf. Code, § 123275 et seq.); and (9) Unemployment compensation (Unemp. Ins. Code, § 1251 et seq.).

responsible person is unable to pay the cost of dependency counsel.⁴ Recently, Assembly Bill 199 (Stats. 2022, ch. 57) amended Government Code section 68632(b) to increase the qualifying income level in that statute to 200 percent of the federal poverty guidelines:

An applicant whose monthly income is 200 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of paragraph (2) of Section 9902 of Title 42 of the United States Code or a successor statute or regulation.

(Gov. Code, § 68632(b)(1).)

Since the council chose to use 125 percent of the federal poverty guidelines as a basis for establishing a presumptive inability to pay for dependency counsel to be consistent with Government Code section 68632(b), the committee proposes incorporating by reference Government Code section 68632(b)(1) into the *Guidelines*. Doing so will maintain the policy of matching the presumption of inability to pay to the figure in Government Code section 68632(b)(1), without having to update the *Guidelines* whenever the statute is changed.

Changing the presumption of inability to pay from 125 percent of the federal poverty guidelines to 200 percent, would result in the following income figures based on the current federal poverty guidelines (note that these figures are based on the current federal poverty guidelines, which are typically updated annually):

Number in Family	2023 Federal Poverty Guidelines (A)	200% of Poverty Guidelines (B) (B = A x 2)	2023 California Monthly Income (C) (C = B / 12)*
1	\$14,580.00	\$29,160.00	\$2,430.00
2	19,720.00	39,440.00	3,286.67
3	24,860.00	49,720.00	4,143.34
4	30,000.00	60,000.00	5,000.00
5	35,140.00	70,280.00	5,856.67
6	40,280.00	80,560.00	6,713.34
For each additional person, add:	5,140.00	10,280.00	856.67

The proposed change to Appendix F would also require revisions to *Financial Declaration—Juvenile Dependency* (form JV-132) to update the dollar amounts in item 3 a chart that contains income figures based on the federal poverty guidelines. The numbers in the chart are calculated based on 125% of the federal poverty guidelines, and would be updated to 200%. Those figures

⁴ Cal. Rules of Court, App. F, item 6(d)(1); see Judicial Council of Cal., Advisory Com. Rep., *Juvenile Dependency: Counsel Collections Program* (Sept. 14, 2012), p. 5, www.courts.ca.gov/documents/jc-20121026-itemA20.pdf. The federal poverty guidelines are issued by the U.S. Department of Health and Human Services and typically updated every year in January. See 42 U.S.C. § 9902.

are usually changed annually in any event to reflect annual adjustment of the federal poverty guidelines because item 6(d)(1) of Appendix F requires the use of the poverty guidelines “in effect at the time of the inquiry,” and item 6(d)(3) requires the assessment of the responsible person’s financial condition to be based, at least in part, on a completed form JV-132.⁵ The committee notes that the figures on the form will need to be updated again in early 2024 to reflect revisions to the federal poverty guidelines, which are typically published in January of each year, and so is proposing that the revisions to make the figures 200% rather than 125% be made at the same time. These revisions are made whenever federal poverty guidelines change, generally as minor noncontroversial changes (which do not require circulation for comment) under rule 10.22(d)(2).

Appendix F further requires that amendments to the *Guidelines* take effect no sooner than 30 days after the council meeting at which they are adopted (Cal. Rules of Court, App. F, item 2). For that reason, the committee is proposing an effective date of April 1, 2024. This effective date will also coincide with the annual revisions required to conform the form to updated federal poverty guidelines.

Alternatives Considered

The committee considered not recommending any change and so leaving the income eligibility for a presumption of inability to pay for attorney’s fees by a parent at 125 percent of the federal poverty guideline. The committee, however, determined that the factor used in Appendix F should match the fee waiver income eligibility levels of 200 percent of the federal poverty guideline and follow the Legislature’s intent of reducing the financial burden that individuals face when they are involved in court proceedings, which they generally do in these matters involuntarily. In addition, under Appendix F, courts still have the ability to order a parent to pay if the court determines, after further inquiry, that they are able to pay, notwithstanding the presumption to the contrary.

The committee also considered whether Government Code section 68632(b) should be incorporated into the *Guidelines* by reference, or if the figures used in Appendix F should be kept and changed from 125 percent to 200 percent. The committee decided to incorporate Government Code section 68632(b)(1) by reference to ensure that the *Guidelines* are aligned with the statutory fee waiver eligibility, as determined by the Legislature.

⁵ In addition, a technical revision under rule 10.22(d)(2) was approved by the Judicial Council at its meeting on March 24, 2023, updating form JV-132 to reflect new qualifying benefits for a fee waiver, added by AB 199. A presumptive inability to pay in Appendix F is established if the individual receives public benefits under any of the programs listed in Government Code section 68632(a). (Cal. Rules of Court, App. F, item 6(d)(1)(A).) Government Code section 68632(a) was amended by AB 199 to add two benefit programs: (1) California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program), and (2) Unemployment compensation. These new benefits have been added to the list of other qualifying benefits on form JV-132.

Fiscal and Operational Impacts

Section 903.1(c) mandates that reimbursements received by the courts under that section be “transmitted to the Administrative Office of the Courts [Judicial Council] in the same manner as prescribed in Section 68085.1 of the Government Code.” Section 903.1(c), in conjunction with section 903.47(a)(2), requires the Judicial Council to deposit any reimbursements received under section 903.1 into the Trial Court Trust Fund. Section 903.47(a)(2) adds a mandate that “[e]xcept as otherwise authorized by law, the money collected under this program shall be utilized to reduce caseloads, for attorneys appointed by the court, to the caseload standard approved by the Judicial Council. Priority shall be given to those courts with the highest attorney caseloads that also demonstrate the ability to immediately improve outcomes for parents and children as a result of lower attorney caseloads.” Increasing the threshold requirement for inability to pay to 200 percent of the federal poverty line may result in a decrease in funds available in the Trial Court Trust Fund because more parents will meet the presumption of an inability to pay.

The proposal was reviewed by the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee’s Joint Rules Subcommittee on January 19, 2023. The Joint Rules Subcommittee supported the proposed change to Appendix F, reasoning that making the collections program consistent with fee waiver eligibility criteria promotes consistency for courts making these income determinations. In addition, the subcommittee believed that the fiscal impacts on courts would be very limited.

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 effective date of April 1, 2024, one hundred and eighty-seven days 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, Appendix F, at page 7
2. Link A: Assem. Bill 199 (Stats. 2022, ch. 57),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB199

Appendix F to the California Rules of Court would be amended, effective April 1, 2024, to read:

1 **Appendix F**

2
3 **Guidelines for the Juvenile Dependency Counsel Collections Program (JDCCP)**

4
5 **1.-5. * * ***

6
7 **6. * * ***

8
9 **(a)-(c) * * ***

10
11 **(d) Standard for Determining Ability to Pay**

12 The FEO will determine the responsible person's ability to reimburse the cost
13 of legal services using the following standard:

14
15 (1) *Presumptive Inability to Pay; Waiver*

16 If a responsible person receives qualifying public benefits or qualifies
17 for a fee waiver under the criteria of Government Code section
18 68632(b)(1) has a household income 125 percent or less of the
19 threshold established by the federal poverty guidelines in effect at the
20 time of the inquiry, then he or she is presumed to be unable to pay
21 reimbursement and is eligible for a waiver of liability.

22
23 (A) *Qualifying public benefits* include benefits under any of the
24 programs listed in Government Code section 68632(a).

25
26 (2)-(3) * * *

27
28 **(e)-(h) * * ***

29
30 **7.-15. * * ***

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Juvenile Law: Family Finding and Engagement

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

Amend Cal. Rules of Court, rules 5.637, 5.695, 5.790, and 5.810; revise form JV 672

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): Joan Tillman, (415) 865-7643, joan.tillman@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: Item 1: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

1.t. SB 384 (Cortese) Juveniles: relative placement: family finding (Ch. 811, Stats. of 2022) Requires the social worker and probation officer to include, as part of their due diligence, any parent and alleged parent when investigating the names and locations of the relatives upon removal of a child from their home and obtaining information regarding their location. Defines "family finding" to mean conducting an investigation, including, but not limited to, through a computer-based search engine, to identify relatives and kin and to connect a child or youth, who may be disconnected from their parents, with those relatives and kin in an effort to provide family support and possible placement. If it is known or there is reason to know that the child is an Indian child, as defined, "family finding" also includes contacting the Indian child's tribe to identify relatives and kin.

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

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

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR23-21

Title

Juvenile Law: Family Finding and Engagement

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 5.637, 5.695, 5.790, and 5.810; revise form JV-672

Proposed Effective Date

January 1, 2024

Proposed by

Family and Juvenile Law Advisory Committee

Hon. Stephanie E. Hulse, Cochair

Hon. Amy M. Pellman, Cochair

Contact

Joan Tillman, 415-865-7643

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Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending four rules and one form to conform to recent statutory changes clarifying the due diligence that must be used by a social services agency or probation department in performing its family finding obligation when a child is removed from the home. Senate Bill 384 revises Welfare and Institutions Code sections 309 and 628 to define the obligation of the placing agency to engage in family finding in dependency and juvenile justice (delinquency) cases. The bill defines due diligence, which requires a social worker or probation officer to ask the child in an age-appropriate manner about parents and adult relatives. Due diligence also requires the agency to use a computer-based search engine to identify relatives and kin to provide family support and possible placement for the child. In addition, in the case of an Indian child, the bill also clarifies that the placing agency must contact the Indian child's tribe to help identify relatives and kin.

Background

When a child is placed in foster care, either because the child's parents or guardians are unable to provide adequate care for the child or after being detained in a juvenile delinquency proceeding, it is crucial that the child and family have a supportive network of people to assist them through the associated juvenile court proceedings. Family finding is an integral part of the duties of 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.

child welfare agency and the juvenile probation department in every foster care case. Under current law, child welfare agencies and probation departments are obligated to locate and identify relatives and notify them of their options to participate in a child's care or placement after the child's removal from their parents or guardians. At many hearings in a dependency or juvenile justice case, the court is required to make a finding that the county agency or probation department has exercised due diligence in family finding to locate a child's relatives and those relatives have been evaluated to serve as the child's placement or been offered other opportunities to participate in the child's care.

In 2015, the Continuum of Care Reform Act sought to improve outcomes for children served by child welfare agencies and juvenile probation departments by providing the opportunity for them to grow up in permanent and stable homes and reduce the use of congregate care. The preservation of familial ties for foster children is vital: many studies have shown that children placed with family have better behavioral and mental health outcomes than their peers in traditional foster care. Children who are placed in kinship care, which is broadly defined as relatives or close family friends, have fewer placements and school changes, have higher overall satisfaction with their placements, and are more likely to feel loved and "wanted" in these kinship placements.¹

In 2022, Senate Bill 384 (Cortese; Stats. 2022, ch. 811) revised Welfare and Institutions Code sections 309 and 628 regarding the obligation of the social worker and probation officer to engage in family finding in dependency and delinquency cases.² The bill imposed a new duty for child welfare and probation agencies to inform the California Department of Social Services (CDSS) about their family finding practices. Each county agency must notify relatives about their options to participate in the care and placement of a child who has been removed from their parents or guardians.

The California Department of Social Services (CDSS) has previously provided guidance to county agencies on family finding practices through its All County Letters (ACL) procedure. All County Letters serve as communications from CDSS to California county agencies regarding their obligations and other legal requirements in child welfare and juvenile probation cases. In 2018, CDSS issued ACL 18-42, entitled Family Finding and Engagement, which detailed suggested family finding practices for county agencies in foster care cases. SB 384 requires each county child welfare agency and juvenile probation department to adopt at least one of the vetted family finding practices found in ACL 18-42 and create a public procedure by which relatives can identify themselves to the county placing agency.³ Each county agency must notify relatives

¹ See Sen. Rules Com., Off. Of Sen. Floor Analyses, Unfinished Business analysis of Sen. Bill 384 as amended Aug. 15, 2022, pp. 5–6, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB384

² All further statutory references are to the Welfare and Institutions Code and all further rule references are to the California Rules of Court, unless otherwise indicated.

³ See www.cdss.ca.gov/Portals/9/ACL/2018/18-42.pdf?ver=2018-04-09-132626-940.

about their options to participate in the care and placement of a child who has been removed from their parents or guardians.

In 2022, CDSS and the University of California, Davis launched the Center for Excellence in Family Finding, Engagement, and Support (Center) to support county child welfare agencies and juvenile probation departments' efforts to keep youth linked with their family members. The Center provides statewide training and technical assistance to county agencies, foster care providers, and Indian tribes to enhance their practices, policies, and efforts for family finding, support, and engagement. Additionally, the California legislature continues to propose legislative bills to strengthen family finding and engagement.

The Proposal

This proposal is needed to conform four rules of court and one Judicial Council form to recent changes in the law.

Rule 5.637

The current version of rule 5.637 provides that the social worker or probation officer must conduct an investigation to identify and locate all of the child's adult relatives and notify them about the child's placement in foster care after removal from the parent guardian. The rule also states that the social worker or probation officer is not required to notify a "relative whose personal history of family or domestic violence would make notification inappropriate."

Several changes to the rule are proposed to bring the rule in conformity with SB 384, and the amendments to Welfare and Institutions Code sections 309 and 628. The committee proposes amending the rule to include provisions regarding the due diligence requirement in family finding to be exercised by the social worker or probation officer in foster care cases. The rule would also be amended to expand the list of persons required to be notified of a child's placement in foster care, including parents or alleged parents. The committee proposes including the requirements to notify relatives after the county agency locates them and to disseminate written information to them about how to participate in the child's care or placement. Lastly, the proposed rule amendments would require the social worker or probation officer to notify the court if relatives are not notified because of family or domestic violence history.

The committee proposes reorganizing the rule to add a new subdivision (a) to define the terms family finding, kin, and nonrelative extended family member (NREFM) in dependency and juvenile justice cases.

Subdivision (b) states the requirement of due diligence in family finding in dependency cases to identify and locate a child's relatives and notify them of a child's foster care placement no later than 30 days after removal from the parent's or guardian's custody. This subdivision provides that the relatives must receive written notification of the child's removal and the available options to participate in the child's care and placement, including becoming a resource family, and information on public monetary aid programs. The relatives must also receive a copy of

Relative Information (form JV-285) to provide input to the court and the social worker regarding the child's needs.

Subdivision (c) states the requirement of due diligence in family finding in juvenile justice cases to identify and locate a child's relatives and notify them of a child's foster care placement no later than 30 days after placement in foster care or after the child's detention, if the probation officer has reason to believe that the child may be at risk of entering foster care. As in subdivision (b) regarding juvenile dependency cases, this subdivision provides that the relatives must receive written notification of the child's removal and available options to participate in the child's care and placement, including becoming a resource family or nonrelated extended family member (NREFM), and information on public monetary aid programs.

Subdivision (d) states the ongoing duty of the social worker or probation officer to exercise due diligence in family finding throughout the dependency or delinquency case until the child is placed for adoption. The committee proposes that this subdivision also address the court's considerations when making a finding that the county agency has exercised due diligence in family finding. To implement SB 384, the committee proposes including mandatory activities that the county agency must take before the court's due diligence finding may be made, including asking the child about the identity and location of relatives, as required under sections 309 and 628 and using computer-based search tools to locate a child's relatives. This subdivision would also include additional activities undertaken by the county agency that the court may consider in finding the county agency has exercised due diligence in family finding.

Current subdivision (b) would be renumbered as (e) and would require the social worker or probation officer to inform the court about the lack of notification and the reasoning underlying that determination that a relative's history of family or domestic violence of a child's foster care placement would make notification inappropriate.

The committee discussed the importance of prompt and timely efforts by child welfare agencies and probation departments to locate a child's relatives and the necessity for that process to be ongoing throughout the juvenile court proceedings. The committee supported the inclusion in the rule of the placing agencies' statutory duties to notify relatives of information about placement and care opportunities for the child who has been removed from parental custody. The committee decided that including the notification information in the rule would help clarify the placing agencies' responsibilities to relatives and simplify understanding of the notification requirements. Additional discussion by the committee centered on whether the court should be advised if the placing agency declines to notify a relative under subdivision (e) (formerly (b)) when a relative's personal history of domestic or family violence would make notification inappropriate. The committee decided that the rule should include a requirement that the social worker or probation officer inform the court of this lack of notification and the reasoning underlying the decision not to notify the relative.

Rule 5.695

This rule states the findings and orders that the court must make at a disposition hearing in a dependency case. One such finding is that the county welfare agency exercised due diligence in family finding to locate relatives for the child. In subdivision (f), the current rule includes examples of activities that demonstrate due diligence by county welfare departments for family finding in dependency cases. Subdivision (a) provides that the court may consider those activities in subdivision (f) of the rule when making the finding that the agency has exercised due diligence in family finding for the child. Because the information in subdivision (f) is now included in proposed rule 5.637, the committee proposes deleting subdivision (f) from rule 5.695.

Subdivision (a) would be amended to include cross-references to the activities detailed in rule 5.637(d)(2) and (d)(3), the content that would be removed from subdivision (f), for the court to consider in making the due diligence in the family finding determination for the child welfare agency.

Subdivisions (g)–(i) would be re-lettered to (f)–(h).

Rule 5.790

This rule states the findings and orders that the court must make at a disposition hearing in a juvenile justice case. One such finding is that the juvenile probation officer exercised due diligence in family finding to locate relatives for the child. In subdivision (g), the current rule includes examples of activities that demonstrate due diligence by county probation departments for family finding in delinquency cases. The committee proposes making the same change to rule 5.790 as is proposed for rule 5.695: deleting the subdivision (g) activities evidencing due diligence from current rule 5.695.

Subdivision (f) would be amended to include cross-references to the activities detailed in rule 5.637(d)(2) and (d)(3), the content that would be removed from subdivision (g), for the court to consider in making the due diligence in the family finding determination for the juvenile probation department.

Subdivisions (h)–(j) would be re-lettered to (g)–(i).⁴

Rule 5.810

Rule 5.810 governs the court's findings and orders at permanency and postpermanency hearings in juvenile justice cases. Under Welfare and Institutions Code section 628, one of the required findings at those hearings is that the juvenile probation department exercised due diligence in family finding for the child, and those efforts are documented in the probation report. The

⁴ Please note that the Judicial Council circulated a previous proposal to amend rule 5.790 to delete subdivision (i), which concerns youth committed to the Division of Juvenile Justice (DJJ). Subdivision (i) will be an outdated provision with the closure of DJJ on June 30, 2023, and the proposal deleting (i) is recommended to become effective on July 1, 2023. See <https://www.courts.ca.gov/documents/w23-07.pdf>.

current rule does not address the finding that the court must make regarding whether the probation department has engaged in those family finding efforts for either hearing type.

Subdivision (b)(2)(H) would be added to require the court to consider evidence of due diligence in family finding to be made at a permanency hearing in a delinquency case.

Subdivision (c)(2)(F) would be added to require the court to consider evidence of due diligence in family finding to be made at a postpermanency hearing in a delinquency case.

***Form JV-672, Findings and Orders After Six-Month Prepermanency Hearing—
Delinquency***

This council form has listed the required findings and orders that the juvenile court must make at a prepermanency hearing in a juvenile justice case. Family Code section 7950 requires that the juvenile probation department evaluate every relative who comes forward interested in placement for the child during delinquency proceedings.

This proposal would add item 15 to the form to allow the court to make the finding that the probation department has or has not evaluated every relative that has come forward requesting placement of the child during the juvenile court proceedings.

Alternatives Considered

The Juvenile and Family Law Advisory Committee considered alternatives during the discussion of the proposal. The first alternative considered expanding rule 5.637 to include more information on the responsibilities of the placing agency regarding relative placement. The committee decided that this alternative would expand the scope and focus of the rule and be repetitive of statute.

The committee discussed the issue of family finding for dual-status youth as referenced in section 241.1. This invitation to comment includes specific questions regarding whether placing agencies' family finding obligations for dual-status youth should be included in rule 5.637.

The committee noted that family finding and engagement is an evolving area of the law, and the legislature may continue to add duties and responsibilities to the placing agency. The committee considered recommending no action based on the evolving legislative action in this area. Still, it concluded that the amendments to the rules and a form would be helpful to child welfare agencies and juvenile probation departments in meeting their obligations to identify, locate, and notify relatives of their options to participate in the placement and care of the youth in their systems.

Fiscal and Operational Impacts

Based on this legislative change in SB 384, the placing agencies may incur minor costs because they were previously not required to conduct a computer search. However, because this proposal

only defines existing findings and does not implement any new hearings, findings, or court time, the costs to the judicial branch are expected to be minimal.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should rule 5.637 specifically address family finding requirements for a dual-status child as referenced in Welfare and Institutions Code section 241.1, and if so, what should the rule provide to ensure that family finding is carried out as intended by statute?
- Is the definition for kin in rule 5.637 accurate and complete, or should a different definition be proposed to include as part of the rule?
- Is the definition for a nonrelative extended family member (NREFM) in rule 5.637 accurate and complete, or should a different definition be included in the rule?

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 the Judicial Council’s 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 5.637, 5.695, 5.790, and 5.810, at pages 8–16
2. Form JV-672, at pages 17-21
3. Link A: ACL 18-42, Family Finding and Engagement (Cal. Dept. of Social Services),
<https://www.cdss.ca.gov/Portals/9/ACL/2018/18-42.pdf?ver=2018-04-09-132626-940>
4. Link B: Welf. & Inst. Code, § 309,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=309&lawCode=WIC
5. Link C: Welf. & Inst. Code, § 628,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=628.&lawCode=WIC

Rules 5.637, 5.695, 5.790, and 5.810 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 5.637. Family finding (§§ 309(e), 628(d))**
2

3 **(a) Definitions**
4

- 5 (1) “Family finding” means conducting an investigation to identify relatives and
6 kin and connect the child with those relatives and kin in an effort to provide
7 family support and possible placement. For an Indian child, family finding
8 also includes contacting the child’s Indian tribe to identify relatives and kin.
9
- 10 (2) “Kin” means any relative as defined in rule 5.502, subdivision (34), and any
11 nonrelative extended family member (NREFM) of the child or the child’s
12 relatives.
13
- 14 (3) “Nonrelative extended family member (NREFM)” means an adult who has
15 an established familial or mentoring relationship with a child or a familial
16 relationship with a relative of the child. These adults may include, but are not
17 limited to, the following people: godparents, teachers, clergy, neighbors,
18 parents of a sibling, and family friends.
19

20 **(b) Juvenile dependency proceedings**
21

- 22 (1) Within No later than 30 days of a child’s removal after a child is removed
23 from the home of his or her their parent or guardian in a juvenile dependency
24 proceeding, if the child is in or at risk of entering foster care, the social
25 worker or probation officer must use due diligence in conducting family
26 finding, including an investigation to identify, locate, and notify provide
27 notification to the child’s parents or alleged parents, all the child’s adult
28 relatives, parents with legal custody of the child’s siblings, any adult siblings,
29 and in the case of an Indian child, any extended family members of the
30 child’s tribe.
31
- 32 (2) After locating the child’s relatives and other persons specified in paragraph
33 (1), the social worker must provide to them the following:
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- 35 (A) Written notification that the child has been removed from the parent or
36 guardian’s custody;
37
- 38 (B) An explanation in writing of the available options to participate in the
39 child’s care and placement, including information on how to become a
40 resource family and information on additional services and support that
41 are available in out-of-home placements, including visitation and public
42 monetary aid programs; and

1
2 (C) A copy of *Relative Information* (form JV-285) for relatives to provide
3 information to the social worker and the court regarding the child's
4 needs and to request permission to address the court if desired.

5
6 Oral notification in person or by telephone of the information may also be
7 provided to the child's relatives when appropriate.

8
9 **(c) Juvenile justice proceedings**

10
11 (1) No later than 30 days after a child is detained in a juvenile delinquency
12 proceeding, if the probation officer has reason to believe that the child may
13 be at risk of entering a foster care placement or within 30 days of a child's
14 placement into foster care, the probation officer must use due diligence to
15 conduct family finding, including an investigation to identify, locate, and
16 provide notification to the child's parents or alleged parents and all of the
17 child's adult relatives.

18
19 (2) After locating the child's relatives, the probation officer must provide to the
20 relatives the following:

21
22 (A) Written notification that the child has been removed from the parent or
23 guardian's custody; and

24
25 (B) An explanation in writing of the available options to participate in the
26 child's care and placement—including information on how to become a
27 resource family, an approved relative, or a nonrelative extended family
28 member (NREFM), —and information on additional services and
29 support that are available in out-of-home placements, including
30 visitation and public monetary aid programs.

31
32 Oral notification in person or by telephone of the information may also be
33 provided to the relatives when appropriate.

34
35 **(d) Due diligence (§§ 309, 628)**

36
37 (1) The social worker and probation officer have an ongoing responsibility to
38 exercise due diligence to engage in family finding until the time the child is
39 placed for adoption.

40
41 (2) When making the determination that the social worker or probation officer
42 has exercised due diligence in family finding, the court must find that the
43 social worker or probation officer has done the following:

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(A) Asked the child, in an age-appropriate manner and consistent with the child’s best interests, about the identity and location of relatives; and

(B) Used a computer-based search engine and internet-based search tools to locate relatives identified as support for the child and their family.

(3) When making the finding of due diligence, the court may also consider other efforts, including whether the social worker or probation officer has done any of the following:

(A) Obtained information regarding the location of the child’s relatives;

(B) Reviewed the child’s case file for any information regarding relatives;

(C) Telephoned, emailed, or visited all identified relatives;

(D) Asked located relatives for the names and locations of other relatives;
or

(E) Developed tools—including a genogram, family tree, family map, or other diagram of family relationships—to help the child or parents to identify relatives.

(e) When notification of a relative is inappropriate

The social worker or probation officer is not required to notify a relative whose personal history of family or domestic violence would make notification inappropriate. A social worker or probation officer who determines that notification of a relative is inappropriate under this subdivision must notify the court that the relative has not been notified and explain the reasoning underlying that lack of notification.

Advisory Committee Comment

This rule restates the original requirements of section 103 of the federal Fostering Connections to Success and Increasing Adoptions Act (Pub.L. No. 110-351, § 103 (Oct. 7, 2008) 122 Stat. 3949, 3956, codified at 42 U.S.C. § 671(a)(29)) as implemented by California Assembly Bill 938 (Com. on Judiciary; Stats. 2009, ch. 261, codified at Welf. & Inst. Code, §§ 309(e) and 628(d)). These statutes enacted elements of the child welfare practice known as Family Finding and Engagement, which has been recommended to improve outcomes for children by the Judicial Council’s California Blue Ribbon Commission on Children in Foster Care and the California Child Welfare Council. (See Cal. Blue Ribbon Com. on Children in Foster Care, *Fostering a New Future for*

1 *California’s Children*, pp. 30–31 (Admin. Off. of Cts., May 2009) (final report and action plan),
2 www.courts.ca.gov/documents/brc-finalreport.pdf; *Permanency Committee Recommendations to*
3 *the Child Welfare Council*, pp. 1–4 (Sept. 10, 2009), www.chhs.ca.gov.)
4

5 Senate Bill 384 (Cortese; Stats. 2022, ch. 811) revised Welfare and Institutions Code sections 309
6 and 628 regarding the obligation of the social worker and probation officer to engage in family
7 finding in dependency and delinquency cases. The bill imposed a new duty for child welfare and
8 probation agencies to inform the California Department of Social Services (CDSS) about their
9 family-finding practices. Each county child welfare agency and probation department must adopt
10 at least one of the practices detailed in CDSS All County Letter 18-42, *Family Finding and*
11 *Engagement*, and create a public procedure by which relatives can identify themselves to the
12 county agency. Each county agency must notify relatives about their options to participate in the
13 care and placement of a child who has been removed from their parents or guardians.
14

15 **Rule 5.695. Findings and orders of the court—disposition**
16

17 **(a)–(d) * * ***
18

19 **(e) Family-finding determination (§ 309)**
20

21 (1) If the child is removed, the court must consider and determine whether the
22 social worker has exercised due diligence in conducting the required
23 investigation to identify, locate, and notify the child’s relatives. The court
24 ~~may~~ must consider the activities listed in ~~(f) as examples of due diligence~~ rule
25 5.637(d)(2) and may consider the activities listed in rule 5.637(d)(3) in
26 determining whether the agency has exercised due diligence in family
27 finding. The court must document its determination by making a finding on
28 the record.
29

30 If the dispositional hearing is continued, the court may set a hearing to be
31 held 30 days from the date of removal or as soon as possible thereafter to
32 consider and determine whether the social worker has exercised due diligence
33 in conducting the required investigation to identify, locate, and notify the
34 child’s relatives.
35

36 (2) If the court finds that the social worker has not exercised due diligence, the
37 court may order the social worker to exercise due diligence in conducting an
38 investigation to identify, locate, and notify the child’s relatives—except for
39 any individual the social worker identifies as inappropriate to notify under
40 rule 5.637(b) ~~(e)~~—and may require a written or oral report to the court.
41

42 ~~(f) —Due diligence (§ 309)~~
43

1 When making the determination required in (e), the court may consider, among
2 other examples of due diligence, whether the social worker has done any of the
3 following:

4
5 ~~(1) Asked making the determination required in (e), the court may consider,~~
6 ~~among other examples of due diligence, whether the social worker has done~~
7 ~~any of the following:~~

8
9 ~~(2) Obtained information regarding the location of the child's relatives;~~

10
11 ~~(3) Reviewed the child's case file for any information regarding relatives;~~

12
13 ~~(4) Telephoned, e-mailed, or visited all identified relatives;~~

14
15 ~~(5) Asked located relatives for the names and locations of other relatives;~~

16
17 ~~(6) Used Internet search tools to locate relatives identified as supports; or~~

18
19 ~~(7) Developed tools, including a genogram, family tree, family map, or other~~
20 ~~diagram of family relationships, to help the child or parents to identify~~
21 ~~relatives.~~

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23 ~~(g)~~ **(f) Provision of reunification services (§ 361.5)**

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25 (1)–(10) * * *

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27 ~~(h)~~ **(g) Information regarding termination of parent-child relationship (§§ 361,**
28 **361.5)**

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32 ~~(i)~~ **(h) Setting a hearing under section 366.26**

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36 **Rule 5.790. Orders of the court**

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38 **(a)–(e) * * ***

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40 **(f) Family-finding determination (§ 628(d))**

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42 (1) If the child is detained ~~or~~ and at risk of entering foster care or within 30 days
43 of a child being placed into foster care, the court must consider and determine

1 whether the probation officer has exercised due diligence in conducting the
2 required investigation to identify, locate, and notify the child’s relatives. The
3 court ~~may~~ must consider the activities listed in ~~(g)~~ rule 5.637(d)(2) and may
4 consider the activities listed in rule 5.637(d)(3) as examples in determining
5 whether the agency has exercised ~~of~~ due diligence in family finding. The
6 court must document its determination by making a finding on the record.

7
8 If the dispositional hearing is continued, the court may set a hearing to be
9 held 30 days from the date of detention or as soon as possible thereafter to
10 consider and determine whether the probation officer has exercised due
11 diligence in conducting the required investigation to identify, locate, and
12 notify the child’s relatives.

- 13
14 (2) If the court finds that the probation officer has not exercised due diligence,
15 the court may order the probation officer to exercise due diligence in
16 conducting an investigation to identify, locate, and notify the child’s
17 relatives—except for any individual the probation officer identifies who is
18 inappropriate to notify under rule 5.637~~(b)(e)~~—and may require a written or
19 oral report to the court.
20

21 **~~(g)~~ Due diligence**

22
23 ~~When making the determination required in (f), the court may consider, among~~
24 ~~other examples of due diligence, whether the probation officer has done any of the~~
25 ~~following:~~

- 26
27 ~~(1) Asked the child, in an age appropriate manner and consistent with the child's~~
28 ~~best interest, about his or her relatives;~~
29
30 ~~(2) Obtained information regarding the location of the child's relatives;~~
31
32 ~~(3) Reviewed the child's case file for any information regarding relatives;~~
33
34 ~~(4) Telephoned, e-mailed, or visited all identified relatives;~~
35
36 ~~(5) Asked located relatives for the names and locations of other relatives;~~
37
38 ~~(6) Used Internet search tools to locate relatives identified as supports; or~~
39
40 ~~(7) Developed tools, including a genogram, family tree, family map, or other~~
41 ~~diagram of family relationships, to help the child or parents to identify~~
42 ~~relatives.~~
43

1 ~~(h)~~ (g) **Wardship orders (§§ 726, 727, 727.1, 730, 731)**

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3 * * *

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5 ~~(i)~~ (h) **California Department of Corrections and Rehabilitation, Division of Juvenile**
6 **Justice**

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9
10 ~~(j)~~ (i) **Fifteen-day reviews (§ 737)**

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12 * * *

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14 **Rule 5.810. Reviews, hearings, and permanency planning**

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16 **(a)** * * *

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18 **(b) Permanency planning hearings (§§ 727.2, 727.3, 11404.1)**

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20 A permanency planning hearing for any ward who has been removed from the
21 custody of a parent or guardian and not returned at a previous review hearing must
22 be held within 12 months of the date the ward entered foster care as defined in
23 section 727.4(d)(4). However, when no reunification services are offered to the
24 parents or guardians under section 727.2(b), the first permanency planning hearing
25 must occur within 30 days of disposition.

26
27 (1) *Consideration of reports (§ 727.3)*

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29 The court must review and consider the social study report and updated case
30 plan submitted by the probation officer and the report submitted by any
31 CASA volunteer, and any other reports filed with the court under section
32 727.3(a)(2).
33

34 (2) *Findings and orders (§§ 727.2(e), 727.3(a))*

35
36 At each permanency planning hearing, the court must consider the safety of
37 the ward and make findings and orders regarding the following:

38
39 (A) The continuing necessity for and appropriateness of the placement;

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41 (B) The extent of the probation department's compliance with the case plan
42 in making reasonable efforts to safely return the child to the child's

1 home and to complete whatever steps are necessary to finalize the
2 permanent placement of the child;

3
4 (C) The extent of progress that has been made by the child and parent or
5 guardian toward alleviating or mitigating the causes necessitating
6 placement in foster care;

7
8 (D) The permanent plan for the child, as described in (3);

9
10 (E) Whether the child was actively involved, as age- and developmentally
11 appropriate, in the development of his or her own case plan and plan
12 for permanent placement. If the court finds that the child was not
13 appropriately involved, the court must order the probation officer to
14 actively involve the child in the development of his or her own case
15 plan and plan for permanent placement, unless the court finds that the
16 child is unable, unavailable, or unwilling to participate; ~~and~~

17
18 (F) Whether each parent was actively involved in the development of the
19 case plan and plan for permanent placement. If the court finds that any
20 parent was not actively involved, the court must order the probation
21 department to actively involve that parent in the development of the
22 case plan and plan for permanent placement, unless the court finds that
23 the parent is unable, unavailable, or unwilling to participate; ~~and~~

24
25 (G) If sibling interaction has been suspended and will continue to be
26 suspended, that sibling interaction is contrary to the safety or well-
27 being of either child; and

28
29 (H) Whether the probation officer has exercised due diligence under rule
30 5.637 in conducting the required investigation to identify, locate, and
31 notify the child's relatives. The court must consider the activities listed
32 in rule 5.637(d)(2) and may consider activities listed in rule 5.637(d)(3)
33 in determining whether the department has exercised due diligence in
34 family finding. The court must document its determination by making a
35 finding on the record.

36
37 (3)–(4) * * *

38
39 (c) **Postpermanency status review hearings (§ 727.2)**

40
41 A postpermanency status review hearing must be conducted for wards in placement
42 no less frequently than once every six months.

43

1 (1) * * *

2

3 (2) *Findings and orders* (§ 727.2(g))

4

5 At each postpermanency status review hearing, the court must consider the
6 safety of the ward and make findings and orders regarding the following:

7

8 (A) Whether the current permanent plan continues to be appropriate. If not,
9 the court must select a different permanent plan, including returning the
10 child home, if appropriate. If the plan is another planned permanent
11 living arrangement, the court must meet the requirements ~~set forth~~
12 stated in Welfare and Institutions Code section 727.3(a)(5);

13

14 (B) The continuing necessity for and appropriateness of the placement;

15

16 (C) The extent of the probation department's compliance with the case plan
17 in making reasonable efforts to complete whatever steps are necessary
18 to finalize the permanent plan for the child;

19

20 (D) Whether the child was actively involved, as age appropriate and
21 developmentally appropriate, in the development of his or her own case
22 plan and plan for permanent placement. If the court finds that the child
23 was not appropriately involved, the court must order the probation
24 department to actively involve the child in the development of his or
25 her own case plan and plan for permanent placement, unless the court
26 finds that the child is unable, unavailable, or unwilling to participate;
27 ~~and~~

28

29 (E) If sibling interaction has been suspended and will continue to be
30 suspended, sibling interaction is contrary to the safety or well-being of
31 either child-; and

32

33 (F) Whether the probation officer has exercised due diligence under rule
34 5.637 in conducting the required investigation to identify, locate, and
35 notify the child's relatives. The court must consider the activities listed
36 in rule 5.637(d)(2) and may consider activities listed in rule 5.637(d)(3)
37 in determining whether the department has exercised due diligence in
38 family finding. The court must document its determination by making a
39 finding on the record.

40

41 (3) * * *

42

43 (d)-(f) * * *

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-672.v4.031623.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
FINDINGS AND ORDERS AFTER SIX-MONTH PREPERMANENCY HEARING—DELINQUENCY	CASE NUMBER:

1. The court has read and considered and admits into evidence

- a. report of probation department dated:
- b. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

- 2. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For child who is not present**, the child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
- 3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

- 4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. The probation department has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

- 5. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
- 6. The child's out-of-home placement is necessary.
- 7. a. The child's out-of-home placement is appropriate.
- b. The child's current placement is not appropriate. This hearing is continued for a report by the probation officer on the progress made to locate an appropriate placement.
- 8. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welfare & Institutions Code section 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.

CHILD'S NAME:	CASE NUMBER:
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9. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The probation officer has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California, and that out-of-state placement
- a. continues to be the most appropriate placement and is in the child's best interest.
- b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by the probation officer on the progress made toward finding an appropriate placement for the child.
12. The probation officer has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child, and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent plan.
13. **The child is an Indian child**, and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.
14. **The child has no known Indian heritage.**
15. a. The probation department has has not exercised due diligence to locate an appropriate relative with whom *(name of child)*: could be placed.
- b. Each relative whose name has been submitted to the department has has not been evaluated. (Family Code section 7950.)
16. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:
- | | None | Minimal | Adequate | Substantial | Excellent |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. <input type="checkbox"/> Child | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. <input type="checkbox"/> Mother | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. <input type="checkbox"/> Father | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. <input type="checkbox"/> Legal guardian | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. <input type="checkbox"/> Other <i>(specify)</i> : | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f. <input type="checkbox"/> Other <i>(specify)</i> : | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
17. The likely date by which the child may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, or placed permanently with a fit and willing relative is *(date)*:

Case planning and visitation

18. Child 14 years of age or older:
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. To assist the child in making the transition to successful adulthood, the probation department must add to the case plan and provide the services
- (1) stated on the record.
- (2) as follows:

CHILD'S NAME:	CASE NUMBER:
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19. a. The following were actively involved in the case plan development, including the plan for permanent placement:
 Child Mother Father Legal guardian Tribal representative
 Other : _____ Other : _____
- b. The following were **not** actively involved in the case plan development, including the plan for permanent placement:
 Child Mother Father Legal guardian Tribal representative
 Other : _____ Other : _____
 The probation officer is ordered to actively involve them and submit an updated case plan within 30 days from today.
- c. The following were **not** actively involved in the case plan development, including the plan for permanent placement:
 Child Mother Father Legal guardian Tribal representative
 Other : _____ Other : _____
 The probation officer is not required to involve them because they are unable, unavailable, or unwilling to participate.

20. The court finds that the child's
- | | | | | | | | |
|------------------------|------------------------------|----------------------------------|------------|--------------------|------------------------------|----------------------------------|------------|
| a. developmental needs | <input type="checkbox"/> are | <input type="checkbox"/> are not | being met. | c. physical needs | <input type="checkbox"/> are | <input type="checkbox"/> are not | being met. |
| b. mental health needs | <input type="checkbox"/> are | <input type="checkbox"/> are not | being met. | d. education needs | <input type="checkbox"/> are | <input type="checkbox"/> are not | being met. |

21. The additional services, assessments, and/or evaluations the child requires and the persons or agency ordered to take the steps necessary for the child to receive these services, assessments, and/or evaluations are
- a. stated on the record.
- b. as follows:

22. a. The following are ordered by the court to participate with the child in a counseling or education program as directed by the probation officer: Mother Father Legal guardian
 Other (specify): _____ Other (specify): _____
- b. The participation by the following is deemed by the court to be inappropriate or potentially detrimental to the child, and their participation with the child in a counseling or education program is NOT ordered:
 Mother Father Legal guardian Other (specify): _____
 Other (specify): _____

23. The child has siblings under the court's jurisdiction, and all of the siblings are **not** placed together in the same home.
- a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
- b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children. No visitation is ordered.

24. Visitation with the child is ordered
- a. as stated in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. as follows (specify): _____

Health and education

25. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (date): _____
26. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

CHILD'S NAME:	CASE NUMBER:
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27. The parents legal guardians Indian custodian Other (*specify*):
are unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 739 and vested with the probation department.
28. A limitation on the parents legal guardians Other (*specify*):
to make educational decisions for the child
- a. is **not** necessary. The parents or legal guardians hold educational rights and responsibilities, including those listed in Cal. Rules of Court, rule 5.650(e) and (f).
- b. is necessary. Those rights are limited as ordered and as stated in *Order Designating Educational Rights Holder* (form JV-535).
29. The child's school placement has changed since the dispositional hearing.
- a. The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days.
- b. The child is enrolled in attending school.
30. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
- (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) the name of the support person to assist the child is:
The support person's relationship to the child is:
 - (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (4) to assist the child in preparing for postsecondary education, the probation department must add to the case plan and provide the services
 - (a) stated on the record.
 - (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

Parentage

31. a. The court inquired of the mother others (*names and relationships*):
- as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete the form and submit it to the court.
- b. The court clerk probation department shall provide the notice required by Welf. & Inst. Code, § 726.4 to
- (1) alleged father (*name*):
 - (2) alleged father (*name*):

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

Advisement

32. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under Welf. & Inst. Code, § 727.31 to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

33. **All prior orders not in conflict with this order remain in full force and effect.**

34. Other findings and orders

a. See attached.

b. (Specify):

35. The date the child entered foster care is:

36. **The next hearing will be**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

37. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved.

38. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of their attorney who can assist with sealing records.

39. Number of pages attached:

Date:

_____ *Judicial Officer*

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/2023

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

Title of proposal: Child Support: Amendments to Family Code section 4007.5

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms FL-192, FL-490, FL-676, and FL-676-INFO

Committee or other entity submitting the proposal:
 Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): John Henzl, 5-7607, john.henzl@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): 11/1/2023

Project description from annual agenda: Item 1: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

(g) AB 207 (Committee on Budget) Human services omnibus (Ch. 573 , Stats. of 2022) Requires the court, when determining earning capacity of a parent in lieu of the parent's income, to consider the specific circumstances of the parent, including the parent's assets, educational attainment, health, and other factors. Also prohibits the court from considering incarceration or involuntary institutionalization as voluntary unemployment in establishing and modifying support orders

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-33

Title

Child Support: Implementing Amendments to Family Code Section 4007.5

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Revise forms FL-192, FL-490, FL-676, and FL-676-INFO

Proposed Effective Date

January 1, 2024

Proposed by

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

Contact

John Henzl, 415-865-7607
john.henzl@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes revising several forms in order to provide court users and the public with updated information regarding relief available to incarcerated or involuntarily institutionalized child support obligors. The proposed revisions are necessary to reflect recent amendments made to Family Code section 4007.5.

Background

Family Code section 4007.5,¹ which provides that, by operation of law, any money judgment or order for child support is automatically suspended for the time period an obligor is confined if they are incarcerated or involuntarily institutionalized for more than 90 consecutive days, was recently amended by Assembly Bill 207 (Stats. 2022, ch. 573). As this legislation was enacted as a budget trailer bill without a delayed implementation date, the amendments were effective on September 27, 2022, the day Governor Newsom signed the bill into law. This section was originally put into place effective July 1, 2011, but was then sunsetted and later reenacted multiple times.

¹ All further statutory references are to the Family Code.

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

AB 207 made several amendments to section 4007.5, including:

- Removing the January 1, 2023 sunset date;
- Removing the exceptions for relief if a child support obligor was incarcerated or involuntarily institutionalized for failing to pay child support or domestic violence against the other parent or child;
- Expanding relief for child support orders entered or modified before the effective date of the amendments (prior versions only allowed for relief from support orders entered or modified after the law's effective date); and,
- Declaring relief may still be requested from the court if an obligor qualified for relief during the time frame the prior versions of the statute granting relief by operation of law were in effect (i.e., October 8, 2015, to December 31, 2019, and January 1, 2021, to September 26, 2022).

Various Judicial Council forms relating to child support judgments, orders, and arrears have been revised multiple times over the years as section 4007.5 was allowed to sunset twice and was then subsequently reenacted twice.²

The Proposal

To comply with recent amendments to section 4007.5, the committee proposes revising the following forms, so they accurately reflect the current law:

- *Notice of Rights and Responsibilities (Health-Care Costs and Reimbursement Procedures) and Information Sheet on Changing a Child Support Order* (form FL-192);
- *Application to Determine Arrears* (form FL-490);
- *Request for Determination of Support Arrears* (form FL-676); and
- *Information Sheet: Request for Determination of Support Arrears* (form FL-676-INFO).

Including relief for prior confinement

These forms were last revised effective January 1, 2022, and when that proposal went out for public comment as part of the invitation to comment process, an issue arose of whether the forms should include information indicating that relief was still available for obligors who qualified for relief while the prior version of the statute was in effect, prior to it sunseting (October 8, 2015, to December 31, 2019), as obligors were entitled to relief by operation of law.³ While one commenter suggested the forms should include this information, based on the legal analysis conducted and the lack of clarity surrounding this issue, the committee instead recommended that the forms should indicate that relief *may* be available and to allow a mechanism for that relief to be granted. Specifically, at that time the committee recommended that:

² *Family Law: Reenactment of Family Code Section 4007.5* (21-158) can be found at: <https://jcc.legistar.com/View.ashx?M=F&ID=9785555&GUID=9292043B-3626-4778-9FB5-5F961FFE02A4>.

³ *Id.* at 6–8.

- Forms FL-192 and FL-676-INFO be revised to include the following language, “If your child support order was entered or modified between October 8, 2015, and December 31, 2019, and you were confined against your will for more than 90 days in a row during the same time frame, you may also qualify for relief,” with instructions to talk to the family law facilitator for more information; and,
- Forms FL-490 and FL-676 be revised to include the following language that would allow a way for obligors to request this relief, “The child support order entered on *(date)*: _____ was stopped (suspended) because [] the order says it would stop [] **by operation of law...**[emphasis added].”⁴

The council approved these recommendations and adopted the revised forms as proposed. However, with the passage of AB 207, this issue has now been resolved by the Legislature by adding the following language to section 4007.5(i):

It is the intent of the Legislature to ensure qualified persons are provided the support suspension by operation of law for qualified periods of incarceration or involuntary institutionalization that existed during the operative terms of the earlier versions of this statute regardless of whether the judicial or administrative determination of arrears is made before or after the repeal of the statute, if the earlier version of the statute provided for the money judgment or order for support to be suspended by operation of law. This subdivision is declarative of existing law.

Consequently, as the Legislature has made it clear that relief can still be requested by an obligor who then qualified for relief under a prior version of the statute where relief was granted by operation of law, these sections of the forms must be revised. Specifically, relief is still available while the last two versions of the statute were in effect during the following time frames (prior to the adoption of AB 207): October 8, 2015, to December 31, 2019, and January 1, 2021, to September 26, 2022.

As stated above, AB 207 removed the exceptions for relief if an obligor was incarcerated for not paying child support or for domestic violence against the other parent or their child. However, this change only applies to obligors requesting relief for incarceration that occurred on or after the effective date of the amendments: September 27, 2022. In other words, these two exceptions to relief would still apply for obligors requesting relief for incarceration that occurred prior to adoption of AB 207 under the prior two versions of the statute.

It is now proposed that forms FL-192 and FL-676-INFO (on the first page of each form) be revised to include information about relief still being available for these two time frames.

⁴ This proposed language was also responsive to another comment received that relief may be available based on other terms included in a child support judgment or order, as many counties use local forms or attachments that include certain standard orders in cases with local child support agency involvement (e.g., an order stating that child support will automatically be suspended if an obligor starts receiving Supplemental Security Income).

Additionally, it is proposed that forms FL-490 and FL-676 be revised to include two separate check boxes to request relief under section 4007.5: one check box for requesting relief under the current statute and a separate check box for requesting relief under the prior two versions of the statute as shown in the screenshot below:

b. I could not pay child support because

(1) After **September 26, 2022**, I was confined against my will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution (*attach proof*).

(a) Start date: (b) End date:

(2) I had no money available to pay child support while I was confined.

c. I could not pay child support because

(1) Between **October 8, 2015**, and **December 31, 2019**, or **January 1, 2021**, and **September 26, 2022**, my child support order was entered or modified, and I was confined against my will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution (*attach proof*).

(a) Start date: (b) End date:

(2) I had no money available to pay child support while I was confined.

(3) I was not confined for

(a) Domestic violence against the other parent or our child; or

(b) Failing to pay a child support order.

Finally, it is proposed that form FL-676 (a governmental child support form) still include the check box shown below, but that the language “by operation of law” be removed. That language was specifically added to allow obligors a way to request their arrears be adjusted if they qualified for relief while the prior version was in effect; it is no longer necessary with the new proposed check box “c” shown above. (The remaining language on form FL-676 would still allow obligors to request relief if their order contains one of the standard orders used in cases with local child support agency involvement referenced in footnote 4 above.)

d. The child support order entered on (date): was stopped (suspended) because the order says it would stop (*specify the reasons why and attach applicable proof*):

Alternatives Considered

The committee considered recommending the council wait to revise these four forms as part of a larger forms proposal, as the Legislature is currently discussing adopting additional legislation to bring California into full compliance with the new federal regulations.⁵ However, the committee instead proposes revising the forms described above now to provide updated information to court users—including self-represented litigants—and the public regarding important changes to relief

⁵ Judicial Council of Cal., Legislation Com. Rep., *Child Support: Additional Legislative Changes Required to Bring California into Compliance with Federal Final Rule* (Oct. 4, 2022) (circulated as CO-22-06), <https://www.courts.ca.gov/documents/lr-2022-additional-legislative-changes-in-compliance-with-federal-rule-fam-4077.pdf>.

available to child support obligors if they become incarcerated or involuntarily institutionalized for longer than 90 days.

Fiscal and Operational Impacts

The committee anticipates that courts would incur some costs to revise forms and add them to their case management systems, train court staff about the revised forms included in this proposal, and possibly revise local court rules and forms so they are consistent with the changes adopted by the Judicial Council.

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 (3) months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms FL-192, FL-490, FL-676, and FL-676-INFO, at pages 6–12
2. Link A: Family Code section 4007.5,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=4007.5

NOTICE OF RIGHTS AND RESPONSIBILITIES

DRAFT

Health-Care Costs and Reimbursement Procedures

Not approved by
Judicial Council

If you have a child support order that includes a provision for the reimbursement of a portion of the child's or children's health-care costs and those costs are not paid by insurance, the **law says**:

1. Notice. You must give the other parent an itemized statement of the charges that have been billed for any health-care costs not paid by insurance. You must give this statement to the other parent within a reasonable time, but no more than 30 days after those costs were given to you.

2. Proof of full payment. If you have already paid all of the uninsured costs, you must (1) give the other parent proof that you paid them and (2) ask for reimbursement for the other parent's court-ordered share of those costs.

3. Proof of partial payment. If you have paid only your share of the uninsured costs, you must (1) give the other parent proof that you paid your share, (2) ask that the other parent pay his or her share of the costs directly to the health-care provider, and (3) give the other parent the information necessary for that parent to be able to pay the bill.

4. Payment by notified parent. If you receive notice from a parent that an uninsured health-care cost has been incurred, you must pay your share of that cost within the time the court orders; or if the court has not specified a period of time, you must make payment (1) within 30 days from the time you were given notice of the amount due, (2) according to any payment schedule set by the health-care provider, (3) according to a schedule agreed to in writing by you and the other parent, or (4) according to a schedule adopted by the court.

5. Going to court. Sometimes parents get into disagreements about health-care costs. If you and the other parent cannot resolve the situation after talking about it, you can request that the court make a decision.

a. Disputed charges. If you dispute a charge made by the other parent, you may file a request for the court to resolve the dispute, but only if you pay that charge before filing your request.

b. Nonpayment. If you claim that the other parent has failed to pay you back for a payment, or they have failed to make a payment to the provider after proper notice, you may file a request for the court to resolve the dispute. The court will presume that if uninsured costs have been paid, those costs were reasonable.

c. Attorney's fees. If the court decides one parent has been unreasonable, it can order that parent to pay the other parent's attorney's fees and costs.

d. Court forms. Use forms [FL-300](#) and [FL-490](#) to get a court date. See form [FL-300-INFO](#) for information about completing, filing, and serving your court papers.

6. Court-ordered insurance coverage. If a parent provides health-care insurance as ordered by the court, that insurance must be used at all times to the extent that it is available for health-care costs.

a. Burden to prove. The parent claiming that the coverage is inadequate to meet the child's needs has the burden of proving that to the court.

b. Cost of additional coverage. If a parent purchases health-care insurance in addition to that ordered by the court, that parent must pay all the costs of the additional coverage. In addition, if a parent uses alternative coverage that costs more than the coverage provided by court order, that parent must pay the difference.

7. Preferred health providers. If the court-ordered coverage designates a preferred health-care provider, that provider must be used at all times consistent with the terms of the health insurance policy. When any parent uses a health-care provider other than the preferred provider, any health-care costs that would have been paid by the preferred health provider if that provider had been used must be the sole responsibility of the parent incurring those costs.

Information About Child Support for Incarcerated or Detained Parents

1. Child support. As of September 27, 2022, child support automatically stops if the parent who has to pay is confined against their will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution.

2. Exception. Child support does not automatically stop if the parent who has to pay has money available to pay child support.

3. Timing. Child support will automatically restart the first day of the first full month after the parent is released. If you need to change your child support order, see page 2.

4. Past confinement. If a child support order was ordered or changed between October 8, 2015, and December 31, 2019, or January 1, 2021, and September 26, 2022, and the parent was confined for more than 90 days in a row during the same time frame, they also qualify for relief.

! **Additional exceptions for past confinement.** Child support would not automatically stop if the parent was in jail or prison for not paying child support or for domestic violence against the other parent or the child.

5. More info. For more information about child support and incarcerated parents, see [Family Code section 4007.5](#) or go to <https://selfhelp.courts.ca.gov/child-support/incarcerated-parent>.

NOTICE OF RIGHTS AND RESPONSIBILITIES

Information Sheet on Changing a Child Support Order

General Info

The court has made a child support order in your case. This order will remain the same unless one of the parents requests that the support be changed (modified). An order for child support can be modified by filing a request to change child support and serving the other parent. If both parents agree on a new child support amount, they can complete, sign, and file with the court a *Stipulation to Establish or Modify Child Support and Order* ([form FL-350](#)) (**Note:** If the local child support agency is involved in your case, it must be served with any request to change child support and approve any agreement.)

Online Self-Help Guide

For more information about how child support works, visit: <https://selfhelp.courts.ca.gov/child-support>.

When a Child Support Order May Be Changed

The court considers several things when ordering the payment of child support.

- First, the number of children is considered, along with the percentage of time each parent has physical custody of the children.
- Next, the net disposable incomes of both parents are determined (which is how much money is left each month after taxes and certain other items like health insurance, union dues, or other child support ordered and paid are subtracted from a parent's paycheck). The court can also look at earning ability if a parent is not working.
- The court considers both parents' tax filing status and may consider hardships, such as the cost of raising a child of another relationship who lives with a parent.

A parent can request to change an existing order for child support when the net disposable income of one of the parents changes, parenting time changes, or a new child is born.

Examples

- You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10 percent interest on any unpaid support, unless you file a motion to modify your child support to a lower amount and the court orders a reduction.
- You are currently receiving \$300 per month in child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a motion to modify your child support to a higher amount and the court orders an increase.
- You are paying child support based upon having physical custody of your children 30 percent of the time. After several months it turns out that you actually have physical custody of the children 50 percent of the time. You may file a motion to modify child support to a lower amount.

How to Change a Child Support Order

To change a child support order, you must file papers with the court. **Remember:** You must follow the order you have now.

What forms do I need?

If you are asking to change a child support order, you must fill out one of these forms:

- [Form FL-300](#), *Request for Order or*
- [Form FL-390](#), *Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support*

You must also fill out one of these forms, and attach proof of income for the past two months (like your paycheck stubs):

- [Form FL-150](#), *Income and Expense Declaration or*
- [Form FL-155](#), *Financial Statement (Simplified)*

What if I am not sure which forms to fill out?

Contact the [family law facilitator](#) or [self-help center](#) in your county.

After you fill out the forms, file them with the court clerk and ask for a hearing date. Write the hearing date on the form.

The clerk may ask you to pay a filing fee. If you cannot afford the fee, fill out these forms, too:

- [Form FW-001](#), *Request to Waive Court Fees and*
- [Form FW-003](#), *Order on Court Fee Waiver (Superior Court)*

You must serve the other parent. If the local child support agency is involved, serve it too.

- This means someone 18 or over—not you—must serve the other parent copies of your filed court forms at least **16 court days** before the hearing. Add **5 calendar days** if you serve by mail within California (see Code of Civil Procedure section 1005 for other situations).
- **Court days** are weekdays when the court is open for business (Monday through Friday except court holidays). **Calendar days** include all days of the month, including weekends and holidays. To find court holidays, go to www.courts.ca.gov/holidays.htm.

The server must also serve blank copies both of these forms:

- [Form FL-320](#), *Responsive Declaration to Request for Order*
- [Form FL-150](#), *Income and Expense Declaration*

Then the server fills out and signs a *Proof of Service* ([form FL-330](#) or [form FL-335](#)) Take this form, plus one copy, to the clerk and file it at least one week before your hearing.

Go to your hearing and ask the judge to change the support. Bring your tax returns from the last two years and your last two months' pay stubs. The judge will look at your information, listen to both parents, and make an order. After the hearing, fill out:

- [Form FL-340](#), *Findings and Order After Hearing and*
- [Form FL-342](#), *Child Support Information and Order Attachment*

Need help?

Contact the [family law facilitator](#) or [self-help center](#) in your county, or call your county's bar association and ask for an experienced family lawyer.

PETITIONER: RESPONDENT: OTHER PARTY:	CASE NUMBER: <div style="text-align: center;">DRAFT</div>
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APPLICATION TO DETERMINE ARREARS
 Attachment to *Request for Order* (form FL-300)

**Not approved by
the Judicial Council**

- Child Support**
 Spousal or partner support
 Family support
 Medical support
 Unreimbursed expenses
 Unreimbursed medical expenses
 Other (specify):

1. I ask that the amount of past due support payments (arrears) be decided in this case because (*check all that apply*):
 - a. I have already paid
 some
 all
 of the support ordered. Proof of payment is attached.
 - b. The children for whom support is to be paid were living with me full time for the period from:
 to: . I provided all of their support during that period. I am attaching a detailed declaration explaining these facts and supporting documentation, including any proof that the children were living with me.
 - c. I could not pay child support because
 - (1) After **September 26, 2022**, I was confined against my will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution (*attach proof*).

(a) Start date: _____ (b) End date: _____
 - (2) I had no money available to pay child support while I was confined.
 - d. I could not pay child support because
 - (1) **Between October 8, 2015, and December 31, 2019, or January 1, 2021, and September 26, 2022**, my child support order was entered or modified, and I was confined against my will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution (*attach proof*).

(a) Start date: _____ (b) End date: _____
 - (2) I had no money available to pay child support while I was confined.
 - (3) I was not confined for
 - (a) Domestic violence against the other parent or our child; or
 - (b) Failing to pay a child support order.
 - e. Other (*specify*): _____
2. I have previously asked the other parent for payment and provided the other parent with an itemized statement of the unreimbursed childcare expense medical expense. (*Attach copies of all bills being claimed and proof of any payments that you have made on these bills.*)
3. I request the other person pay my attorney's fees and costs. My *Income and Expense Declaration* (form FL-150) is attached.
4. I have attached (*check all that apply*):
 - a. a *Declaration of Payment History* (form FL-420).
 - b. a *Payment History Attachment* (form FL-421).
 - c. Other (*specify*): _____
5. Facts in support of the relief requested are (*specify*):

 contained in the attached declaration.

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

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

**NOTICE: This form must be attached to *Request for Order* (form FL-300).
 For help completing this form, talk to the [family law facilitator](#) or [self-help center](#) in your county.**

NOT A COURT ORDER

Page ____ of ____

PETITIONER: RESPONDENT: OTHER PARTY:	CASE NUMBER:
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5. b. I could not pay child support because
- (1) After **September 26, 2022**, I was confined against my will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution (*attach proof*).
- (a) Start date: _____ (b) End date: _____
- (2) I had no money available to pay child support while I was confined.
- c. I could not pay child support because
- (1) Between **October 8, 2015**, and **December 31, 2019**, or **January 1, 2021**, and **September 26, 2022**, my child support order was entered or modified, and I was confined against my will for more than 90 days in a row in jail, prison, juvenile detention, a mental health facility, or other institution (*attach proof*).
- (a) Start date: _____ (b) End date: _____
- (2) I had no money available to pay child support while I was confined.
- (3) I was **not** confined for
- (a) Domestic violence against the other parent or our child; or
- (b) Failing to pay a child support order.
- d. The child support order entered on (*date*): _____ was stopped (suspended) because the order says it would stop (*specify the reasons why and attach applicable proof*): _____
- e. Other (*specify*): _____

6. I have attached (*check all that apply*):
- a. a Declaration of Payment History ([form FL-420](#)).
- b. a Payment History Attachment ([form FL-421](#)).
- c. a printout listing support payments received by the local child support agency.
- d. Other (*specify*): _____

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

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE)

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner’s acting as a temporary judge. If you or the other party objects, the court commissioner may still hear your case to make findings and a recommended order to a judge. If you do not like the recommended order, you must object to it within **10 court days** in writing (use *Notice of Objection (form FL-666)*); otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

FL-676-INFO**Information Sheet: Request for Determination of Support Arrears****When do I use form FL-676?**

Use this form if the local child support agency is involved in your child support case and you:

- Disagree with how much in back support (arrears) they say is owed; or
- They refused to adjust the back support (arrears) for the time you were in jail, prison, juvenile detention, or a mental health facility for longer than 90 days and couldn't pay support.

Do NOT use form FL-676 to change the order

If you want to change the support order, you need to file a *Request for Order* (form [FL-300](#)) and an *Income and Expense Declaration* (form [FL-150](#)). See [form FL-300-INFO](#) for more information.

How do I get a court date?**Step 1: Fill out the form (in black or blue ink)**

- 1 Put your name, address, and contact information at the top of the form. Next, enter the court name and address. Then insert the names of the Petitioner, Respondent, and Other Party, and the case number. (You can find this information on your child support order.)



- 2 Start with item 4 to tell the court why you want the back support (arrears) changed.

- **Item 4(a):** Tell the court if you asked for the local child support agency to conduct an administrative review of support payments received.*

- **Item 4(b):** Tell the court if you've attached a printout listing payments received by the local child support agency.*

(***Note:** You can file this request without first asking for an administrative review or attaching a printout from the local child support agency.)

- **Item 5(a):** Attach your own support payment history, breaking down how much was owed and how much was paid each month. (You can use forms [FL-420](#) and [FL-421](#) for this purpose.)

- **Item 5(b):** Tell the court if after **September 26, 2022**, you were confined against your will for more than 90 days in a row and had no money available to pay child support.
 - **Item 5(c):** Tell the court if between **October 8, 2015**, and **December 31, 2019**, or **January 1, 2021**, and **September 26, 2022**:
 - (1) your child support order was entered or modified,
 - (2) you were confined against your will for more than 90 days in a row during that time frame,
 - (3) you had no money available to pay support, and
 - (4) you were not confined for not paying child support or domestic violence against the other parent or the child.
 - **Items 5(b) & (c):** List the start and end dates of your confinement and attach proof.
 - **Item 5(d):** Tell the court if the order gives other reasons for stopping (suspending) child support.
 - **Item 5(e):** If the other items don't apply, tell the court why the back support should be adjusted.
 - **Item 6:** Tell the court what paperwork (evidence) you have attached to your request.
- 3 Enter the date, print your name, and sign the form to tell the court that everything in your paperwork is true and correct.

Step 2: Make copies of your court papers

Make three sets of copies of your request, including any attachments, and keep the signed originals.

Step 3: File your request with the court

- 1 Take your originals, plus the three sets of copies, and file them with the court clerk. Find your court here: www.courts.ca.gov/find-my-court.htm
- 2 The court clerk will fill out item 1 with information about your court hearing date and return the three sets of copies to you with a "filed" stamp in the top right corner.



Tip: Check your [local court's website](#) to see if you can file your request electronically (e-file).

- 3 You will not be charged a fee to file this request.



Step 4: Have someone "serve" your request

- 1 Service is the act of giving your court papers to the local child support agency and the other party in the case. Service can be done in person or by U.S. mail.
- 2 A "server" (someone else 18 years or older) must serve your request. You can not serve your own court papers.
- 3 Give two sets of copies of your request, plus any attachments, to your server.
- 4 There are two options for service:

Option 1

Your server must hand-deliver or mail both sets of copies to the local child support agency, which will then send one set to the other party. To do this option, your server must deliver the papers at least **30 days** before the court date.

Option 2

Your server must hand-deliver or mail one set of copies to the local child support agency and one set to the other party. To do this option, your server must deliver the papers at least **16 court days** before the court date. (Add **5 more days** if served by mail.)

- 5 Your server must then complete, sign, and date a *Proof of Service* form to tell the court where and when your request was delivered.

In person: Have your server fill out [form FL-330](#).

By mail: Have your server fill out [form FL-335](#).

- 6 Double check the *Proof of Service* form to make sure your server correctly completed and signed the form. File the original form, plus one copy, with the court at least one week before your court date.

Go to your court hearing

- 1 You must appear at your court hearing or else your request can be denied. Check your [local court's website](#) to see if the court is conducting hearings in person or remotely (by videoconference). Complete and file [form RA-010](#) if you want to appear remotely.



- 2 For information about what to expect at the hearing: www.selfhelp.courts.ca.gov/request-for-order/LCSA/hearing.

How can I get free help?

Every county has a family law facilitator that can:

- Explain the legal process;
- Give you free legal forms; and
- Help you fill out court papers.



Depending on your county, the facilitator may help you in person, online, or by phone. Talk to the [facilitator in your county](#) for more information.

Ask for a Disability Accommodation Request



If you have a disability and need an accommodation while you are at court, you can use [form MC-410](#) to make your request. For more information, see [form MC-410-INFO](#).

Do you need a court interpreter?

If you don't speak or understand English very well, you may need a court interpreter to help you in court. You can use [form INT-300](#) to request an interpreter for your court hearing. Ask the court clerk or [family law facilitator in your county](#) for more information.

I got served with a Request for Determination of Support Arrears. Now what?

If you disagree with the requests made by the other party in form FL-676, you need to:

- File and serve your own court papers, at least **9 court days** before the court date; and
- Appear at the court hearing.

To respond to the request, file and serve:

- *Response to Governmental Notice of Motion or Order to Show Cause* ([form FL-685](#)); and
- Your own payment history. (You can use forms [FL-420](#) and [FL-421](#) for this purpose.)

See Step 4 for more information about serving court papers and use Option 2.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Appointment of Guardian ad Litem

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

Adopt form CIV-011/FL-936; revise forms DE-350/GC-100 and DE-351/GC-101; revise form CIV-010 and renumber as CIV-010/FL-935; revoke form FL-935

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee; Probate and Mental Health Advisory Committee; Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Civil and Small Claims: Develop form recommendations as appropriate to implement SB 1279. The law updates the terms used in appointing guardians ad litem in civil actions, requires notice of the application for appointment to any existing guardian or conservator, and establishes other court procedures concerning such appointment.

Probate and Mental Health: Senate Bill 1279 (Stats. 2022, ch. 843) amended Probate Code section 1003 to update the description of persons for whom the court may appoint a guardian ad litem and to require disclosure of conflicts of interest. The petition and order forms for appointment of a guardian ad litem in proceedings under the Probate Code must be revised to conform to these amendments.

Family and Juvenile Law: 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.

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

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

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-22

Title

Civil Practice and Procedure: Appointment of Guardian ad Litem

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt form CIV-011/FL-936; revise forms DE-350/GC-100 and DE-351/GC-101; revise form CIV-010 and renumber as CIV-010/FL-935; revoke form FL-935

Proposed Effective Date

January 1, 2024

Contact

Kendall Hannon, 415-865-7653
Kendall.Hannon@jud.ca.gov
Corby Sturges, 415-865-4507
Corby.Sturges@jud.ca.gov

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair
Probate and Mental Health Advisory Committee
Hon. Jayne Chong-Soon Lee, Chair
Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulsey, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

- The Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee propose adopting one form, revising two forms, revising and renumbering one form, and revoking one form to reflect a change in the law and to clarify and modernize the existing forms. The forms in the proposal are used to apply for and order the appointment of a guardian ad litem in a civil action or proceeding, including a family law proceeding, and in a proceeding under the Probate Code.

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

Background

- Minors, persons who lack legal decisionmaking capacity, and persons for whom a conservator has been appointed have long been required to appear by a guardian ad litem or a general conservator of the estate in civil actions or proceedings, including proceedings under the Family Code, to which they are parties.¹ Under the Probate Code, the Legislature has provided separate provisions authorizing the court to appoint a guardian ad litem to represent the interest of minors, persons who lack decisionmaking capacity, and other specified persons, including persons who are not parties, if representation of these persons' interests in the proceeding would otherwise be inadequate.²

The Proposal

- Senate Bill 1279 (Stats. 2022, ch. 843) amended Code of Civil Procedure section 372 and Probate Code section 1003 in several respects. First, it updated the language in both sections to refer consistently to one of the categories of persons who must appear through a guardian ad litem or for whom a guardian ad litem may be appointed as “a person who lacks legal capacity to make decisions.”³ This term reflects the current preference for the use of person-centered terms to refer to persons with disabilities. The bill also amended Code of Civil Procedure section 372 to explain that, for purposes of that section, the term refers to a “person who lacks capacity to understand the nature or consequences of the action or proceeding,” a “person who lacks capacity to assist the person’s attorney in the preparation of the case, and a “person for whom a conservator may be appointed pursuant to Section 1801 of the Probate Code.”⁴
- Second, SB 1279 amended Code of Civil Procedure section 372 to condition a court’s grant of an application for appointment of a guardian ad litem for a person who already has a guardian or conservator of the estate on (1) the applicant giving notice and a copy of the application to the guardian or conservator of the estate, (2) the application disclosing the existence of the guardian or conservator of the estate, and (3) the application stating reasons why the guardian or conservator of the estate would be inadequate to represent the interests of the proposed ward.⁵
- Third, SB 1279 added to both Code of Civil Procedure section 372 and Probate Code section 1003 a requirement that, before appointment of a guardian ad litem under either statute, a proposed guardian ad litem must disclose to the court and all parties to the action or proceeding any “known actual or potential conflicts of interest that would or might arise from

¹ Code Civ. Proc., § 372 (enacted in 1872). See *id.*, §§ 372.5–376.

² Prob. Code, § 1003.

³ Code Civ. Proc., § 372(a)(2)(A), (a)(4); Prob. Code, § 1003(a)(2).

⁴ Code Civ. Proc., § 372(a)(4). The statute does not indicate whether the specified references are intended to be exclusive.

⁵ *Id.*, § 372(a)(2)(B).

the appointment” and any “familial or affiliate relationship the proposed guardian ad litem has with any of the parties.”⁶ In addition, the statutes now require that a guardian ad litem disclose to the court any potential conflict of interest that the guardian ad litem realizes has become an actual conflict of interest and any new actual or potential conflict that has arisen.

- This proposal would revise two mandatory forms and revise and renumber one mandatory form to conform to these new statutory requirements. The proposal would also lead to the adoption of a fourth form created by separating the order appointing a guardian ad litem from the application for the appointment. In addition, the proposal would revoke one form currently intended for use for appointment of a guardian ad litem for a minor in family law proceedings other than dissolution. Because Code of Civil Procedure sections 372–376 supply the procedures to appointment of a guardian ad litem in family law proceedings, the revised civil forms would be used for this purpose. In the course of reviewing the existing forms, the committees have also identified opportunities to clarify their formatting, simplify their language, and update them to conform to current Judicial Council forms guidelines.
- More specifically, as discussed above, the advisory committees propose the following changes, effective January 1, 2024:
- Revise *Application and Order for Appointment of Guardian ad Litem—Civil* (form CIV-010) to replace the term “an incompetent person” with the statutory term “a person who lacks legal capacity to make decisions” in item 4, add references to the statutory standard and requirements for appointment in item 5, and provide for the disclosure of relationships and conflicts of interest as required by the statute in items 7 and 8. Additionally, the form would be revised to include spaces in items 4b and 4c for the applicant to provide explanations for the assertion that the proposed ward lacks legal capacity to make decisions or is someone for whom a guardian or conservator of the estate has been appointed. Item 6 would be added to reflect the timing requirements of Code of Civil Procedure section 373 applicable to appointment of a guardian ad litem for minors. References to “conservators” would be revised to read “guardian or conservator of the estate” to match the statutory language. Finally, the order section of the form would be removed and moved to a separate form. The form would be retitled and renumbered as *Application for Appointment of Guardian ad Litem—Civil and Family Law* (form CIV-010/FL-935) to remove the term “order” and clarify that the form is also for use in family law proceedings.
- Adopt *Order Appointing Guardian ad Litem—Civil and Family Law* (form CIV-011/FL-936) to provide a separate form by which a court can rule on an application for appointment of a guardian ad litem.
- Revoke *Application and Order for Appointment of Guardian ad Litem of Minor—Family Law* (form FL-935).

⁶ *Id.*, § 372(d); Prob. Code, § 1003(d).

- Revise *Petition for Appointment of Guardian ad Litem—Probate* (form DE-350/GC-100) to replace the term “incapacitated person” with the statutory term “person who lacks legal capacity to make decisions” (item 4b), add a reference to the statutory standard for appointment (item 5), update the disclosure of relationships to conform to statute (item 6), provide for the disclosure of conflicts of interest as required by statute (item 8), and clarify and update the language and formatting.
- Revise *Order Appointing Guardian ad Litem—Probate* (form DE-351/GC-101) to replace the term “incapacitated person” with the statutory term “person who lacks legal capacity to make decisions” (item 2b), add information specifying the specific petition that is granted (item 1), apply the statutory appointment standard (item 4), add an order requiring the guardian ad litem to report conflicts of interest that arise or ripen into actual conflicts after appointment (item 7), and clarify and update the language and formatting.

Alternatives Considered

- The committees considered taking no action but determined that the changes in the law required corresponding changes to the forms. The committees also considered limiting the proposed changes strictly to those required by the recent legislation but determined that additional clarification and updating were necessary, particularly to make the forms more accessible to self-represented applicants or petitioners. Finally, the committees considered retaining and revising form FL-935 but determined that the form was approved before form CIV-010 was adopted and concluded that form CIV-010 would be sufficient for use in the proceedings to which form FL-935 applied.

Fiscal and Operational Impacts

- The proposal would impose the usual costs for courts to update their case management systems to reflect the revisions and proposed new form CIV-011. As noted above, the new form should allow case management systems to handle the guardian ad litem appointment process more efficiently by separating the order from the application.

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. Forms CIV-010/FL-935, CIV-011/FL-936, DE-350/GC-100, DE-351/GC-101, and FL-935, at pages 6–14
2. Link A: Sen. Bill 1279 (Stats. 2022, ch. 843),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1279

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> <h2 style="margin: 0;">02.17.2023</h2> <h2 style="margin: 0;">Not approved</h2> <h2 style="margin: 0;">by Judicial</h2> <h2 style="margin: 0;">Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER PARENT/PARTY:	
APPLICATION FOR APPOINTMENT OF GUARDIAN AD LITEM <input type="checkbox"/> EX PARTE	CASE NUMBER:
NOTE: This form is for use in civil or family law proceedings in which a party is a minor, a person who lacks legal capacity to make decisions, or a person for whom a conservator has been appointed. A party who seeks the appointment of a guardian ad litem in a proceeding under the Probate Code should use form DE-350/GC-100. Except for an adult relative of a minor party in an action under the Uniform Parentage Act (Fam. Code, §§ 7600–7730), a person may not act as a guardian ad litem unless the person is represented by an attorney or is an attorney.	

1. Applicant (name): _____ is
 - a. the parent of (name):
 - b. the guardian of (name):
 - c. the conservator of (name):
 - d. a party to the suit.
 - e. the minor to be represented (if the minor is 14 years of age or older).
 - f. another interested person (specify capacity):

2. This application seeks the appointment of the following person as guardian ad litem (state name, address, and telephone number):

3. The guardian ad litem is to represent the interests of the following person (state name, address, and telephone number):

4. The person named in item 3 is a party and is
 - a. a minor (date of birth):
 - b. a person who lacks legal capacity to make decisions (explain the basis for claiming lack of capacity):

 - c. Continued on Attachment 4b.
 - a person for whom a guardian or conservator of the estate has been appointed (provide the details of the appointment):

 - Continued on Attachment 4c.

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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5. The appointment of a guardian ad litem is
- a. necessary because the person named in item 3 has no guardian or conservator of the estate.
 - b. expedient, notwithstanding that the person named in item 3 has a guardian or conservator of the estate. (If checked, complete (1) and (2) below. After filing this application, applicant must provide notice and a copy of this application to the guardian or conservator of the estate.)
 - (1) The guardian or conservator of the estate is (state name, address, and telephone number):

 - (2) The guardian or conservator of the estate is inadequate to represent the interests of the person named in item 3 in this action because (explain):

Continued on Attachment 5b.

6. The person named in item 3 is a minor and
- a. is a plaintiff or petitioner in this action and the summons has not been issued.
 - b. is a defendant or respondent in this action and more than 10 days have elapsed since the summons was served on the person named in item 3, and no application for the appointment of a guardian ad litem has been made by the person identified in item 3 or any other person.

7. The proposed guardian ad litem has the following relationship with the person named in item 3 (check one):

- a. No relationship
- b. A familial relationship (specify):
- c. An affiliate (nonfamilial) relationship (specify):

8. The proposed guardian ad litem is fully competent and qualified to understand and protect the rights of the person to be represented and (check one):

- a. is not aware of any actual or potential conflicts of interest that would or might arise from the appointment.
- b. is aware of the following actual or potential conflicts that would or might arise from the appointment (describe the actual or potential conflicts of interest and explain why the proposed guardian should nevertheless be appointed):

Continued on Attachment 8b.

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF ATTORNEY)

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

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF APPLICANT)

CONSENT TO ACT AS GUARDIAN AD LITEM

I consent to appointment as guardian ad litem under the above application. If I become aware that a potential conflict of interest has become an actual conflict, or that a new potential or actual conflict exists, I will promptly disclose the conflict of interest to the court.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF PROPOSED GUARDIAN AD LITEM)

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> <h1 style="margin: 0;">Not approved by Judicial Council</h1>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER PARENT/PARTY:	
ORDER APPOINTING GUARDIAN AD LITEM—CIVIL AND FAMILY LAW <input type="checkbox"/> EX PARTE	CASE NUMBER:

1. *Applicant (Name):* _____ seeks appointment of a guardian ad litem for (name): _____ who is:
 - a. a minor (date of birth): _____
 - b. a person who lacks legal capacity to make decisions.
 - c. a person for whom a guardian or conservator has been appointed.

2. The application came on regularly for a hearing as follows:
 - a. Judicial officer (name): _____
 - b. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 - c. The following persons were present at the hearing:
 - (1) Applicant (name): _____
 - (2) Attorney for applicant (name): _____
 - (3) Guardian ad litem named in item 5.
 - (4) Attorney for guardian ad litem (name): _____
 - (5) Plaintiff/Petitioner (name): _____
 - (6) Attorney for Plaintiff/Petitioner (name): _____
 - (7) Defendant/Respondent (name): _____
 - (8) Attorney for Defendant/Respondent (name): _____
 - (9) Other (names): _____

THE COURT FINDS

3. All notices required by law have been given.
4. The person for whom a guardian ad litem is to be appointed is a party and either:
 - a. has not appeared by a guardian or conservator of the estate, or
 - b. appointment of a guardian ad litem would be expedient, and
 - (1) the person to be represented by the guardian ad litem has a guardian or conservator of the estate, and
 - (2) the guardian or conservator of the estate is unable or inadequate to represent the interest of the person named in item 2 above.

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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THE COURT ORDERS

5. *(Name)*:
 is hereby appointed guardian ad litem of *(name)*:
6. The guardian ad litem is is NOT authorized to waive or disclaim any substantive rights of the represented party without further order of this court.
7. The guardian ad litem must promptly report to the court any potential conflict of interest with the represented person that becomes an actual conflict, as well as any new potential or actual conflict of interest that arises during the course of the representation.
8. Other *(specify)*:

Continued on Attachment 8.

9. Number of pages attached: _____

 _____

JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

MATTER OF (name): <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	CASE NUMBER:
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5. (Continue explanation below if necessary):

Continued on Attachment 5.

6. The proposed guardian ad litem has the following relationship with the person named or described in item 3:

- a. No relationship.
- b. A familial relationship (specify):
- c. An affiliate (nonfamilial) relationship (specify):

7. The proposed guardian ad litem is fully competent and qualified to understand and protect the rights of the person named or described in item 3, as explained in Attachment 7.

8. The proposed guardian ad litem has (check one):

- a. No known actual or potential conflicts of interest with the person named or described in item 3.
- b. One or more actual or potential conflicts of interest with the person named or described in item 3. All conflicts of interest are fully described in Attachment 8b.

9. Notice of this proceeding (check all that apply):

- a. Will be given to the persons named in Attachment 9a.
- b. To the persons named below should be dispensed with for the reasons given below (give names and reasons):

Continued on Attachment 9b.

10. Number of pages attached: _____

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY)

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

CONSENT TO ACT AS GUARDIAN AD LITEM

I consent to the appointment as guardian ad litem in this proceeding. If I become aware that a potential conflict of interest has become an actual conflict, or that a new potential or actual conflict exists, I will promptly disclose the conflict of interest to the court.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PROPOSED GUARDIAN)

CONSENT OF MINOR 12 YEARS OF AGE OR OLDER (Optional)

I, (name): _____, am (specify age): _____ years of age and hereby
nominate (name): _____ to be my guardian ad litem to represent my interests
for the reasons set forth in item 5 of this petition.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF MINOR 12 YEARS OF AGE OR OLDER)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MATTER OF (name): <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	
ORDER APPOINTING GUARDIAN AD LITEM—PROBATE <input type="checkbox"/> EX PARTE	CASE NUMBER:

1. The court has considered the petition for appointment of a guardian ad litem for (name of person to be represented):
 filed by (name of petitioner):
 on (date):
2. The person for whom appointment of a guardian ad litem is requested is (check one):
 - a. A minor (date of birth):
 - b. A person who lacks legal capacity to make decisions.
 - c. An unborn person.
 - d. An unascertained person or a designated class of unascertained persons or persons who are not in being.
 - e. A person whose identity or address is unknown.

THE COURT FINDS

3. a. Notice has been given as required by law.
- b. For good cause, notice does not need to be given to the following persons (name all):

4. Representation of the interest of the person named in item 1 would be inadequate without appointment of a guardian ad litem.

THE COURT ORDERS

5. (Name):
 is hereby appointed guardian ad litem for (name):
6. The guardian ad litem is is **not** authorized to waive or disclaim any substantive rights of the represented person without further order of this court.
7. The guardian ad litem must promptly report to the court any potential conflict of interest with the represented person that ripens into an actual conflict as well as any new potential or actual conflict of interest that arises during the course of the representation.
8. Other orders (specify):

Continued on Attachment 8.

9. Number of pages attached: _____

Date:

 (SIGNATURE OF JUDICIAL OFFICER)
 SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) or GOVERNMENTAL AGENCY: TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FILE
CHILD'S NAME:	
PETITIONER: RESPONDENT: OTHER PARENT:	
APPLICATION AND ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM OF MINOR—FAMILY LAW <input type="checkbox"/> EX PARTE	CASE NUMBER: _____
NOTE: This form is for use in family law proceedings with the exception of dissolution proceedings. For appointment of a guardian ad litem in civil proceedings, use form CIV-010. For appointment of a guardian ad litem in probate proceedings, use form DE-350/GC-100.	

1. I (name): _____ am the
 - a. attorney for
 - (1) minor.
 - (2) parent of the minor.
 - (3) other interested person (specify name and relationship): _____
 - b. parent of the minor.
 - c. other interested person.
 - d. minor (answer all that apply to you):
 - (1) My date of birth is (specify): _____
 - (2) I live with my mother father legal guardian other (specify name and relationship): _____
 - (3) My mother's name is (specify): _____, and her address is: _____
 - (4) My father's name is (specify): _____, and his address is: _____
 - (5) I have a legal guardian. My legal guardian's name is (specify): _____, and his or her address is: _____
 The guardianship was established in: _____ County, case no. (if known): _____
2. I ask the court to appoint the following person as guardian ad litem for the minor (state name, address, and telephone no.): _____
3. The relationship of the person listed in item 2 to the minor is
 - a. parent
 - b. other (specify): _____
4. Appointment of a guardian ad litem is necessary because (specify): _____

Continued on Attachment 4 (describe in detail, attach additional pages if necessary).

CHILD'S NAME: PETITIONER: RESPONDENT: OTHER PARENT:	CASE NUMBERS:
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5. The proposed guardian ad litem is fully competent to understand and protect the rights of the minor and has no interests conflicting with those of the minor.

Date: _____

 (TYPE OR PRINT NAME) (SIGNATURE OF APPLICANT)

CONSENT TO ACT AS GUARDIAN AD LITEM

I consent to the appointment as guardian ad litem and agree to assume the responsibilities.

Date: _____

 (TYPE OR PRINT NAME) (SIGNATURE OF PROPOSED GUARDIAN)

CONSENT TO GUARDIAN BY MINOR 14 YEARS OF AGE OR OLDER

I, (name): _____, and (minor's name): _____, and (minor's age): _____ years of age and hereby nominate (name): _____ to be my guardian ad litem to represent my interests for the reasons set forth in items 4 and 5 of this application.

Date: _____

 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

ORDER EX PARTE

THE COURT FINDS

It is reasonable and necessary to appoint guardian ad litem for the person named in the application, as requested above.

THE COURT ORDERS that (name)

litem of (name) _____ is hereby appointed guardian ad litem of (name) _____ for the purposes set forth in item 4 of this application.

Application for Appointment of Guardian ad Litem filed (date):

- a. is denied.
- b. is granted.
- c. is set for hearing on (date): _____

at (time): _____

Date: _____

 JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

Deferred until April 5

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Trial Courts: Report of Determinations Affecting Voting Rights

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

Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC 600A

Committee or other entity submitting the proposal:

Probate and Mental Health Advisory Committee; Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Probate and Mental Health: Assembly Bill 2841 (Stats. 2022, ch. 807; operative January 1, 2024) added section 2211.5 to the Elections Code to require that each court notify the Secretary of State once a month of all findings regarding capacity to vote under Elections Code sections 2208–2211 and the total number of specified proceedings in which the court could have made such findings. The statute requires the Judicial Council, in consultation with the Secretary of State, to adopt rules of court to implement the new requirements and adopt forms to be used by the courts for the required notification.

Criminal Law: Develop rules and forms to implement AB 2841 (Stats. 2022, ch. 807), which requires the Judicial Council to adopt rules and forms for courts to use to notify the Secretary of State of findings regarding a person's competency to vote.

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

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

As noted in the Invitation to Comment, committee staff consulted with court administrators, including members of the two committees, about the effect of the proposed rules and forms on court operations. The committees modified the proposal in response to their input to promote more efficient generation of the statutorily required reports.

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

SPR23-24

Title

Trial Courts: Report of Determinations
Affecting Voting Rights

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 10.970;
adopt form MC-600; approve form
MC-600A

Proposed Effective Date

January 1, 2024

Contact

Corby Sturges, 415-865-4507

Corby.Sturges@jud.ca.gov

Sarah Fleischer-Ihn, 415-865-7702

Sarah.Fleischer-Ihn@jud.ca.gov

Proposed by

Probate and Mental Health Advisory
Committee

Hon. Jayne Chong-Soon Lee, Chair

Criminal Law Advisory Committee

Hon. Brian M. Hoffstadt, Chair

Executive Summary and Origin

The Probate and Mental Health Advisory Committee and the Criminal Law Advisory Committee propose one rule of court and two forms to implement recent legislation requiring the trial courts to report to the Secretary of State judicial determinations under Elections Code sections 2208–2211 disqualifying a person from voting or restoring a person’s right to register to vote. The legislation expressly required the Judicial Council to adopt rules and forms, including a mandatory form for the courts to use to furnish the required reports.

Background

Existing law, Elections Code sections 2208–2211, requires the superior court to report each judicial determination under those sections disqualifying a person from voting or restoring a person’s right to register to vote to both the Secretary of State and the county elections official

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.

on a case-by-case basis.¹ In 2016 and 2017, representatives of the Court Executives Advisory Committee and Judicial Council staff worked with the Secretary of State’s staff to develop protocols and sample forms for these court reports. In April 2017, a letter from the Secretary of State containing the final protocols, information requirements, and sample forms was transmitted to the trial courts. Courts have followed those protocols and requirements since then.

The Proposal

Effective January 1, 2023, and operative January 1, 2024, Assembly Bill 2841 (Stats. 2022, ch. 807) codified many of the protocols and other requirements in the Secretary of State’s 2017 letter. AB 2841 also made a few notable changes. First, the legislation reduced, from one case at a time to once a month, the required frequency of the reports of the disqualification of a person from voting or the restoration of a person’s right to register to vote, though it authorized the court clerk to report more frequently. (§ 2211.5(a).) Second, AB 2841 shifted responsibility for notifying county elections officials of judicial determinations under Elections Code sections 2208–2211 away from the court clerk to the Secretary of State. (§ 2211.5(d)(2).) Effective January 1, 2024, the court will be required to report those determinations only to the Secretary of State.

AB 2841 also imposed two new reporting requirements on the court clerk. In addition to the judicial determinations under sections 2208–2211 since the clerk’s most recent report, the clerk must also report the total number of proceedings in the court during that period in which:

- The court appointed a probate conservator (Prob. Code, § 1800 et seq.);
- The court appointed a conservator under the Lanterman-Petris-Short (LPS) Act (Welf. & Inst. Code, § 5350 et seq.);
- The court appointed a conservator for a person found incompetent to stand trial and whose trial has been suspended under Penal Code section 1370 under the LPS Act (see *id.*, § 5352.5);²
- A person pleaded not guilty by reason of insanity, was found not guilty by reason of insanity, and was deemed “gravely disabled” as that term is defined by Welfare and Institutions Code section 5008(h)(2).³

¹ Elec. Code, §§ 2208(c), 2209(b) & (c), 2210(b) & (c), 2211(b) & (c). All subsequent statutory references are to the Elections Code unless otherwise specified.

² These proceedings, known as “Murphy” conservatorships, are, strictly speaking, a subset of conservatorships established under the LPS Act.

³ Section 2211.5(a)(2). The four types of proceedings are described in section 2208(a)(1)–(4).

Welfare and Institutions Code section 5008(h) defines “gravely disabled” for purposes of the LPS Act to refer to persons in three separate conditions. First, a person is “gravely disabled” and so may have a conservator appointed if the person, as a result of a mental health disorder, is unable to provide for their basic personal needs for food, clothing, or shelter. (Welf. & Inst. Code, § 5008(h)(1)(A).) Second, a person is “gravely disabled” and may have a

Furthermore, the court must certify, if applicable, that the person has been disqualified based on a finding, by clear and convincing evidence, that the person “cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process.”⁴ This determination applies to disqualifications ordered under sections 2208 and 2209 and to contests under section 2210. It does not, however, apply to disqualifications under section 2211. Disqualifications under that section are based instead on involuntary confinement following a finding of not guilty by reason of insanity, incompetence to stand trial, mentally disordered sex offender status, or treatment at a state hospital under Penal Code section 2684.⁵

This proposal would fulfill the mandate in section 2211.5(b) to adopt rules of court to implement that section and a Judicial Council form to be used by the courts to report the information required by that section to the Secretary of State.⁶ Specifically, the committees propose that the Judicial Council, effective January 1, 2024:

- Adopt California Rules of Court, rule 10.970, to:
 - Require courts to use *Cover Sheet to Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600) to submit the reports required by section 2211.5(a);
 - Give courts the option of using *Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600A) or a substantially similar printout generated by the court’s case management system to report the information required by section 2211.5(a)(1) and 2211.5(b); and
 - Require transmission of the reports to the Secretary of State in a manner that protects the confidentiality of the information in the reports;⁷

“Murphy” conservator appointed if the person has been charged with a violent felony and been found mentally incompetent to stand trial on that charge, the charge has not been dismissed, the person as the result of a mental health disorder is unable to understand the criminal proceedings or to assist counsel, and the person poses a substantial danger of physical harm to others. (*Id.*, § 5008(h)(1)(B).) Third, a person is “gravely disabled” if the person, as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, or shelter. (*Id.*, § 5008(h)(2).)

⁴ Section 2208(a) (language of finding), section 2211.5(b)(6) (certification requirement); see section 2209(a)–(c).

⁵ Section 2211(a).

⁶ Although the Judicial Council has full authority to make rules and forms, committee staff has consulted the Secretary of State’s staff regarding these rules and forms. See § 2211.5(b). Committee staff will ensure that this Invitation to Comment is sent to the elections counsel in the Secretary of State’s office.

⁷ Several statutory provisions strongly imply or require that information contained in the reports under section 2211.5 be kept confidential. See §§ 2138.5 and 2194 (confidentiality of information, including California driver’s license number and social security number, used for voter registration), Gov. Code, § 7924.000 (confidentiality of information, including California driver’s license and social security number used for voter identification or registration), Prob. Code, §§ 1821(a) (confidentiality of information submitted with conservatorship petition) and 1826(c) (confidentiality of court investigator’s report), and Welf. & Inst. Code, § 5328 (confidentiality of

- Adopt *Cover Sheet to Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600) as a mandatory form for courts to use to submit the reports required by section 2211.5(a); and
- Approve *Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600A) as an optional form for the court to use to report the information required by section 2211.5(a)(1) and 2211.5(b), including an item whereby a clerk can certify that an order disqualifying a voter includes certain findings.

Alternatives Considered

The committees did not consider taking no action. Elections Code section 2211.5(b) requires the Judicial Council to adopt implementing rules of court and forms to be used by the courts to report the information required by that section to the Secretary of State. The committees considered proposing two completely separate sets of forms, one to report disqualifications from voting under sections 2208–2210 and another to report disqualifications under section 2211. Because the former require a judicial determination, by clear and convincing evidence, that the person cannot, with or without reasonable accommodations, communicate a desire to participate in the voting process, whereas the latter do not, developing a single form set presented challenges. The committees determined, however, that the proposed forms could accommodate all the differences among the determinations.

The committees also considered omitting from the proposed rule the requirement for confidential transmission of the statutory reports to the Secretary of State because that requirement simply reflects existing law. Because the statutes making the information confidential are scattered across several different codes, however, the committees decided to include the provision in the rule as a reminder to protect the information.

Committee staff also consulted court administrators, including a court executive officer who played an active role in implementing SB 589 and AB 1020 in 2016 and 2017 and administrators currently serving on each committee, about the effect of the proposed rules and forms on court operations. These administrators raised concerns about an alternative division of information between form MC-600 and form MC-600A. In response to this feedback, the committees propose that the aggregate information required by section 2211.5(a)(2) be reported on form MC-600 and all case-specific information required by section 2211.5(b) to be reported on form MC-600A. This arrangement will promote more efficient generation of the required reports.

Fiscal and Operational Impacts

The fiscal and operational impacts of this proposal are almost entirely attributable to the legislation that mandated it. The proposal will have the usual impacts associated with introducing a new form into a court’s case management system. The legislation, as implemented by the rule

information and records obtained in the course of providing treatment to persons with mental health disorders or developmental disabilities).

and forms, may allow courts to streamline their reporting operations by requiring monthly reports to the Secretary of State because existing law requires case-by-case reporting of each determination under Elections Code sections 2208–2211 to both the Secretary of State and the county elections official.

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. Cal. Rules of Court, rule 10.970, at page 6
2. Forms MC-600 and MC-600A, at pages 7–8
3. Link A: Assembly Bill 2841 (Stats. 2022, ch. 807),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841

Rule 10.970 of the California Rules of Court would be adopted, effective January 1, 2024, to read:

1 **Rule 10.970 Reports of findings and orders affecting voting rights (Elec. Code,**
2 **§ 2211.5)**

3
4 In making the reports required under Elections Code section 2211.5 regarding findings
5 and orders disqualifying a person from voting or restoring a person’s right to register to
6 vote under Elections Code sections 2208–2211, the following requirements apply.

7
8 **(a) Forms**

9
10 (1) The clerk must use *Cover Sheet to Confidential Report of Findings and*
11 *Orders Affecting Voting Rights* (form MC-600) for each report made under
12 this rule.

13
14 (2) To report the information required by paragraph (a)(1) and subdivision (b) of
15 Elections Code section 2211.5 for the period covered by a report, the clerk
16 must attach to form MC-600 either:

17
18 (A) Completed *Confidential Report of Findings and Orders Affecting*
19 *Voting Rights* (form MC-600A) reporting all the applicable findings
20 and orders made by the court in the period covered by the report; or

21
22 (B) A printout generated by the court’s case management system that
23 includes the same information as on form MC-600A and presents the
24 information in substantially the same format as form MC-600A.

25
26 **(b) Confidentiality**

27
28 The clerk must transmit the report to the Secretary of State using a method that
29 protects the confidentiality of the information in the report.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
COVER SHEET FOR CONFIDENTIAL REPORT OF FINDINGS AND ORDERS AFFECTING VOTING RIGHTS	

Instructions to Clerk

1. Complete items 1 and 2 on this form.
 2. Using Confidential Report of Findings and Orders Affecting Voting Rights (form MC-600A) or a report generated by the court's case management system that presents the information in substantially the same format as form MC-600A, report all the required personal and case information for each person whom the court disqualified from voting or whose right to register to vote the court restored under Elections Code sections 2208–2211 since the court's last report. Use as many pages as needed, number them consecutively, and attach all pages to this form.
 3. Certify that each disqualification order made under Elections Code sections 2208–2210 stated that it was based on the required finding of the person's inability to complete the voter registration affidavit.
 4. In a manner that protects the confidentiality of the information on form MC-600A, submit this form and all attachments at least once each calendar month to the Secretary of State at voting@sos.ca.gov or any server or platform approved by the Secretary for that purpose.
- NOTE:** More than one report may be made each month, but all the information for a given month must be reported by the first day of the following month.

1. All findings and orders affecting voting rights made by this court under Elections Code sections 2208–2211 between (date): _____ and (date): _____, inclusive, are reported on the attached (check one):
 - a. Confidential Report of Court Orders Affecting Voting Rights (form MC-600A).
 - b. Report generated by the court's case management system that presents, for each order, all the information required by Elections Code section 2211.5(b) presented in a format substantially similar to that of form MC-600A.
 Number of pages attached: _____
2. The total number of the following appointments or findings that the court made in the period in item 1 is (give the number of each of the following actions taken during the period in item 1):
 - a. _____ Appointments of a conservator of the person or of the person and estate under Probate Code section 1800 et seq.
 - b. _____ Appointments of a conservator of the person or of the person and estate under Welfare and Institutions Code section 5350 et seq.
 - c. _____ Appointments of a conservator in a proceeding initiated under Welfare and Institutions Code section 5352.5 for a person who was found incompetent to stand trial and whose trial was suspended under Penal Code section 1370.
 - d. _____ Findings that a person who had pleaded and been found not guilty by reason of insanity was, at the time of judgment, gravely disabled, as that term is defined in Welfare and Institutions Code section 5008(h)(2).

[SEAL]

CLERK'S CERTIFICATE

I certify that every time subitem k on attached form MC-600A or the equivalent on the attached printout is checked, the order on file stated that the court had disqualified the person from voting based on a finding, by clear and convincing evidence, that the person could not, with or without reasonable accommodations, complete an affidavit of voter registration.

Date: _____ Clerk, by _____, Deputy

CONFIDENTIAL REPORT OF FINDINGS AND ORDERS AFFECTING VOTING RIGHTS
SUPERIOR COURT OF CALIFORNIA, COUNTY OF

Instructions to Clerk

Complete and attach to Cover Sheet for Confidential Report of Findings and Orders Affecting Voting Rights (form MC-600) as many copies of this form as are needed to report each person subject to a finding and order under Elections Code sections 2208–2211 made by the court in the reporting period. Provide all applicable information for each person subject to such a finding and order. Number each item and each page consecutively, and attach all pages to form MC-600 for submission.

Reporting period from (date): to (date): , inclusive.

- a. Name (first, middle, last, suffix):
b. All other known names:
c. Last known address:
d. Case number: e. Date of order: f. Date of birth:
g. Driver's license or ID # (if available): h. Last 4 digits of social security # (if available):
i. The order states that it was a (check one) [] disqualification from voting [] restoration of the right to register to vote.
j. The order states that it was made under Elections Code section (check one) [] 2208 [] 2209 [] 2210 [] 2211.
k. [] The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process. (Not applicable to a disqualification order made under section 2211.)

- a. Name (first, middle, last, suffix):
b. All other known names:
c. Last known address:
d. Case number: e. Date of order: f. Date of birth:
g. Driver's license or ID # (if available): h. Last 4 digits of social security # (if available):
i. The order states that it was a (check one) [] disqualification from voting [] restoration of the right to register to vote.
j. The order states that it was made under Elections Code section (check one) [] 2208 [] 2209 [] 2210 [] 2211.
k. [] The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process. (Not applicable to a disqualification order made under section 2211.)

- a. Name (first, middle, last, suffix):
b. All other known names:
c. Last known address:
d. Case number: e. Date of order: f. Date of birth:
g. Driver's license or ID # (if available): h. Last 4 digits of social security # (if available):
i. The order states that it was a (check one) [] disqualification from voting [] restoration of the right to register to vote.
j. The order states that it was made under Elections Code section (check one) [] 2208 [] 2209 [] 2210 [] 2211.
k. [] The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process. (Not applicable to a disqualification order made under section 2211.)

- a. Name (first, middle, last, suffix):
b. All other known names:
c. Last known address:
d. Case number: e. Date of order: f. Date of birth:
g. Driver's license or ID # (if available): h. Last 4 digits of social security # (if available):
i. The order states that it was a (check one) [] disqualification from voting [] restoration of the right to register to vote.
j. The order states that it was made under Elections Code section (check one) [] 2208 [] 2209 [] 2210 [] 2211.
k. [] The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process. (Not applicable to a disqualification order made under section 2211.)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Probate Conservatorship and Guardianship: Eligibility for County Payment of Cost of Appointed Counsel

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

Committee or other entity submitting the proposal:
Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Effective January 1, 2013, the council adopted Guidelines for Determining Financial Eligibility for County Payment of the Cost of Counsel Appointed by the Court in Proceedings Under the Guardianship-Conservatorship Law as Appendix E to the California Rules of Court to implement the mandate in Probate Code section 1470(c)(3). The Guidelines serve the function described in their title. The Guidelines set forth a three-part test for determining a responsible person's presumptive eligibility for county payment. The test is patterned after, but not directly tied to, the standard for an initial court fee waiver under Government Code section 68632 and was intended to be consistent with the standard for determination of presumptive inability to pay the cost of appointed counsel in juvenile dependency proceedings in Appendix F of the California Rules of Court. In response to amendments to the standard in Government Code section 68632 (Assem. Bill 199; Stats. 2022, ch. 57, § 6) that added receipt of WIC Program benefits and unemployment compensation to the list of benefit programs and increased the maximum monthly income level for automatic eligibility from 125 percent of the federal poverty guidelines to 200 percent of those guidelines, the Family and Juvenile Law Advisory Committee is considering proposing conforming amendments to Appendix F. The committee will consider whether to recommend amending Appendix E at the same time to continue to pattern its test for presumptive eligibility after the standard in Government Code section 68632 and to maintain consistency with the standard in Appendix F.

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

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

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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

INVITATION TO COMMENT

SPR23-25

Title

Probate Conservatorship and Guardianship:
Eligibility for County Payment of Cost of
Appointed Counsel

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, Appendix E

Proposed Effective Date

January 1, 2024

Proposed by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-Soon Lee, Chair

Contact

Corby Sturges, 415-865-4507
Corby.Sturges@jud.ca.gov

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes amending the *Guidelines for Determining Financial Eligibility for County Payment of the Cost of Counsel Appointed by the Court in Proceedings Under the Guardianship-Conservatorship Law (Guidelines)*, Appendix E of the California Rules of Court, to update the criteria for establishing presumptive eligibility for county payment of the cost of court-appointed counsel. The proposal would maintain the Judicial Council's policy of basing presumptive eligibility for county payment in part on the conditions for granting an initial court fee waiver under Government Code section 68632(a)–(c) by adjusting the criteria in the *Guidelines* to conform to recent amendments to that statute.

Background

In 2012, the Judicial Council adopted the *Guidelines* in Appendix E in response to the mandate in Probate Code section 1470(c)(3) to “adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.”¹ Paragraph 2 of the *Guidelines* outlines the persons statutorily responsible for paying the cost of

¹ Judicial Council of Cal., Advisory Com. Rep., *Probate Conservatorship and Guardianship: Financial Eligibility for County Payment for Counsel Appointed by the Court in Proceedings Under the Guardianship-Conservatorship Law* (Aug. 29, 2012), p. 3, www.courts.ca.gov/documents/jc-20121026-itemA23.pdf.

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

counsel appointed in guardianships, conservatorships, and proceedings to determine legal capacity under division 4 of the Probate Code.² Paragraph 4 then provides criteria for establishing a presumption that a responsible person is unable to pay those costs and thus eligible to have the county to pay them.

Paragraph 4 borrows three criteria for determining a person’s eligibility for county payment from the conditions of eligibility for an initial court fee waiver in Government Code section 68632(a)–(c).³ A responsible person is presumed to be eligible for county payment if (A) the person is eligible to receive public benefits from one or more listed programs, (B) the person’s income is at or below a specified percentage of the federal poverty guidelines, or (C) the person would be unable to pay the cost of counsel without using funds that would be normally used to pay for the common necessities of life.⁴ From the adoption of the *Guidelines* until June 30, 2022, Government Code section 68632(a) authorized receipt of public benefits from seven programs to establish eligibility for an initial fee waiver. Government Code section 68632(b) set the income threshold for eligibility for an initial fee waiver at 125 percent of the federal poverty guidelines.

The Proposal

The advisory committee proposes amending paragraphs 4A and 4B of the *Guidelines* to reflect amendments to Government Code section 68632 by Assembly Bill 199 (Stats. 2022, ch. 57, § 6), effective June 30, 2022. AB 199 amended section 68632(a) to add two programs—the California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program) and unemployment compensation—to the list of the public benefits, receipt of which establishes eligibility for an initial court fee waiver. The proposed amendment to paragraph 4A of Appendix E would add those same two programs to the list of those from which eligibility to receive public benefits would establish presumptive eligibility for county payment of the cost of appointed counsel in covered proceedings.

AB 199 also amended section 68632(b) to raise the income threshold for eligibility for an initial fee waiver from 125 percent of the federal poverty guidelines to 200 percent of those guidelines. The proposed amendment to paragraph 4B of Appendix E would raise its income threshold from 125 percent to 200 percent of the current federal poverty guidelines.

Alternatives Considered

The committee considered not taking any action but determined that the Judicial Council’s established policy to base the conditions for presumptive eligibility for county payment of the cost of appointed counsel in protective proceedings under division 4 of the Probate Code

² See Prob. Code, §§ 1470–1474, 3140(d)(1), 3205. For more detail about the statutory scheme for appointment of counsel in proceedings under division 4 of the Probate Code, see Judicial Council of Cal., Advisory Com. Rep., *supra*, at pp. 2–6.

³ Cal. Rules of Court, Appendix E, Advisory Com. com.; Judicial Council of Cal., Advisory Com. Rep., *supra*, at p. 7. (“[T]he test is patterned after the standard for an initial court fee waiver under Government Code section 68632.”)

⁴ Cal. Rules of Court, Appendix E, para. 4A–C.

required some action. As an alternative to following that policy by amending Appendix E to conform to the statutory amendments, the committee considered proposing a change to the policy that would have decoupled the criteria under the *Guidelines* for presumptive eligibility for county payment from the statutory conditions of eligibility for an initial fee waiver. The committee concluded, however, that the legislative and judicial branch policies of promoting access to the courts for persons of limited financial resources would best be served by the proposed amendments.

Fiscal and Operational Impacts

The proposed changes should have no fiscal impact on the courts. Although the proposed amendments would increase the number of persons presumptively eligible for county payment of the costs of their appointed counsel, the courts would not bear those costs. Neither would the proposed amendments affect court operations. Once local forms or online programs were reset to reflect the new benefit programs and income threshold, they would operate as before. The proposal would not change paragraphs 4C or 5 of the *Guidelines*, which authorize the court to make an individualized determination of a person’s ability to pay the costs of appointed counsel.

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. Cal. Rules of Court, Appendix E, at page 4
2. Link A: Gov. Code, § 68632 (as amended by Assem. Bill 199; Stats. 2022, ch. 57, § 6, effective June 30, 2022),
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=68632

Appendix E to the California Rules of Court would be amended, effective January 1, 2024, to read:

Appendix E

**Guidelines for Determining Financial Eligibility for County
Payment of the Cost of Counsel Appointed by the Court in Proceedings
Under the Guardianship-Conservatorship Law**

1.-3. * * *

4. Presumed eligibility for county payment

Except as provided in paragraph 7, the person responsible for payment of the cost of appointed counsel is presumed to be eligible for payment by the county of that cost if the person satisfies one or more of the following three conditions:

A. The responsible person is eligible ~~for~~ to receive benefits under one or more of the following programs:

(1)-(5) * * *

(6) CalFresh (Supplemental Nutrition Assistance Program (SNAP)) or California Food Assistance Program (CFAP), a California program for immigrants not eligible for federal SNAP; ~~or~~

(7) * * *

(8) California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program); or

(9) Unemployment compensation.

B. The responsible person's income is ~~125~~ 200 percent or less of the current federal poverty guidelines, updated periodically in the Federal Register by the United States Department of Health and Human Services; or

C. * * *

5.-8. * * *

Advisory Committee Comment

* * *

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Protective Orders: Updated Law Enforcement Information Form and New Forms for Continuances on Hearings to Renew

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

Revise form CLETS-001; adopt forms CH-715, CH-716, EA-715, EA-716, SV-715, SV-716, WV-715, WV-716

Committee or other entity submitting the proposal:

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; (415) 865-7662; frances.ho@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): November 1, 2022

Project description from annual agenda:

Family and Juvenile Law Advisory Committee agenda:

Item 15: As lead committee for Protective Orders Working Group (POWG), work with Civil Small Claims Advisory Committee to revise the forms used in domestic violence cases to request and order continuances of hearings in proceedings to renew or terminate protective orders. Continuances are frequently requested in these matters, and courts have indicated that a form for this process would assist them in managing this workload.

Item 16: As lead committee for Protective Orders Working Group (POWG), work with Civil Small Claims Advisory Committee to revise the protective order forms used in domestic violence and civil to ensure they are written in language that is comprehensible to non-attorneys, while maintaining legal accuracy. In 2023 the Committee will focus on the CLETS-001 which needs revisions to be accurate in gun violence restraining order matters and would benefit from additional changes based on user testing.

Civil and Small Claims Advisory Committee agenda:

Item 4: Work with Protective Order Working Group (under lead of Family and Juvenile Law Advisory Committee) to develop rule and form recommendations as appropriate. The current version of CLETS-001 must be filled out by those requesting gun violence restraining orders under rule 1.51 but cannot be accurately completed by those petitioners because the form requires identification of the "person to be protected" by the order, which is not applicable to gun violence restraining orders. Additionally, order forms for protective order are being revised (separately) to note that certain items are required (rather than just helpful), and the committee will consider whether it would be beneficial to users if the CLETS form is similarly revised.

Item 12: Work with Protective Order Working Group (under lead of Family and Juvenile Law Advisory Committee) to revise the forms used in domestic violence and civil cases to request and order continuances of hearings in proceedings to renew or terminate protective orders (the CH-700 form series and the parallel forms in the DV, EA, GV, SV, and WV form series).

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

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

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

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

This proposal:

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

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

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

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

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

INVITATION TO COMMENT

SPR23-26

Title

Protective Orders: Updated Law Enforcement Information Form and New Request Forms for Continuances

Proposed Rules, Forms, Standards, or Statutes

Adopt forms CH-715, CH-716, EA-715, EA-716, SV-715, SV-716, WV-715, and WV-716; revise form CLETS-001

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair
Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Action Requested

Review and submit comments by May 12, 2023

Proposed Effective Date

January 1, 2024

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov
Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Executive Summary and Origin

Together, the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend revising form CLETS-001 to make needed updates and adopting new forms to be used when a request to renew has been filed in a protective order proceeding and the court or a party wishes to continue a hearing.

Background

Revisions are needed to form CLETS-001, a mandatory form that must be submitted with any request for restraining order, including a gun violence restraining order.¹ The current format assumes that there is a person to be protected in the case. However, in gun violence proceedings,

¹ Cal. Rules of Court, rule 1.51.

there is no individual protected party. Therefore, revisions are needed to ensure that applicants for gun violence restraining orders can successfully complete the form. Other changes are also recommended and described below.

In addition, currently, there are no forms to request or order to continue (reschedule) a hearing on a request to renew a restraining order. The Family and Juvenile Law Advisory Committee has received comments on other proposals that continuance forms would be helpful, as the existing continuance forms (e.g., forms DV-115 and DV-116) are not designed for renewal proceedings. The committees agree that continuance forms would be helpful, and would be especially important if the order for continuance extends the restraining order after hearing, as the new expiration would need to be entered into the California Law Enforcement Telecommunications System (CLETS).

The Proposal

Form CLETS-001

Form CLETS-001 is a confidential form that is turned into the court but does not become part of the court file. The purpose of this form is to provide additional information that could be helpful if law enforcement is called on to enforce the protective order. The committees recommend a number of changes to this form.

First, the form has been reorganized to include information about the proposed restrained party first, including the current item about possession of firearms, allowing applicants of gun violence restraining orders to skip the remaining items about protected parties that do not apply to their case. Second, all references to gender now include a nonbinary option, consistent with the request and order forms. Third, the committees recommend removing the protected party's address in response to safety concerns raised by advocates. Fourth, several changes are made in response to user-testing results, including retitling the form, revising the instructions at the top of the form to provide a clearer explanation of what the form will be used for, and having the court note the date the form is received rather than having the petitioner indicate whether the form is the initial or an amended version. Finally, the committee recommends removing information that is unlikely to be helpful in enforcing an order (e.g., a protected person's vehicle and license plate number and a restrained person's employer or occupation) or is already included on the restraining order (e.g., a restrained person's address). The committee will also seek feedback on these recommendations from the California Department of Justice, the entity responsible for maintaining the protective order registry within CLETS.

Continuance forms for request to renew restraining order

The committees recommend adopting a request to continue form and an order for continuance form for each of the CH (civil harassment), DV (domestic violence), GV (gun violence), EA (elder abuse), SV (private post-secondary school violence), and WV (workplace violence) form sets, to be used when a request to renew a restraining order has been filed with the court. The

Request to Reschedule Hearing to Renew Restraining Order (forms 715) could be used by either party to ask the court to continue a hearing. The *Order to Reschedule Hearing to Renew Restraining Order* (forms 716) would be used by the court to indicate its decision on a request to continue hearing or to continue a hearing on its own motion. That form, like the order to reschedule the original hearing on a restraining order petition, includes a warning that the current restraining order remains in effect through the continuance and an item for the court to use to inform the party what type of service, if any, is required. Because other changes relevant only to the DV and GV form sets are recommended in other proposals, the proposed DV and GV forms 715 and 716 are included with those proposals rather than this proposal, but are substantially similar to the forms included in this proposal.²

Alternatives Considered

For the new continuance forms for renewal proceedings, the committee considered revising the existing request and order (115 and 116 forms). However, the committee rejected this approach as some of the statutory requirements only apply to continuances of the initial request for restraining order (e.g., a respondent is entitled to one continuance, for a reasonable period of time, to respond to the initial petition). Creating a form that would work for both the initial request for restraining order and for a renewal would make the forms more complicated. Instead, the committees decided that a separate continuance form set for renewals would be more user-friendly.

The committees also considered whether to adopt a new information form, similar to forms CH-115-INFO and DV-115-INFO. The committees decided against a separate information form at this time and instead included more instruction on form 715, under “Your Next Steps.”

Fiscal and Operational Impacts

The committees anticipate that this proposal would require courts to train court staff and judicial officers on the newly adopted and revised forms. Courts will also incur costs to incorporate the new and revised forms into the paper or electronic processes.

² Those proposals, “Protective Orders: Revisions to Gun Violence Restraining Order Forms (SPR23-28)” and “Domestic Violence: Form Changes to Implement New Laws (SPR23-29),” can be found at <https://www.courts.ca.gov/policyadmin-invitationstocomment.htm>.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose relating to the CLETS form?
- Does the proposal approximately address the stated purpose relating to the continuance forms?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms CLETS-001, CH-715, CH-716, EA-715, EA-716, SV-715, SV-716, WV-715, and WV-716, at pages 5–25

CLETS-001 Confidential Information for Law Enforcement

Instructions: If you are asking for a restraining order, you must complete this form and give it to the court clerk, along with the other court forms required in your case. Information you give on this form will be entered into a database that law enforcement have access to, called CLETS. If information changes later, complete this form again and turn it in to the court.

To Court Clerk: Do not file this form. The information on this form must be entered into the protective order registry in CLETS.

Court fills in case number when form is received.

Case Number: _____

Information that has a **star (*)** next to it is required. All other information is helpful.

Date received by court: _____

1 Person You Want a Restraining Order Against

***Name:** _____

Other names used: _____

Describe any marks, scars, or tattoos: _____

Telephone: _____ Driver's license (number and state): _____

Vehicle (type, model, year, license plate number): _____

Social security number: _____

Does the person have any firearms (guns), firearm parts, or ammunition?

No I don't know

Yes (If yes, give any information you have below. For example, list the type, amount, or location, if known.)

Does the person speak English? Yes I don't know No (list language): _____

(Skip 2 and 3 if you are asking for a gun violence restraining order (form GV-100).)

2 Your information

***Name:** _____

***Age:** _____ Date of Birth (month, day, year): _____ ***Gender:** M F X (nonbinary)

Race: _____ Telephone: _____

Do you speak English? Yes No (list language): _____

3 Other People You Want Protected

***Name:** _____ ***Gender:** _____ Race: _____ Date of Birth: _____

***Name:** _____ ***Gender:** _____ Race: _____ Date of Birth: _____

***Name:** _____ ***Gender:** _____ Race: _____ Date of Birth: _____

***Name:** _____ ***Gender:** _____ Race: _____ Date of Birth: _____

Check here if you have more people to list. Write them on a separate piece of paper and write "Item 3" at the top and attach it to this form.

This is not a Court Order—Do not place in court file.

Clerk stamps date here when form is filed.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 My Information

a. My name is: _____

b. I am the (*check one*):(1) Protected party (*skip to 2*).(2) Restrained party (*give your contact information below*).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (*optional*)

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About Your Casea. The other party in this case is (*full name*): _____b. The court date is currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party served.
- b. Other reason:

4 Signature

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

Date: _____

Type or print your name

▶ _____
Sign your name

5 Lawyer's signature (if you have one)

Date: _____

Lawyer's name

▶ _____
Lawyer's signature

Your Next Steps

- Complete form CH-716, *Order to Reschedule Hearing to Renew Restraining Orders* (only items 1 and 2)
- File forms CH-715 and CH-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form CH-716, item **5**. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to <https://selfhelp.courts.ca.gov/CH-restraining-order/renew/sheriff-serves>.
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form CH-710).

Clerk stamps date here when form is filed.

DRAFT

1/26/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

(Complete ① and ② only. The court will complete the rest of this form.)

① **Protected Party:** _____

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The Restraining Order After Hearing (CH-130) granted in this case stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Warning and Notice to the Restrained Party:
You must obey the restraining order until it expires.

This is a Court Order.



4 Reason Court Date Is Rescheduled

a. The protected party has not served the restrained party.

b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Protected party**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the protected party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of all the forms listed on form CH-710, item 4 by (date): _____

(2) You must have the protected party personally served with a copy of this order by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



6 **No Fee to Serve (Notify) Restrained Person** **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in **1** is entitled to a fee waiver.

7 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request (form MC-410)*. (Civ. Code, § 54.8.)

Instructions to Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form CH-716) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 My Information

a. My name is: _____

b. I am the (check one):

(1) Protected party (skip to ②).(2) Person asking for protection for the protected party

(name of elder or dependent adult): _____

(skip to ②).

(3) Restrained party (give your contact information below).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (optional)

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (skip if you do not have one)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About Your Case

a. The other party in this case is (full name): _____

b. The court date is currently scheduled for (date): _____

This is not a Court Order.

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party served.
- b. Other reason:

4 Signature

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

Date: _____

Type or print your name



Sign your name

5 Lawyer's signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Complete form EA-716, *Order to Reschedule Hearing to Renew Restraining Orders* (only items 1 and 2)
- File forms EA-715 and EA-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form EA-716, item **5**. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to <https://selfhelp.courts.ca.gov/EA-restraining-order/renew/sheriff-serves>.
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form EA-710).

Clerk stamps date here when form is filed.

DRAFT

1/26/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

(Complete ① and ② only. The court will complete the rest of this form.)

① **Protected Party:** _____

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The Restraining Order After Hearing (EA-130) granted in this case stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Warning and Notice to the Restrained Party:
You must obey the restraining order until it expires.

This is a Court Order.



4 Reason Court Date Is Rescheduled

a. The protected party has not served the restrained party.

b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Protected party**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the protected party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of all the forms listed on form EA-710, item **4** by (date): _____

(2) You must have the protected party personally served with a copy of this order by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



6 **No Fee to Serve (Notify) Restrained Person** **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in **1** is entitled to a fee waiver.

7 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request (form MC-410)*. (Civ. Code, § 54.8.)

Instructions to Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form EA-716) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 My Information

a. My name is: _____

b. I am the (*check one*):(1) **Petitioner** (educational institution officer or employee)
(*skip to 2*).(2) **Restrained Party** (*give your contact information below*).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (*optional*)

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About Your Casea. The other party in this case is (*full name*): _____b. The court date is currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party served.
- b. Other reason:

4 Signature

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

Date: _____

Type or print your name



Sign your name

5 Lawyer's signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Complete form SV-716, *Order to Reschedule Hearing to Renew Restraining Orders* (only items 1 and 2)
- File forms SV-715 and SV-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form SV-716, item **5**. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to <https://selfhelp.courts.ca.gov/SV-restraining-order/renew/sheriff-serves>.
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form SV-710).

Clerk stamps date here when form is filed.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

(Complete ① and ② only. The court will complete the rest of this form.)

① **Petitioner (Educational Institutional Officer or Employee):**

② **Restrained Party:**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The Restraining Order After Hearing (SV-130) granted in this case stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date

→ Date: _____ Time: _____

Dept.: _____ Room: _____

Warning and Notice to the Restrained Party:
You must obey the restraining order until it expires.

This is a Court Order.



4 Reason Court Date Is Rescheduled

a. The petitioner has not served the restrained party.

b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of all the forms listed on form SV-710, item **4** by (date): _____

(2) You must have the petitioner personally served with a copy of this order by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the petitioner served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



6 No Fee to Serve (Notify) Restrained Person **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

7 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request (form MC-410)*. (Civ. Code, § 54.8.)

Instructions to Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form SV-716) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 My Information

a. My name is: _____

b. I am the (*check one*):(1) **Petitioner** (employer) (*skip to 2*).(2) **Restrained Party** (*give your contact information below*).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (*optional*)

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About Your Casea. The other party in this case is (*full name*): _____b. The court date is currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party served.
- b. Other reason:

4 Signature

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

Date: _____

Type or print your name



Sign your name

5 Lawyer's signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Complete form WV-716, *Order to Reschedule Hearing to Renew Restraining Orders* (only items 1 and 2)
- File forms WV-715 and WV-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form WV-716, item **5**. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to <https://selfhelp.courts.ca.gov/WV-restraining-order/renew/sheriff-serves>.
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form WV-710).

Clerk stamps date here when form is filed.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

(Complete ① and ② only. The court will complete the rest of this form.)

① **Petitioner (Employer):** _____

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The Restraining Order After Hearing (WV-130) granted in this case stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Warning and Notice to the Restrained Party:
You must obey the restraining order until it expires.

This is a Court Order.



4 Reason Court Date Is Rescheduled

- a. The petitioner has not served the restrained party.
- b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner**

b. **Restrained party**

c. **Court**

- (1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) You must have the restrained party personally served with a copy of all the forms listed on form WV-710, item **4** by (date): _____
- (3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____
- (4) Other: _____

- (1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) You must have the petitioner personally served with a copy of this order by (date): _____
- (3) You must have the petitioner served with a copy of this order. This can be done by mail. You must serve by (date): _____
- (4) Other: _____

- (1) Further notice is not required.
- (2) The court will mail a copy of this order to all parties by (date): _____
- (3) Other: _____

This is a Court Order.



6 No Fee to Serve (Notify) Restrained Person **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

7 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request (form MC-410)*. (Civ. Code, § 54.8.)

Instructions to Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form WV-716) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Rules and Forms: Service Form to Implement Assembly Bill 2791

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Adopt form SER-001

Committee or other entity submitting the proposal:
The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; (415) 865-7662; frances.ho@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): November 1, 2022

Project description from annual agenda:

Family and Juvenile Law Advisory Committee agenda:

Item 1c: AB 2791 (Bloom) Sheriffs: service of process and notices (Ch. 417, Stats. of 2022) requires a marshal or sheriff to accept an electronically signed notice or other process issued by a superior court in a civil action, including service of orders and other court documents for the purpose of notice. Requires Judicial Council, on or before January 1, 2024 to create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.

Civil and Small Claims Advisory Committee agenda:

Work with Protective Order Working Group (under lead of Family and Juvenile Law Advisory Committee) to develop form recommendations as appropriate. AB 2791 requires the Judicial Council to create forms for use by civil litigants to request service of process and other court papers by a marshal or sheriff. The legislation mandates certain items be included on the forms.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR 23-27

Title

Rules and Forms: Service Form to Implement
Assembly Bill 2791

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt form SER-001

Proposed Effective Date

January 1, 2024

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair
Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov
Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Executive Summary and Origin

Together, the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend adoption of a new form, *Request for Sheriff to Serve Court Papers* (form SER-001). The proposed new form complies with the statutory mandate in Assembly Bill 2791 (Stats. 2022, ch. 417) that the Judicial Council adopt a form for civil litigants to request that a sheriff's office serve their court papers.

Background

Last year the Legislature enacted Assembly Bill 2791,¹ which requires the Judicial Council, by January 1, 2024, to “create a statewide form or forms to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff, including their department or office.” (Gov. Code, § 26666.10.) The new statute defines “notice” broadly to include “all papers and orders required to be served in any proceedings before any court.” (Gov.

¹ AB 2791 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2791.

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.

Code, §§ 26660 & 26666.) The new law also specifies that the form must “require” the following information: “the name, address, and description of the person to be served and the signature of the litigant requesting service, or their attorney of record.” (Gov. Code, § 26666.10(c).) The council may require other information, but must also indicate which fields on the form are required and allow the signature of the requesting party or their attorney to be made electronically. (*Ibid.*)

The existing forms and procedures that litigants must follow in order to request service of court papers by the sheriff or marshal vary widely by county. Some counties have different service request forms for each type of case or service requested, while others have only one or two specific request forms or instruct litigants to provide certain information to the sheriff without using a specific form.

The Proposal

The committees recommend adoption of new form *Request for Sheriff to Serve Court Papers* (form SER-001) to comply with a recent change in law mandating the creation of such a form. The top of the proposed form offers instructions to litigants about what the form is used for, how to submit the form, websites to find more information (including local sheriff’s offices),² and information about fee waivers and the fact that litigants may need to pay for service. The form also contains a warning that it is confidential and provides a space for a sheriff file number, if needed.

In creating the substance of the form, the committees included the required fields as mandated by statute. The form also requires that the litigant requesting service provide their name and an address where they can be reached by the sheriff. The committees included several other optional fields on the form that they believe will assist in the sheriff attempting service, including an alternate address for the person to be served, safety and accessibility information about the person to be served, certain pertinent information about the case, including upcoming hearings or service deadlines, and a text box where the litigant requesting service can enter additional information.

Alternatives Considered

The committees considered creating several different forms to request different types of service. For example, one form would be used to request service of protective orders while another form would be used to request service of subpoenas, and yet another could be used to request service of writs. The committees concluded that the pertinent information needed to serve a party, namely who that party is and where to find them, is the same regardless of the case type.

² The form contains a placeholder for a *Self-Help Guide to the California Courts* webpage about requesting service from the sheriff that has yet to be finalized. The committees anticipate that the placeholder will be replaced with the URL before the form is recommended for adoption by the Judicial Council.

Moreover, the litigant is required to provide the papers that will be served and the sheriff can ascertain any information specific to the case relevant to service from the papers that are being served. The committees thus recommend a single form to implement the provisions of AB 2791.

Fiscal and Operational Impacts

Since the new forms will not be filed in court, the committees believe that any costs associated with this proposal borne by the judicial branch will be minimal. The legislation will result in costs to sheriff's offices and self-help centers to train staff on the requirement of a new form.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Form SER-001, at pages 4–5
2. Link A: AB 2791,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2791

SER-001

Request for Sheriff to Serve Court Papers

CONFIDENTIAL

Instructions: Fill out this form if you want the sheriff or marshal to serve your court papers. Each county in California has a [sheriff's office](#), and they serve different types of court papers, but they must try to serve restraining orders. You may have to pay for service of some court papers. For more information go to [link to court s self-help webpage]

- Find the sheriff's office for the county of the person you want served.
- Give the sheriff this form and the court papers to be served on the other party. You can give these papers to the sheriff in person or by email or fax.
- If you have a fee waiver order (form FW-003), you will not have to pay a fee. Give the sheriff a copy of form FW-003 that is signed by the judge.

To Court Clerk: Do not file this form.

Sheriff File Number (for sheriff to complete, if needed):

Information that has a **star (*)** next to it is required. All other information may be helpful but is not required.

1 Information about person you want served

a. ***Name:** _____
Telephone number: _____

b. Address where person should be served

(Sheriff typically serves during normal business hours. Check with the sheriff's office for the exact times.)

***Address:** _____ Home Business

***City:** _____ ***State:** _____ **Zip:** _____

Gate code or special instructions: _____

Best time to serve at this address (example: 8a.m.–noon): _____

Alternate address (if the person cannot be found at the address listed above)

Address: _____ Home Business

City: _____ **State:** _____ **Zip:** _____

Gate code or special instructions: _____

Best time to serve at this address (example: 8a.m.–noon): _____

c. Description

***Gender:** M F Nonbinary **Age or date of birth:** _____

***Height:** _____ ***Weight:** _____ **Hair color:** _____ **Eye color:** _____

***Race/Ethnicity:** _____

Special marks or features (tattoos, scars, etc.): _____

Vehicle (type, model, year, color, plate number): _____

Check here if you are including a picture of the person.

d. Safety and accessibility

The person you want served (check any that may apply):

Has a gun or other weapon Has an aggressive animal Has a history of violence or abuse

Is on probation or parole Has mental health issues Is Deaf or hard of hearing

This is not a Court Order—Do not place in court file.

Case Number: _____

- 1 d. **Safety and accessibility** *(continued)*
 - Does not speak English *(list language)*: _____
 - Other *(explain)*: _____

2 **Information about your case**

- a. What type of court papers are you asking the sheriff to serve?
(For example, restraining order, eviction, or summons.)

- b. Is there a court hearing (court date)?
 No I don't know Yes *(if yes, give date of hearing)*: _____
- c. Is there a deadline for service?
 No I don't know Yes *(if yes, give deadline)*: _____
- d. Has the court allowed alternative or substituted service?
 No I don't know Yes *(if yes, attach order or provide method of service)*:

- e. Other instructions *(any other information needed to attempt service)*:

3 **Contact information for the sheriff to reach you**

- a. ***Your name** *(party requesting service)*: _____
Your lawyer's information *(if you have one)*
Name: _____
Firm name: _____
- b. **Contact information** *(If you have a lawyer, give their information. Give an address where you can receive mail regularly, including a post office box, a Safe at Home address, or other safe address.)*
***Address to receive mail:** _____
***City:** _____ ***State:** _____ ***Zip:** _____
Telephone number: _____ Email Address: _____

4 ***Your signature** *(party asking for service or their lawyer)*

***Date:** _____

_____ **Type or print your name*  _____ **Sign your name (may be electronic)*

CONFIDENTIAL

This is not a Court Order—Do not place in court file.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Protective Orders: Revisions to Gun Violence Restraining Order Forms

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

Adopt forms GV-715 and GV-716; revise forms EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-115, GV-120, GV-120-INFO, GV-125, GV-130, GV-620, GV-700, GV 710, GV-730, GV-800, and GV 800 INFO

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

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

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

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Item 1: Develop form recommendations as appropriate. AB 2870, which goes into effect January 1, 2023, amends the Penal Code to allow additional categories of people to petition for gun violence restraining orders. Specifically, people who have a dating relationship with the subject of the petition and people who have a child in common with the subject of the petition may now request such an order. The legislation also seeks to clarify that a roommate can bring such a petition. The current forms should be revised to reflect the additional potential petitioners. The forms may also need to be revised to reflect other recent legislation.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-28

Title

Protective Orders: Revisions to Gun
Violence Restraining Order Forms

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt forms GV-715 and GV-716; revise
forms EPO-002, GV-020, GV-020-INFO,
GV-030, GV-100, GV-100-INFO, GV-109,
GV-110, GV-115, GV-120, GV-120-INFO,
GV-125, GV-130, GV-620, GV-700,
GV-710, GV-730, GV-800, and
GV-800-INFO

Proposed Effective Date

January 1, 2024

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Proposed by

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

Executive Summary and Origin

The Civil and Small Claim Advisory Committee recommends the adoption and revision of numerous gun violence restraining order forms. These new and revised forms (1) implement a new law permitting additional categories of individuals to petition for gun violence restraining orders, (2) bring the language describing firearm parts on gun violence restraining order forms in line with other protective order forms, (3) include new forms that can be used to request continuance of a hearing to renew a gun violence protective order, and (4) clarify that no additional proof of service is required if the respondent attends the hearing where the order was issued remotely.

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

Background

Assembly Bill 2870

On September 20, 2022, the Governor Gavin Newsom signed Assembly Bill 2870 (Stats. 2022, ch. 974).¹ The bill allows additional categories of individuals to petition for gun violence restraining orders.² Specifically, an individual who has a child in common with the subject of the restraining order and an individual who has a dating relationship with the subject of the restraining order may now bring these petitions. Additionally, the new statute explicitly provides that a roommate of the respondent may petition for a restraining order if certain requirements are met. Before the enactment of AB 2870, a roommate of the respondent could bring a petition because the definition of “immediate family member” in the statute included a roommate. AB 2870, however, separates roommates into their own statutory subdivision and amends the definition of “immediate family member.” The new family member definition does not include roommates and now includes any person related by consanguinity or affinity within the 4th degree who has had substantial and regular interactions with the subject for at least one year.

Firearm Parts

In 2021 the Legislature enacted Assembly Bill 1057 (Stats. 2021, ch. 682)³ which added “the frame or receiver of the weapon” to the definition of *firearm* in Penal Code section 16520 and thus required individuals restrained under gun violence restraining orders to relinquish and not possess firearm parts (including what are known as ghost guns). The advisory committee recommended revisions to gun violence restraining order forms to implement AB 1057, which the council approved in September 2022.⁴

Last summer, Assembly Bill 1621 (Stats. 2022, ch. 76)⁵ further modified the definition of *firearm* under Penal Code 16520 to refer to “firearm precursor part” as defined in Penal Code section 16531, which was also modified to include any item that “may readily be . . . converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm.” Additionally, AB 1621 applied the new definition of firearm to other civil protective orders for the first time. As noted above, given other changes needed for gun violence restraining order forms, the council approved the advisory committee’s changes to gun violence restraining orders to include language about firearm parts based on the provisions of AB 1057 in September. That same month, the advisory committee’s proposal to add the same language about firearm parts to the

¹ AB 2870 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2870.

² These changes do not affect temporary emergency gun violence restraining orders governed by Penal Code sections 18125 through 18148.

³ AB 1057 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1057.

⁴ See Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms* (Aug. 10, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=11205465&GUID=ACE8A41E-6217-4FC9-9B8A-E3ED80D7145F>.

⁵ AB 1621 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1621.

other civil restraining order forms was posted for public comment during a special comment period. Based on comments received on the later proposal, the committee recommended and the council approved revisions to the other civil restraining order forms with slightly different language to describe firearm parts than was earlier approved in the gun violence restraining orders.⁶

The Proposal

This proposal is urgently needed to address four distinct issues:

- Implementation of recently enacted AB 2870;
- Use of consistent language across protective orders to describe firearm parts;
- The need for new forms to request continuance of a hearing to renew a gun violence protective order; and
- Clarification that no additional proof of service is required if the respondent attended the hearing where the order was issued remotely.

The last two issues are being addressed jointly with the Family and Juvenile Advisory Committee across all domestic violence and civil protective order form sets (see discussion below and footnotes 11 and 12), but because other changes are needed to the Gun Violence forms as well, the proposed GV forms relating to those issues are included here.

Implementation of AB 2870

The form revisions recommended to implement AB 2870 are straightforward. The proposed petition, notice of hearing, and order forms contain the additional categories of people who may bring a gun violence restraining order, as do any other forms in which the relationship of petitioner to respondent is identified. (See the first item in forms GV-100, GV-109, GV-110, GV-130, GV-160, GV, 700, GV-710, and GV-730.) The information sheets also describe the new categories of people who may bring the petition and include the expanded meaning of “immediate family member.” (See GV-100-INFO and GV-120-INFO.)

In addition, given that the type of petitioner is not relevant to a request to continue a hearing, this proposal eliminates the description of the relationship between petitioner and respondent on form GV-115 and replaces it with “person asking for the protective order or law enforcement officer/law enforcement agency”. The proposal carries that structure onto proposed new form GV-715 (the request to continue a hearing on a request for continuance) as well.

⁶ See Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Civil Protective Order Forms Implementing Assembly Bill 1621* (Nov. 2, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=11461123&GUID=89F39689-D073-494C-9390-2A55F4C5AEC0>.

Description of firearm parts

This proposal also recommends revisions to the language on the forms describing firearm parts to make the language consistent with that on other protective order forms.⁷ Specifically, the forms in the proposal describe firearm parts as including “firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531),” which is the language that is already approved by the council on other civil protective order forms⁸ and criminal protective order forms.⁹ A separate proposal this cycle is also updating domestic violence restraining order forms to include that language as well.¹⁰

Continuances on hearing to renew

Currently, no forms exist to request or order to continue (reschedule) a hearing on a request to renew a restraining order. The Family and Juvenile Law Advisory Committee has received comments on a separate proposal that new continuance forms would be helpful because the existing continuance forms (e.g., forms GV-115 and GV-116) are not designed for renewal proceedings. This committee and the Family and Juvenile Law Advisory Committee are jointly recommending creation of such forms for the Civil Harassment (CH), Elder or Dependent Adult (EA), School Violence (SV), and Workplace Violence (WV) form sets in a separate proposal.¹¹ The corresponding gun violence forms are included in this proposal (new forms GV-715 and GV-716) and are substantively identical to the forms in that joint proposal. They are included here so that all the gun violence forms are together in a single proposal.

Clarification of service requirements after remote appearance

To clarify the service requirements for respondents who appear remotely in protective order proceedings, this committee and the Family and Juvenile Law Advisory Committee jointly recommend two new rules of court in a separate proposal,¹² along with revisions to the CH, EA, SV, and WV forms. That proposal includes revisions to the notice of hearing forms and the order

⁷ The information on the back of form EPO-002 also contains minor updates to refer to a restraining order issued after hearing as a “longer-term” restraining order instead of a “more permanent” restraining order and to clarify that violating the restraining order will result in an additional prohibition on having firearms to begin on the expiration of the *existing* order.

⁸ See Judicial Council of Cal., Advisory Com. Rep., *Protective Orders: Civil Protective Order Forms Implementing Assembly Bill 1621* (Nov. 2, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=11461123&GUID=89F39689-D073-494C-9390-2A55F4C5AEC0>.

⁹ See Judicial Council of Cal., Advisory Com. Rep., *Criminal Procedure: Criminal Protective Orders and Firearm Relinquishment Order* (Nov. 8, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=11460928&GUID=058F0EC3-4C6A-47B7-BF10-DFCA23C91E70>.

¹⁰ That proposal, *Domestic Violence: Form Changes to Implement New Laws*, is available under “Protective Orders” at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

¹¹ That proposal, *Protective Orders: Updated Law Enforcement Information Form and New Forms for Continuances on Hearings to Renew*, is available under “Protective Orders” at www.courts.ca.gov/policyadmin-invitationstocomment.htm. The domestic violence restraining order form proposal in the footnote above also creates substantially similar forms for the DV form set.

¹² That proposal, “Protective Orders: Service Requirements after Remote Appearances,” is available under “Protective Orders” at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

after hearing forms to advise the respondent that attending the hearing, including through the use of remote technology, will result in immediate enforcement of any orders issued. Identical revisions are made to the gun violence restraining order forms in this proposal. (See form GV-109 at item 3, and form GV-130 at item 8.)

Alternatives Considered

Because AB 2870 made significant and substantial changes to who may bring gun violence restraining orders, the committee determined that it must act and that taking no action would be inappropriate. The committee also determined it would be inappropriate to take no action to update the language about firearm parts, create forms to request continuances on hearings to renew, and clarify the service requirements for an order issued after a hearing where the respondent appeared remotely.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly adopted and revised forms. Courts will also incur costs to incorporate the new and revised forms into the paper or electronic processes.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

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

Attachments and Links

1. Forms EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-115, GV-120, GV-120-INFO, GV-125, GV-130, GV-620, GV-700, GV-710, GV-715, GV-716, GV-730, GV-800, and GV-800-INFO, at pages 7–63

2. Link A: Assembly Bill 2870,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2870
3. Link B: Assembly Bill 1057,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1057
4. Link C: Assembly Bill 1621,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1621

EPO-002
GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name): _____
Address: _____

Gender: M F Nonbinary Ht.: _____ Wt.: _____ Hair color: _____

Eye color: _____ Race: _____ Age: _____ Date of birth: _____

2. TO THE RESTRAINED PERSON
(Also see important Warnings and Information on page 2):

You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

If you have any firearms (guns), firearm parts (receivers, frames, and any item that may be used as or easily turned into a receiver or frame), ammunition, or magazines, you MUST IMMEDIATELY SURRENDER (GIVE) THEM if asked by a police officer. If a police officer does not ask you to surrender the items, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. If you do not file a receipt within 48 hours you have violated this order and can go to jail.

3. This order will last until: _____ Time _____
INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. Court Hearing A court hearing will be set within 21 days.
 A court hearing will take place at the court above on: Date: _____ Time/Dept: _____

You must attend the court hearing if you do not want this restraining order against you. You may attend the hearing remotely (check your court's website for instructions). At the hearing, the judge can make this order last for up to five years.

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to themselves or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, firearm parts, ammunition, or magazines; and (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): _____ granted this order on (date): _____ at (time): _____

APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

8. Firearms (including parts) were observed reported physically searched for seized.
 Ammunition (including magazines) was observed reported physically searched for seized.

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

By: _____ (PRINT NAME OF LAW ENFORCEMENT OFFICER) _____ (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____ Telephone No: _____ Badge No: _____

Address: _____

PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person name in item 1.

Date of service: _____ Time of service: _____ Address: _____

10. At the time of service, I was at least 18 years of age.

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

Date: _____ (TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER) _____ (SIGNATURE OF SERVER)

Clerk stamps date here when form is filed.
DRAFT

3/3/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:
Superior Court of California, County of

Court fills in case number when form is filed.
Case Number: _____

**GUN VIOLENCE EMERGENCY PROTECTIVE ORDER
WARNINGS AND INFORMATION**

EPO-002

TO THE RESTRAINED PERSON: You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm (gun), a firearm part (a receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or a magazine. (Pen. Code, §§ 16531 & 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19 & 18205.)

Within 24 hours of receipt of this order, you must turn in all items listed above to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use form GV-800, *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines*.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use form GV-020, *Response to Gun Violence Emergency Protective Order*. A longer-term restraining order may be requested from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm (gun), firearm part (a receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or magazine for an additional five-year period, to begin on the expiration of the existing gun violence restraining order. (Pen. Code, §§ 16531 & 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

A LA PERSONA RESTRINGIDA: Tiene prohibido ser dueño de, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, un componente de armas de fuego (un receptor o armadura, o cualquier artículo que puede ser usado como receptor o armadura o fácilmente convertido en receptor o armadura), municiones o cargadores. (Código Penal, §§ 16531 & 18125 y siguientes). Una violación de esta orden es un delito menor que está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Código Penal, §§ 19 & 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar todos los artículos indicados arriba a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Código Penal, § 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden, o el próximo día hábil, si el periodo de 48 horas termina un día en que está cerrada la corte. También tiene que presentar el recibo a la agencia del orden público que le entregó esta Orden. Se puede usar el formulario GV-800, *Recibo por armas de fuego, componentes de armas de fuego, municiones, y cargadores*.

Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Se puede solicitar a la corte una orden de restricción a más largo plazo.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, un componente de armas de fuego (un receptor o armadura, o cualquier artículo que puede ser usado como receptor o armadura o fácilmente convertido en receptor o armadura), municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego existente. (Cód. Penal, §§ 16531 & 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma tiene que hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

To law enforcement: The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, firearm parts, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable, but not later than three court days, after issuance, so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

Clerk stamps date here when form is filed.

DRAFT

3/3/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Use this form if you do not want the court to extend the *Gun Violence Emergency Protective Order* for a period of time between 1–5 years.

1. Read *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO) to protect your rights.
2. Fill out this form and take it to the filing window at the court.
3. Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the law enforcement agency that applied for the *Gun Violence Emergency Protective Order* (form EPO-002). (Use *Proof of Service by Mail* (form GV-025).)

Fill in court name and street address:

Superior Court of California, County of

See Notice of Hearing for case number and fill in:

Case Number:

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

2 Restrained Person

- a. Your Name: _____
 Your Lawyer *(if you have one for this case)*:
 Name: _____ State Bar No.: _____
 Firm Name: _____

- b. Your Address *(If you have a lawyer, give your lawyer's information. You do not have to give telephone, fax, or email address.)*
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from the Notice of Hearing or *Gun Violence Emergency Protective Order* (form EPO-002) here:

Hearing Date

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

You must obey the *Gun Violence Emergency Protective Order* until the expiration date. At the hearing, the court may make an order against you for a period of time between 1–5 years.

3 Gun Violence Restraining Order

- I do not agree that a gun violence restraining order should be extended for 1–5 years *(explain)*:

- Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use form MC-025, Attachment.



What is a Gun Violence Emergency Protective Order (form EPO-002)?

It is a court order requested by law enforcement that prohibits someone from having any of the following prohibited items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store all prohibited items listed above that they currently own.

For more information about prohibited items, please see <https://selfhelp.courts.ca.gov/restraining-orders/prohibited-items>.

Who can ask for a gun violence emergency protective order?

The gun violence emergency protective order must have been requested by a law enforcement officer and was issued by a judicial officer based on the statements made under penalty of perjury in the protective order.

I've been served with a Gun Violence Emergency Protective Order (form EPO-002) and a Notice of Court Hearing. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* or form EPO-002 tells you when to appear for court and where the court is located. If you want to attend the hearing remotely, such as by phone or videoconference, check your local court's website for instructions and availability. Follow the *Gun Violence Emergency Protective Order* (form EPO-002) prohibiting you from having any prohibited items listed above and requiring you to surrender, sell, or store any prohibited items that you currently own or possess. You must obey the order until the expiration date on the form.

**What if I don't obey the emergency protective order?**

The police can arrest you. You can go to jail and pay a fine. You may also be prohibited for a longer period of time from having access to firearms, firearm parts, ammunition, and magazines.

What if I don't want the order to be extended?

If you disagree with the order that has been issued and do not want the court to extend it for a longer time, fill out [Response to Gun Violence Emergency Protective Order \(form GV-020\)](#), before your hearing date. File the form with the court and serve it on the requesting law enforcement agency. You can get the form from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find it at your local courthouse or county law library.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of the completed *Response to Gun Violence Emergency Protective Order* (form GV-020) to the law enforcement agency that issued the *Gun Violence Emergency Protective Order* (form EPO-002). (This is called “service by mail.”)

The person who serves the form by mail must fill out [Proof of Service by Mail \(form GV-025\)](#). Have the person who did the mailing sign the original form GV-025. Take the completed form back to the court clerk or bring it with you to the hearing.



Should I attend the court hearing?

Yes. You should attend the hearing listed on the *Notice of Court Hearing* or the *Gun Violence Emergency Protective Order* (form EPO-002). You can do so remotely, such as by telephone or videoconference, or go to court in person. If you do not attend the hearing, the judge can extend the order against you for a period of time between 1-5 years without hearing from you.

**Will I see the person who asked for the court order at the court hearing?**

It's possible the law enforcement officer may appear at the court hearing.

Can I attend the court hearing remotely, such as by telephone or videoconference?

Yes. Remote appearances are permitted for parties and witnesses. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find at www.courts.ca.gov/find-my-court.htm.

**What if I need help to understand English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use [Declaration \(form MC-030\)](#) for this purpose.)

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

For help in your area, contact:

[Local information may be inserted.]

How long does the order last?

The *Gun Violence Emergency Protective Order* (form EPO-002) will last until the expiration date listed on the front of the form in item 3. The court will decide at the hearing whether to issue a gun violence restraining order that can last for a period of time between 1-5 years.

Clerk stamps date here when form is filed.

DRAFT

1/20/2023

**NOT APPROVED BY THE
JUDICIAL COUNCIL***The court will complete this form.***1 Requesting Agency or Officer***(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)*Law enforcement agency or officer that applied for the Gun Violence
Emergency Protective Order: _____**2 Restrained Person**

Full Name: _____

Lawyer *(if there is one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**Description of Restrained Person**Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

Home Address: _____

City: _____ State: _____ Zip: _____

3 Expiration Date*This order expires at:**(Time)*: _____ a.m. p.m. midnight on *(date)*: _____

If no expiration date is written here, this order expires one year from the date of issuance.

4 Hearinga. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____.*(Name of judicial officer)*: _____ made the orders at the hearing.

b. These people attended the hearing:

(1) The officer or representative of the Requesting Agency _____(2) The Restrained Person Lawyer for the Restrained Person *(name)*: _____**This is a Court Order.**

5 Findings

a. The court finds by clear and convincing evidence that the following are true:

- (1) The Restrained Person poses a significant danger of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- (2) A gun violence restraining order is necessary to prevent personal injury to the Restrained Person or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- (3) The court has received credible information that the Restrained Person owns or possesses one or more firearms, firearm parts, ammunition, or one or more magazines.
- (4) The facts as stated in the *Gun Violence Emergency Protective Order* (form EPO-002) and supporting documents submitted at the time of the hearing, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this Order.

See the attached *Attachment* (form MC-025)

b. A gun violence restraining order is not being issued for the reasons below:

This is a Court Order.



6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item **4** is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**
- e. **Order dissolving (terminating) *Gun Violence Emergency Protective Order*.**
 The court dissolves (terminates) the *Gun Violence Emergency Protective Order* (form EPO-002) originally issued on (date): _____ as of (date of hearing): _____.

7 Service of Order on the Restrained Person

- a. The Restrained Person was present in court at the time the order was issued. No other proof of service is needed. The clerk has provided the Restrained Person with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.
- b. The Restrained Person was not present in court at the time the order was issued. The Restrained Person must be personally served with a court file-stamped copy of this order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.

8 Number of pages attached to this Order, if any: _____

Date: _____

*Judicial Officer***Warnings and Notices to the Restrained Person**

To the restrained person: This order will last until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

This is a Court Order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of up to five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any of those items that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Restrained Person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Restrained Person claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Restrained Person had notice of the order. Consider the Restrained Person "served" (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file;
- The Restrained Person was informed of the order by an officer; or
- Item 7a is checked, indicating the Restrained Person was present in court at the time the order was issued.

This is a Court Order.



Instructions for Law Enforcement

(continued)

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it *(see above: Duties of Officer Serving This Order)*.

The provisions in this *Gun Violence Restraining Order After Hearing on EPO-002* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV)* (form GV-030) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/3/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Read *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO) before completing this form.

1 Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

I am:

- A family member of the Respondent.
- An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed. If you wrote your full name above, write the name of the law enforcement agency that employs you.*)

An employer of the Respondent (*your position and name of company*):

A coworker of the Respondent. I have had substantial and regular interactions with the Respondent for at least one year and I have obtained the approval of my employer to file this petition (*name of company*):

An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months. I have obtained the approval of a school administrator to file this petition (*name of the school*):

A roommate of the Respondent. I currently live with the Respondent or lived with the Respondent within the past six months and have had substantial and regular interactions with the Respondent for at least one year.

A person who has a dating relationship with the Respondent.

A person who has a child in common with the Respondent. I have had substantial and regular interactions with the Respondent for at least one year.

b. Your Lawyer (*if you have one for this case*): Name: _____

Firm Name: _____ State Bar No.: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____ Telephone: _____

City: _____ State: _____ Zip: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Respondent

Full Name: _____ Age: _____

Address (*if known*): _____

City: _____ State: _____ Zip: _____

This is not a Court Order.



3 Venue

Why are you filing in this county? *(Check all that apply):*

- a. The Respondent lives in this county.
- b. Other *(specify):* _____

4 Other Court Cases

a. Are you aware of any other court cases, civil or criminal, involving the Respondent?

- Yes No *If yes, check each kind of case and give as much information as you know as to where and when each was filed:*

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(2)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(3)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(8)	<input type="checkbox"/> Criminal	_____	_____	_____
(9)	<input type="checkbox"/> Other <i>(specify):</i>	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to Respondent?

- Yes No I don't know *If yes, attach a copy if you have one.*

5 Description of Respondent's Firearms (Guns), Firearm Parts, Ammunition, or Magazines

Answer 5a or check 5b if you have reason to believe that the respondent is in possession of firearms (guns), firearm parts, ammunition, or magazines. *This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).*

a. I am informed, and on that basis believe, that Respondent currently possesses or controls the following firearms, firearm parts, ammunition, or magazines *(describe the number, types, and locations of any of those items that you believe that the Respondent currently possesses or controls):*

	<u>Types of firearms (guns), firearm parts, ammunition or magazines</u>	<u>How many or what amount?</u>	<u>Location, if known</u>
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____
(6)	_____	_____	_____

b. I am informed, and on that basis believe, that Respondent currently possesses or controls firearms, firearm parts, ammunition, or magazines, but I have no further specific information as to the number, types, and locations of those items.

This is not a Court Order.



8 No Fee to Serve (Notify) Restrained Person

If you want the sheriff or marshal to serve (notify) the restrained person about the orders, they will do it for free.

9 Request for Hearing

I request that the court set a hearing in this matter for the purpose of issuing a gun violence restraining order that will last between one and five years.

10 Temporary Gun Violence Restraining Order

I request that a temporary gun violence restraining order be issued against the Respondent to last until the hearing. I am presenting Temporary Gun Violence Restraining Order (form GV-110) for the court's signature together with this Petition.

Has the Respondent been told that you were going to court to seek a temporary gun violence restraining order?

Yes No (If you answered no, explain why below):

Reasons stated in Attachment 10.

Horizontal lines for text entry.

11 Request to Give Less Than Five Days' Notice of Hearing

You must have your papers personally served on Respondent at least five calendar days before the hearing, unless the court orders a shorter time for service. (See What Is "Proof of Personal Service"? (form GV-200-INFO). Proof of Personal Service (form GV-200) may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Reasons stated in Attachment 11.

Horizontal lines for text entry.

12 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any) Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name Sign your name

This is not a Court Order.

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer or a self-help center.

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any of the following items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store any prohibited items listed above that that person currently owns. The police will come and remove the items or the person can store them with a licensed gun dealer while the restraining order is in effect. The restrained person also cannot buy any of the prohibited items during this time.

For more information about prohibited items, please see <http://selfhelp.courts.ca.gov/restraining-orders/prohibited-items>.

Can I get a gun violence restraining order against someone?

You can ask for one if you are connected to the person you think is dangerous as:

- An immediate family member;
- An employer;
- A coworker who has substantial and regular interactions with the person and has worked with them for at least a year. You must have permission from your employer to ask for the restraining order;
- An employee or teacher at a school that the person has attended in the last six months, where you have permission from a school administrator or staff member who has a supervisory role;
- A law enforcement officer or agency;
- A roommate who resided in the household in the past six months and has had substantial and regular interactions with the person for at least a year;
- Somebody in a dating relationship; or
- Somebody who shares a child with the person and has had substantial and regular interactions with the person for at least a year.

Immediate family members include:

- Your spouse or domestic partner;
- You or your spouse’s parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparents or stepgrandparents; and
- You or your spouse’s aunts, uncles, nieces, nephews, first and second cousins, great-grandparents, and great-grandchildren if you have had substantial and regular interactions for at least a year.

If you do not have the necessary relationship, advise a law enforcement officer of the situation. The officer may investigate and file the petition if grounds exist.

Will I have to pay a filing fee to request the order?

No.

Will the order protect me in other ways, such as keeping the person from coming near me?

No, the only order the court can make is to force the person to not have the prohibited items listed above. If you need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act. See [Can a Domestic Violence Restraining Order Help Me? \(form DV-500-INFO\)](#) for information on how to proceed. For information on other civil restraining orders, please see <http://selfhelp.courts.ca.gov/restraining-orders-california>.

What forms do I need to get the order?

You must fill out the following forms:

- [Petition for Gun Violence Restraining Order \(form GV-100\)](#);
- [Confidential CLETS Information \(form CLETS-001\)](#);
- [Notice of Court Hearing \(form GV-109\)](#), items 1 and 2 only; and
- [Temporary Gun Violence Restraining Order \(form GV-110\)](#), items 1 and 2 only.

You may need other local forms. Ask your self-help center or visit your court’s website.

Where can I get these forms?

You can get the forms from legal publishers or the internet at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.



What do I need to do to get the order?

You must file your papers with the superior court in the county where the person to be restrained lives. Check online or ask the court how to file your request for a gun violence restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) File your forms electronically or give your forms to the clerk of the court. The court will give you a hearing date on the *Notice of Court Hearing* form.

How soon can I get the order?

You can ask for a temporary gun violence restraining order, which will be effective right away if granted. The court may decide whether or not to grant the temporary order based only on the facts that you have stated in your petition. If so, the court will decide within 24 hours whether or not to make the temporary order. Sometimes the court will want to examine you personally under oath. If you file in person, the clerk will tell you whether you should wait to talk to the judge or come back later to find out if the court has signed a temporary order.

If you don't ask for a temporary restraining order, you will have to wait until the hearing, at which the court will decide whether to make an order that will last for a period of time between 1–5 years.

How will the person to be restrained know about the order?



If the court issues a temporary restraining order, someone age 18 or older—**not you**—must personally “serve” (give) the person to be restrained a copy of the order. The server must then fill out [Proof of Personal Service \(form GV-200\)](#) and give it to you to file with the court. If the person to be restrained attends the hearing, no further proof of service is required. But if they do not attend the hearing, then any order issued at the hearing must also be personally served. For help with service, ask the court clerk for [What Is “Proof of Personal Service”? \(form GV-200-INFO\)](#). Note: A sheriff or marshal can serve the order for free.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

What do I have to prove to get the order?

You will have to convince the judge that the person to be restrained poses a significant danger in the near future of causing personal injury to themselves or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving any of the prohibited items listed on page 1.

You will also have to convince the judge that a gun violence restraining order is needed to prevent personal injury to the person to be restrained or to another person because less restrictive alternatives either have been tried and haven't worked, or are inadequate or inappropriate for the current circumstances.

How can I convince the judge?



You will need to give the judge specific information. You should tell the judge everything that you know about the firearms, firearm parts, ammunition, or magazines that the person to be restrained currently owns, including how many the person owns, the types, and where they are kept.

Then you will need to present facts to show that the person to be restrained is dangerous. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person has committed. It could also be evidence that the person to be restrained has violated a protective order or abuses controlled substances or alcohol. It could also be evidence of the unlawful and reckless use, display, or brandishing of a firearm or the recent acquisition of a firearm. Or it could be evidence that the person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms.

You should include all of this information in your Petition and also be prepared to present it to the judge at the hearing.



Do I have to attend a court hearing?

Yes. Attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109).

GV-109 Notice of Court Hearing

1. **Petitioner**

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by (name of law enforcement agency): _____

b. Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

c. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail information. Law enforcement officers, give agency information.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

2. **Respondent**
 Full Name: _____

3. **Hearing**
 The court will complete the rest of this form.
 Name and address of court if different from above: _____

Hearing Date: _____ Time: _____
 Dept.: _____ Room: _____

4. **Temporary Gun Violence Restraining Order** (Any order granted is on Form GV-110, served with this notice.)
 a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):
 GRANTED until the court hearing.
 DENIED until the court hearing. (Specify reasons for denial in b. below.)

Additional Court of California www.courts.ca.gov
 Rev. January 1, 2024. Modified from
 Assembly Bill 1045
 Assembly Bill 1045
 Assembly Bill 1045

Notice of Court Hearing (Gun Violence Prevention) GV-109, Page 1 of 3

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Can someone attend the hearing with me?

Yes. Someone can sit with you during the hearing, but that person cannot speak for you to the court. Only you or your lawyer (if you have one) can speak for you.

Do I need to bring a witness to the hearing?

Witnesses are not required, but it helps to have more proof than just your word. For example, consider bringing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use [Declaration \(form MC-030\)](#) for this purpose.)

Will I see the restrained person at the court hearing?

If the person attends the hearing, yes. If you are afraid, tell the court.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date, which must be within 21 days of the date of the temporary order. If at the hearing the court issues a more permanent order, it will last for one to five years. It may be renewed for an additional one to five years.

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Can I agree with the restrained person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. The restrained person would have to file a request with the court to terminate the order.

Aa 我 What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to <https://selfhelp.courts.ca.gov/request-interpreter>.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Information about the process is also available online.

<http://selfhelp.courts.ca.gov/GV-restraining-order>.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

DRAFT

2/28/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Petitioner must complete items ① and ② only.

① Petitioner

Your Full Name or Name of Law Enforcement Agency:

- I am:
- A family member of the Respondent.
 - An officer of a law enforcement agency.
 - An employer of the Respondent.
 - A coworker of the Respondent.
 - An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
 - A roommate of the Respondent.
 - A person who has a dating relationship with the Respondent.
 - A person who has a child in common with the Respondent.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Respondent

Full Name: _____

The court will complete the rest of this form.

③ Hearing

Hearing Date

Date: _____ Time: _____ Name and address of court if different from above: _____
 Dept.: _____ Room: _____ _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

To the person in ②:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

④ Temporary Gun Violence Restraining Order (Any order granted is on form GV-110, served with this notice.)

- a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is (check only one box below):
- (1) **GRANTED** until the court hearing.
 - (2) **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



4 b. Reasons for denial of a Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) are:

- (1) [] The facts as stated in form GV-100 do not show that there is a substantial likelihood that both of the following are true:

Respondent poses a significant danger of causing personal injury to himself or another person by having custody or control of, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

- (2) [] Other (as stated): [] Below [] On Attachment 4b(2)

5 Service of Documents on Respondent

At least [] five [] _____ calendar days before the hearing, a law enforcement officer or someone age 18 or older—and not a party to the action—must personally give (serve) a court file-stamped copy of this form GV-109 to the Respondent, along with a copy of all the forms indicated below:

- a. GV-100, *Petition for Gun Violence Restraining Order* (file-stamped)
- b. [] GV-110, *Temporary Gun Violence Restraining Order* (file-stamped) **IF GRANTED**
- c. GV-120, *Response to Petition for Gun Violence Restraining Order* (blank form)
- d. GV-120-INFO, *How Can I Respond to a Petition for a Gun Violence Restraining Order?*
- e. GV-125, *Consent to Gun Violence Restraining Order and Surrender of Firearms* (blank form)
- f. [] Other (specify): _____

Date: _____

Judicial Officer



To the Petitioner in 1:

- The court cannot make an order at the court hearing unless the Respondent has been personally given (served) a copy of the Petition and a temporary order if issued. To show that the Respondent has been served, the person who served the forms must fill out a proof of service form. *Proof of Personal Service* (form GV-200) may be used.
- For information about service, read *What Is "Proof of Personal Service"?* (form GV-200-INFO).
- If you are unable to serve the Respondent in time, you may ask for a later hearing date, which will give you more time to serve the documents. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form GV-115).
- You must attend the hearing if you want the judge to make any of the orders you requested on form GV-100, *Petition for Gun Violence Restraining Order*. Bring any evidence or witnesses you have. For more information, read form GV-100-INFO, *Can a Gun Violence Restraining Order Help Me?*

To the Respondent:

- If you want to oppose the *Petition for Gun Violence Restraining Order* (form GV-100) in writing, file *Response to Petition for Gun Violence Restraining Order* (form GV-120) and have someone age 18 or older—**not you**—mail it to the Petitioner.
- The person who mailed the form must fill out a proof of service form. *Proof of Service by Mail* (form GV-250) may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may order you to turn in to law enforcement, or sell to or store with, a licensed gun dealer, any firearms (guns), firearm parts, ammunition, or magazines that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If issued, the order will last for one year.
- If you do not oppose the petition and are willing to give up your firearm rights, complete and file a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form GV-115).



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* (form GV-109) is a true and correct copy of the original on file in the court.

Clerk's Certificate

Date: _____

[seal]

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

1/20/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Petitioner must complete items ① and ② only.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am:
- A family member of the Respondent
 - An officer of a law enforcement agency
 - An employer of the Respondent
 - A coworker of the Respondent
 - An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months
 - A roommate of the Respondent.
 - A person who has a dating relationship with the Respondent.
 - A person who has a child in common with the Respondent.

b. Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)

Address: _____

City: _____ State: ____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

② Respondent

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____

*Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____

*Gender: M F Nonbinary Home Address: _____

City: _____ State: _____ Zip: _____

Relationship to Protected Person: _____

The court will complete the rest of this form.

③ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. The court has received credible information that you own or possess one or more prohibited items that have not been turned in, sold, or stored. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item 3 is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

7 Number of pages attached to this Order, if any: _____

Date: _____ _____
Judicial Officer

Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this order is in effect. A hearing will be held on the date and at the time noted on Page 1 to determine if a more permanent gun violence restraining order should be issued. Failure to appear at the hearing may result in a court making an order against you that is valid for a period between one and five years. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Violation of this Order is a misdemeanor. If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be changed only by an order of the court.

This is a Court Order.

After You Have Been Served With a Temporary Order

- Obey the order by turning in all firearms (guns), firearm parts, ammunition, and magazines to a law enforcement agency or selling them to or storing them with a licensed gun dealer.
- Read *How Can I Respond to a Petition for Gun Violence Restraining Order?* (form GV-120-INFO) to learn how to respond to this Order.
- If you do not oppose the petition, fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) and file it with the court clerk.
- If you disagree with the petition, fill out *Response to Petition for Gun Violence Restraining Order* (form GV-120) and file it with the court clerk.
- You must have form GV-120 served by mail on the Petitioner or the Petitioner's attorney. You cannot do this yourself. The person who does the mailing should complete and sign *Proof of Service by Mail* (form GV-250). File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use *Declaration* (form MC-030) for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also attend the hearing. You and your witnesses may attend the hearing remotely (check with your court for instructions).
- At the hearing, the judge can make a gun violence restraining order against you that lasts between one to five years. Tell the judge why you disagree with the order requested.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, or Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the termination or expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this Order or of any later gun violence restraining order issued by the court, return the prohibited items to the respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.

This is a Court Order.



Instructions for Law Enforcement*(continued)*

- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The Respondent was informed of the order by an officer; or
- The officer sees a filed copy of form GV-125.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the Respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Temporary Gun Violence Restraining Order* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other another existing protective order remain in effect.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Gun Violence Restraining Order (CLETS-TGV)* (form GV-110) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/3/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Instructions: Use this form to ask the court to reschedule the court date listed on *Notice of Court Hearing* (form **GV-009**, **GV-109**, or **GV-110**) or *Gun Violence Emergency Protective Order* (form **EPO-002**).

1 My Information

a. My name is: _____

b. I am the:

(1) **Petitioner** (person asking for the protective order or law enforcement officer/law enforcement agency) (skip to **2**).

(2) **Respondent** (give your contact information below).

Address where I can receive mail:

This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (optional):

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (skip if you do not have one):

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

2 Information About My Case

a. The other party in this case is (full name): _____

b. I have a court date currently scheduled for (date): _____

This is not a Court Order.



3 Why does the court date need to be rescheduled?

- a. I could not get the papers served before the court date. I need more time to have the respondent personally served.
b. I am either the petitioner or the respondent. I request the the court reschedule the court date for these reasons:

Multiple horizontal lines for providing reasons for rescheduling the court date.

4 Is a Temporary Gun Violence Restraining Order or Gun Violence Emergency Protective Order in effect?

- Yes. Date the order was made, if known: Please attach a copy of the order if you have one.
No.
I don't know.

Notice: If the court date is rescheduled, the Temporary Gun Violence Restraining Order (form GV-110) or Gun Violence Emergency Protective Order (form EPO-002) will remain in effect until the end of the new court date, unless otherwise ordered by the court.

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

Date:

Type or print your name



Sign your name

Date:

Lawyer's name, if you have one



Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

DRAFT

1/11/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Use this form to respond to the Petition (form GV-100)

- Read *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO) to protect your rights.
- If you agree to the Petition for a gun violence restraining order filed against you, use *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) to agree to a voluntary gun violence restraining order.
- If you do not agree to the gun violence restraining order filed against you, fill out this form and take it to the filing window at the court.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form GV-250).)

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:

1 Petitioner

Name of person or law enforcement agency seeking order (see form GV-100, item 1):

2 Respondent

a. Your Name: _____
 Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from form GV-109 item 3 here:

Hearing Date → Date: _____ Time: _____
 Dept.: _____ Room: _____

If a Temporary Gun Violence Restraining Order was issued, you must obey it until the hearing. At the hearing, the court may make an order against you for one to five years.

3 Gun Violence Restraining Order

I do not agree to the order requested in the Petition because:

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use Attachment (form MC-025).



4 **Denial**

I did not do anything described in item **6** of form GV-100.

5 **Justification or Excuse**

If I did some or all of the things that the Petitioner has accused me of, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5—Justification or Excuse" as a title. You may use Attachment (form MC-025).

6 **Firearms (Guns), Firearms Parts, Ammunition, and Magazines**

If a *Temporary Gun Violence Restraining Order* (form GV-110) was issued, you cannot own or possess any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item **6** of form GV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency or officer, any of those items in your immediate possession or control within 24 hours of being served with form GV-110. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt
 - is attached. has already been filed with the court.

7 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any firearms (guns), firearm parts (also called “ghost guns”), ammunition, or magazines (any ammunition feeding device). This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). The person must turn in, sell, or store all such items that the person currently owns.

For more information about prohibited items and obeying these orders, please see <http://selfhelp.courts.ca.gov/restraining-orders/prohibited-items>.

I've been served with a *Petition for Gun Violence Restraining Order*. What do I do?

Read the papers served on you very carefully. The *Notice of Court Hearing* (form GV-109) tells you when to appear in court. There may also be a *Temporary Gun Violence Restraining Order* (form GV-110) prohibiting you from having any firearms (guns), firearm parts, ammunition, or magazines and requiring you to turn in, sell, or store any such items that you currently own or possess. You must obey the order until the hearing.

Who can ask for a gun violence restraining order?

The petition must have been filed by a:

- Law enforcement officer or agency,
- An employer,
- A coworker who has had “regular interactions” with you for at least a year,
- A teacher or employee of a school that you have attended in the last 6 months,
- An immediate family member of yours,
- A roommate,
- Somebody in a dating relationship with you, or
- Somebody who shares a child with you.

Immediate family member is defined to include people who are not blood relatives. The definition includes (1) your spouse or domestic partner; (2) you or your spouse’s parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent; and (3) you or your spouse’s aunts, uncles, nieces, nephews, first and second cousins, great-grandparents, and great-grandchildren if you have had substantial and regular interactions for at least a year.

What if I don't obey the temporary order?

The police can arrest you. You can go to jail and pay a fine. You could lose access to firearms and other items for a longer period of time.

**What if I don't agree with what the order says?**

If you disagree with the order that the Petitioner is asking for, fill out [Response to Petition for Gun Violence Restraining Order \(form GV-120\)](#) before your hearing date and file it with the court. You can get the form from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find it at your local courthouse or county law library.

What if I don't oppose the Petition?

If you agree to give up your access to firearms and your rights to own, possess, and buy guns, firearm parts, ammunition, and magazines for the time period requested in the petition, which is between one and five years, then you can fill out [Consent to Gun Violence Restraining Order and Surrender of Firearms \(form GV-125\)](#) and check the box for item 4a. Make sure you take it to the court clerk and file it, and then mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date, and the court will mail you a copy of the order. Make sure you check with the court to see if you have to show up for your court date.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed *Response to Petition for Gun Violence Restraining Order* (form GV-120) to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out [Proof of Service by Mail \(form GV-250\)](#). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.



Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.



Should I attend the court hearing?

Yes. You should attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109). If you do not attend the hearing, the judge can extend the order against you for a period between one and five years without hearing from you.

GV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

1 **Petitioner**

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by (name of law enforcement agency): _____

b. Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

c. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____

Court file in case number when form is filed.
 Case Number: _____

2 **Respondent**
 Full Name: _____

3 **Hearing**
 The court will complete the rest of this form.
 Name and address of court if different from above: _____

Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

4 **Temporary Gun Violence Restraining Order** (Any order granted is on Form GV-110, served with this notice.)
 a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):
 (1) GRANTED until the court hearing.
 (2) DENIED until the court hearing. (Specify reasons for denial in b, below.)

Notice of Court Hearing (Gun Violence Prevention) GV-109, Page 1 of 3

You can attend the hearing by remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Information about the process is also available online. <http://selfhelp.courts.ca.gov/GV-restraining-order>.

How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide whether to issue a gun violence restraining order that can last for one to five years.

Will I see the person who asked for the order at the court hearing?

Assume that the person who is asking for the order will attend the hearing. It is probably best not to talk to them unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use [Declaration \(form MC-030\)](#) for this purpose.)

Can I agree with the protected person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. You would have to file a request with the court to terminate the order.



What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to <https://selfhelp.courts.ca.gov/request-interpreter>.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

For help in your area, contact:

[Local information may be inserted.]

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

DRAFT

3/3/2023

**NOT APPROVED BY THE
JUDICIAL COUNCIL**

Use this form if you have been served with a Petition for Gun Violence Restraining Order (form GV-100) and you want to agree to voluntarily give up your firearm rights without a court hearing.

- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form GV-250).)
- If you do not agree to a gun violence restraining order, use *Response to Petition for Gun Violence Restraining Order* (form GV-120) to tell the court you oppose a gun violence restraining order.

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:**1 Petitioner**

Name of person or law enforcement agency seeking order (see form GV-100, item ①):

2 Respondent

- a. Your Name: _____
 Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

3 Gun Violence Restraining Order

- By checking this box and signing this form, I agree to give up my right to own, possess, or purchase firearms (guns), firearm parts, magazines, and ammunition for the time requested in the petition (between one to five years) or, if no time is specified, then for one year. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- I am not contesting the petition.
 - I understand that the petitioner can request to renew this order for one to five years.
 - I understand that I can only request to terminate this order once per year while it is in effect.



4 Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- After you file this form, the court will issue a *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) and send it to you and the petitioner in the mail.
 - This form will be listed in the statewide California Restraining and Protective Order System, where it will be accessible to all law enforcement.
 - You cannot own or possess any guns, other firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, those items in your immediate possession or control within 48 hours of filing this form. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.
- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt is attached. has already been filed with the court.

Instructions to Clerk

- On the filing of *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125), submit the proposed order, *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) to the judicial officer, because the court must issue the order at least five court days before the scheduled hearing, or if this form is filed within five court days before the scheduled hearing, the court must issue, without any hearing, the gun violence restraining order, as soon as possible.
- Within one business day of issuance of the order, submit this form directly into the California Restraining and Protective Order System (CARPOS) or to law enforcement to enter into CARPOS within one business day of receipt from the court.

Date: _____

Lawyer's name (if any)



Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name



Sign your name

Clerk stamps date here when form is filed.

DRAFT

2/2/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed*).
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
 A roommate of the Respondent.
 A person who has a dating relationship with the Respondent.
 A person who has a child in common with the Respondent.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

b. Your Lawyer (*if you have one for this case*):

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Email Address: _____ Fax: _____

② Respondent

(Give all the information you know. Information with a star () is required to add this order to the California police database. If age is unknown, give an estimate.)*

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

The court will complete the rest of this form.

③ Expiration Date

This Order expires at:

(Time): _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires one year from the date of issuance.

This is a Court Order.



6 No Fee to Serve

If the sheriff or marshal serves this order, service will be free.

7 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

8 Service of Order on Respondent

- a. The Respondent was present in court, either physically or through the use of remote technology, at the time the order was issued. No other proof of service is needed. The clerk has provided the Respondent with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600).
- b. The Respondent was not present in court at the time the order was issued. The Respondent must be personally served with a court file-stamped copy of this Order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600) by a law enforcement officer or someone age 18 or older, **and not a party to the action.**
- c. This is an order based on the Respondent's filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court will provide notice to all parties.

9 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 7b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 7b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. The officer may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition and Magazines

The law enforcement agency that has received surrendered prohibited items listed in item 7b, above, must do the following:

- Retain the prohibited items until the expiration of this order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

This is a Court Order.



Instructions for Law Enforcement*(continued)***Enforcing This Order**

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The respondent was informed of the order by an officer.
- Item 8a or 8c is checked.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other existing protective order remain in effect.

Instructions to Clerk

This order must be served on all parties by the court, if it is made following the filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

*(Clerk will fill out this part.)***—Clerk's Certificate—**

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order (CLETS-OGV)* (form GV-130) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

1/10/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Use this form to respond to the *Request to Terminate Gun Violence Restraining Order (Form GV-600)*.

- Fill out this form and then take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Respondent at the address in ② below. Use *Proof of Service by Mail* (form GV-250).

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am:
- A family member of the Respondent.
 - An officer of a law enforcement agency.
 - An employer of the Respondent.
 - A coworker of the Respondent.
 - An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
 - A roommate of the Respondent.
 - A person who has a dating relationship with the Respondent.
 - A person who has a child in common with the Respondent.

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

The court will consider your response at the hearing. Write your hearing date, time, and place from form GV-610 item ③ here.

Hearing Date → Date: _____
Time: _____

Dept.: _____ Room: _____

② Respondent

Name: _____

Address: _____

City: _____ State: _____ Zip: _____



Clerk stamps date here when form is filed.

DRAFT

1/10/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency (*a petition may be filed in the name of the law enforcement agency in which the officer is employed*).
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
 A roommate of the Respondent.
 A person who has a dating relationship with the Respondent.
 A person who has a child in common with the Respondent.

b. Your Lawyer (*if you have one for this case*):

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Respondent

Full Name: _____

Address (*if known*): _____

City: _____ State: _____ Zip: _____

3 Request to Renew Restraining Order

I ask the court to renew the *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) for an additional period of between 1 and 5 years. A copy of the order is attached.

a. The order currently will end on (*date*): _____

(If the order has already expired, you must file a new petition.)

This is not a Court Order.



Clerk stamps date here when form is filed.

DRAFT

3/3/2023

**NOT APPROVED BY THE
JUDICIAL COUNCIL**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

Respondent completes items ① and ②. Court completes items ③ and ④.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am:
- A family member of the Respondent.
 - An officer of a law enforcement agency *(a petition may be filed in the name of the law enforcement agency in which the officer is employed).*
 - An employer of the Respondent.
 - A coworker of the Respondent.
 - An employee or teacher of a secondary or postsecondary school that the Respondent attended in the last 6 months.
 - A roommate of the Respondent.
 - A person who has a dating relationship with the Respondent.
 - A person who has a child in common with the Respondent.

Your Lawyer *(if you have one for this case):*

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____

City: _____ State: _____ Zip: _____ Fax: _____

Telephone: _____ Email: _____

② Respondent

Full Name: _____

Address *(if known):* _____

City: _____ State: _____ Zip: _____

③ Court Hearing

The judge has set a court hearing date. *Court will fill in box below.*

The current restraining order stays in effect.

Name and address of court if different from above:



Date: _____ Time: _____

Dept.: _____ Room: _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

This is a Court Order.



To the Petitioner:

4 Service on Respondent

Someone age 18 or older—**not you**—must serve a copy of the following forms on the Respondent:

- *Request to Renew Gun Violence Restraining Order* (form GV-700);
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) (this form);
- *Response to Request to Renew Gun Violence Restraining Order* (form GV-720) (blank copy);

- a. The forms must be personally served on the Respondent _____ days before the hearing.
- b. The forms may be served by mail on the Respondent or the Respondent’s lawyer _____ days before the hearing.

Date: _____

Judicial Officer

To the Respondent:

At the hearing, the judge can renew the current restraining order for between one and five years. You *must* continue to obey the current restraining order. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* continue to obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out *Response to Request to Renew Gun Violence Restraining Order* (form GV-720). File the original with the court before the hearing and have someone age 18 or older—**not you**—mail a copy of it to the Petitioner at the address in ① at least _____ days before the hearing. Also file *Proof of Service by Mail* (form GV-250) with the court before the hearing or bring it with you to the hearing.

Requests for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* ([form MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) is a true and correct copy of the original on file in the court.

Date: _____

Clerk, by _____, Deputy

This is a Court Order.

DRAFT

2/28/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 My Information

a. My name is: _____

b. I am the (*check one*):(1) **Petitioner** (person asking for the protective order or law enforcement officer/law enforcement agency) (*skip to 2*).(2) **Restrained Party** (*give your contact information below*).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (*optional*)

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About Your Casea. The other party in this case is (*full name*): _____b. The court date is currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party served.
- b. Other reason:

4 Signature

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

Date: _____

Type or print your name



Sign your name

5 Lawyer's signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Complete form GV-716, *Order to Reschedule Hearing to Renew Restraining Orders* (only items 1 and 2)
- File forms GV-715 and GV-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form GV-716, item **5**. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to <https://selfhelp.courts.ca.gov/GV-restraining-order/renew/sheriff-serves>.
- If the judge denies your request to reschedule, you must go to your court hearing (listed on form GV-710).

Clerk stamps date here when form is filed.

DRAFT

3/3/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

(Complete ① and ② only. The court will complete the rest of this form.)

① **Petitioner:** _____

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The *Gun Violence Restraining Order After Hearing* (form GV-130) granted in this case stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Warning and Notice to the Restrained Party:
You must obey the restraining order until it expires.

This is a Court Order.



4 Reason Court Date Is Rescheduled

a. The petitioner has not served the restrained party.

b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of all the forms listed on form GV-710, item 4 by (date): _____

(2) You must have the petitioner personally served with a copy of this order by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the petitioner served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



6 No Fee to Serve (Notify) Restrained Person **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

7 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request (form MC-410)*. (Civ. Code, § 54.8.)

Instructions to Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form GV-716) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Order on Request to Renew Gun Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

3/3/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Prevailing party completes items ① and ②. If the Order is granted, the Petitioner is the prevailing party. If the Order is denied, the Respondent is the prevailing party.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency: _____

- I am:
- A family member of the Respondent.
 - An officer of a law enforcement agency (a petition may be filed in the name of the law enforcement agency in which the officer is employed).
 - An employer of the Respondent.
 - A coworker of the Respondent.
 - An employee or teacher of a secondary or postsecondary school that the Respondent attended in the last 6 months.
 - A roommate of the Respondent.
 - A person who has a dating relationship with the Respondent.
 - A person who has a child in common with the Respondent.

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

② Respondent

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

③ Hearing

There was a hearing on (date): _____ at time: _____ a.m. p.m. Dept.: _____ Room: _____

(Name of judicial officer): _____ made the orders at the hearing.

These people attended the hearing:

- a. The Petitioner
- b. The Respondent
- c. The lawyer for the Petitioner (name): _____
- d. The lawyer for the Respondent (name): _____

This is a Court Order.



4 Order on Request for Renewal

The request to renew the attached *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130), originally issued on (date): _____, is:

- DENIED.** The attached order expires as stated in item ③ of the order.
- GRANTED.** The attached order is renewed for one year and will now expire:

on (date): _____ at (time): _____ a.m. p.m. or midnight

If no expiration date is written here, the order expires one year from the date of the hearing in item ③.

- a. The court finds by clear and convincing evidence that both of the following are true:
 - (1) Respondent continues to pose a significant danger of causing personal injury to himself or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
 - (2) A gun violence restraining order remains necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b. The facts as stated in the *Request to Renew Gun Violence Restraining Order* (form GV-700) and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order. Any reasons stated below apply as well.

See the attached Form MC-025, *Attachment*.

c. To the restrained person: If this order is renewed, it will last until the date and time noted above. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this order is in effect. Pursuant to section 18185, you have the right to request one hearing on an annual basis to terminate this Order at any time during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

This is a Court Order.



To the Prevailing Party:

5 Service of Order

Someone age 18 or older—**not you**—must serve a copy of this order on the other party.

- Order Granted**—The Respondent was present in court at the time the order was renewed. **No further service is required.**
- Order Granted**—The Respondent was not present in court at the time the order was renewed. **Personal service is required.** The Respondent must be personally served with this Order. *(After the Respondent has been served, file form GV-200, Proof of Personal Service, with the court clerk. For help with service, read form GV-200-INFO, What Is “Proof of Personal Service”?)*
- Order Denied—Service by Mail**—If the Petitioner was not present in court at the hearing, the Petitioner may be served with this Order by mail. *(After the Petitioner has been served, the person doing the mailing should fill out form POS-030, Proof of Service by First-Class Mail—Civil. File the form with the court clerk. For help with service by mail, read the Information Sheet on page 2 of form POS-030.)*

Date: _____

Judicial Officer

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Order on Request to Renew Gun Violence Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

1 Petitioner/Requesting Agency

Name: _____

2 Respondent/Restrained Person

a. Your Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

DRAFT

3/3/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

3 To the Restrained Person:

If a judge has ordered you to turn in, sell, or store your firearms (guns), firearm parts—meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531)—use this form to prove to the judge that you have obeyed their orders. Take this form to law enforcement officer or a licensed gun dealer to complete item 4 or 5. For more information on how to properly turn in your items, read form GV-800-INFO, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, Ammunition, and Magazines?*

4 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone: _____ Email Address: _____

Items Surrendered

a. Firearms, firearm parts, ammunition, and magazines transferred on:

Date: _____ Time: _____ a.m. p.m.

b. List of items (List all the items surrendered by the person in 2). You may attach a separate form from your agency (e.g., a property report), use item 6, or both. Check below if you have attached a separate form):

Separate form is attached. (If it does not include all surrendered items, list additional items in item 6.)

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

Signature of law enforcement agent: _____



5 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in ②.)

Name of Licensed Gun Dealer: _____
 License number: _____
 Address: _____
 Telephone: _____ Email Address: _____

Items Stored or Sold

- a. Firearms, firearm parts, ammunition, and magazines transferred on:
 Date: _____ Time: _____ a.m. p.m.
- b. List of items *(List all the items surrendered by the person in ②). You may attach a separate form (e.g., Department of Justice’s Report of Firearms Acquisition) or you may use item ⑥. Check below if you have attached a separate form):*
 Separate form is attached. *(If it does not include all surrendered items, list additional items in item ⑥.)*

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

▶ Signature of licensed gun dealer: _____

6 List of Items Surrendered

Firearms and firearm parts	Make	Model	Serial Number, if there is one	Sold	Stored	To be destroyed
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Ammunition and magazines	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Write “GV-800, item 6” at the top, and attach it to this form.

7 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, ammunition, or magazines?

No

Yes (If yes, check one of the boxes below:)

a. I filed a *Receipt of Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) or other proof for those items with the court on (date): _____

b. I am filing the proof for those firearms (guns), firearm parts, ammunition, or magazines along with this proof.

c. I have not yet filed the proof for the other firearms (guns), firearm parts, ammunition, or magazines. (Explain why not):

Your signature

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

Date: _____

Type or print your name



Sign your name

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- If law enforcement served you with the restraining order, give a copy to the law enforcement agency that served you with the restraining order.
- Keep a copy for yourself.

Note that failure to file a receipt with the court and with the law enforcement agency is a violation of the court's order.

What items do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition, also called ammo, including bullets, shells, cartridges, and clips; and
- Magazines (any ammunition feeding device, whether fixed or removable).

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items and may store them or destroy them;

OR

A licensed gun dealer, who can buy or store firearms.
If you have firearm parts, ammunition, or magazines, call ahead for more information.

When do I have to turn in, sell, or store the prohibited items?

Immediately if law enforcement asks you for the items.
Otherwise, within 24 hours.

Who can I turn in, sell, or store the prohibited items with?

Only law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Where can I sell the prohibited items?

At a licensed gun dealer in your area. You can search the internet for “Gun Dealers” or “Firearms Dealers” to find one. Make sure the dealer is licensed.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact your local law enforcement agency or a licensed gun dealer about fees and whether they have space to store your items.

How do I turn in the prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.

Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after the restraining order has expired. Ask the law enforcement agency for more information.

After I turn in the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell firearms, ammunition, and magazines to a licensed gun dealer. To do this, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the items that you are selling.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court and the law enforcement agency showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use [Receipt for Firearms, Firearm Parts, Ammunition, and Magazines \(form GV-800\)](#) for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff for their procedures.

Information about prohibited items and how to obey these orders is also available online.

<https://selfhelp.courts.ca.gov/respond-to-GV-restraining-order/obey-firearms-orders>.

For help in your area, contact:

[Local information may be inserted.]

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Domestic Violence: Form Changes to Implement New Laws

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

Adopt DV-715 and DV-716; revise forms DV-100, DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-700, DV-700-INFO, DV-710, DV-720, DV-730, DV-800-INFO/JV-270-INFO, DV-840/FL-840, EPO-001

Committee or other entity submitting the proposal:

The Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; (415) 865-7662; frances.ho@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:

Item 1b: AB 2369 (Salas) Domestic Violence Prevention Act: attorney's fees and costs (Ch. 591, Stats. of 2022) Modifies the fee-shifting statute under the Domestic Violence Prevention Act (DVPA) to require a court to award attorney fees and costs to a prevailing protected party and permit a court to award attorney fees and costs to a prevailing party who was sought to be restrained if the court finds the petition was brought in bad faith.

Item 1f: SB 935 (Min) Domestic violence: protective orders (Ch. 88, Stats. of 2022) Clarifies that the court may renew a DVPA protection order for an additional term of five years or more than five years, or permanently, at the discretion of the court, and that renewed and subsequently renewed protection orders are subject to the same procedures for the termination, medication, or subsequent renewal as original orders.

Item 8: Work with Protective Order Working Group to develop rule and form recommendations as appropriate. Service requirements for protective orders differ depending on whether the restrained party attended the hearing on the order. The Legislature has enacted laws on remote appearances for such hearings and amended certain aspects of the protective order process but has not clarified whether remote attendance at a protective order hearing amounts to a "personal appearance" for the purposes of service. A rule or revised forms may provide clarity for courts and litigants on the issue.

Item 15: As lead committee for Protective Orders Working Group (POWG), work with Civil Small Claims Advisory Committee to revise the forms used in domestic violence cases to request and order continuances of hearings in proceedings to renew or terminate protective orders. Continuances are frequently requested in these matters, and courts have indicated that a form for this process would assist them in managing this workload.

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

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

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

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

This proposal:

includes forms that have been translated.

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

includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-29

Title

Domestic Violence: Form Changes to Implement New Laws

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt forms DV-715 and DV-716; revise forms DV-100, DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-700, DV-700-INFO, DV-710, DV-720, DV-730, DV-800-INFO/JV-270-INFO, DV-840/FL-840, EPO-001

Proposed Effective Date

January 1, 2024

Contact

Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory Committee

Hon. Stephanie E. Hulse, Cochair

Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends revising 14 domestic violence restraining order forms to implement Assembly Bill 2369, Senate Bill 935, and Assembly Bill 1621. The committee also recommends adopting two new forms that would be used to continue a hearing on a request to renew a restraining order.

Background

Effective January 1, 2023, Assembly Bill 2369 (Stats. 2022, ch. 591) requires the court in a domestic violence restraining order proceeding to, on request, award attorney's fees or costs to a prevailing petitioner, or to a prevailing respondent if the prevailing respondent can show by a preponderance of the evidence that the petition or request was frivolous or solely intended to

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.

abuse, intimidate, or cause unnecessary delay.¹ However, before an award of attorney’s fees or costs is made, the court must first determine whether the party ordered to pay has, or is reasonably likely to have, the ability to pay.²

Effective January 1, 2023, Senate Bill 935 (Stats. 2022, ch. 88) changes the duration of a renewed order. Before SB 935, the duration of a renewed order had to be either five years or a permanent order. Under SB 935, a renewed order may be for any length of time, provided that it is at least five years long and could still be made a permanent order of the court. SB 935 also clarifies that a domestic violence restraining order may be renewed more than once. Other changes are also recommended to make the renewal forms more consistent with the other forms in the DV form set.

Currently, no forms are available to request or order to continue (reschedule) a hearing on a request to renew a restraining order. The Family and Juvenile Law Advisory Committee has received comments that continuance forms would be helpful because the existing continuance forms (e.g., forms DV-115 and DV-116) are not designed for renewal proceedings. The committee agrees that continuance forms would be helpful and especially important if the order for continuance extends the *Restraining Order After Hearing*, because the new expiration would need to be entered into the California Law Enforcement Telecommunications System (CLETS).

As an urgency statute, Assembly Bill 1621 (Stats. 2022, ch. 76) went into effect immediately on approval on June 30, 2022. It prohibits persons subject to a restraining order from possessing or owning certain firearm parts, including a “firearm precursor part,” which it redefined.³ Changes are needed to a number of forms to implement the new definition of firearm precursor part.

The Proposal

This proposal is necessary to implement new changes in the law. Because most litigants in domestic violence restraining order proceedings represent themselves, it is particularly important for the council to act quickly to ensure that litigants have access to the new remedies provided by the Legislature. The proposal also includes a number of other changes that the committee believes will make the forms and process more user-friendly for self-represented litigants. The proposed form changes are listed below.

- Adopt two Judicial Council forms:
 - *Request to Reschedule Hearing to Renew Restraining Order* (form DV-715); and
 - *Order to Reschedule Hearing to Renew Restraining Order* (form DV-716).

¹ Fam. Code, § 6344(a) & (b).

² *Id.*, § 6344(c).

³ Pen. Code, § 16531(a).

- Revise 14 Judicial Council forms:
 - *Request for Domestic Violence Restraining Order* (form DV-100);
 - *Notice of Court Hearing* (form DV-109);
 - *Temporary Restraining Order* (form DV-110);
 - *Response to Request for Domestic Violence Restraining Order* (form DV-120);
 - *How Can I Respond to a Request for Domestic Violence Restraining Order?* (form DV-120-INFO);
 - *Restraining Order After Hearing* (form DV-130);
 - *Request to Renew Restraining Order* (DV-700);
 - *How Do I Ask the Court to Renew My Restraining Order?* (form DV-700-INFO);
 - *Notice of Hearing to Renew Restraining Order* (DV-710);
 - *Response to Request to Renew Restraining Order* (DV-720);
 - *Order to Renew Domestic Violence Restraining Order* (DV-730);
 - *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?* (DV-800-INFO/JV-270-INFO);
 - *Notice of Compliance Hearing for Firearms and Ammunition* (DV-840/FL-840); and
 - *Emergency Protective Order (CLETS-EPO)* (EPO-001).

AB 2369

To implement the new legislation regarding attorney’s fees and costs in domestic violence restraining order proceedings, the committee recommends the following:

- On the request form (DV-100), remove the requirement that petitioner provide a completed *Income and Expense Declaration* (FL-150) if they are requesting attorney’s fees or costs. Before AB 2369, the petitioner’s ability to pay these costs was at issue even if they were the prevailing party. Under AB 2369, the court looks only to whether the person ordered to pay has, or would likely have, the ability to pay. Therefore, petitioner’s ability to pay is only at issue if respondent prevails, seeks attorney’s fees or costs, and can prove by a preponderance of the evidence that the request was frivolous or solely intended to abuse, intimidate, or cause unnecessary delay.
- On response form (DV-120), state that respondent completes the *Income and Expense Declaration* (FL-150) only if the *petitioner* has asked for attorney’s fees or costs. As described above, respondent does not need to complete form FL-150 if respondent is the only party seeking attorney’s fees or costs; only petitioner’s ability to pay would be relevant. The committee also recommends adding a plain-language description of the new showing that respondent must make if respondent is seeking attorney’s fees or costs.⁴

SB 935

To reflect the new duration for which a *Restraining Order After Hearing* can be renewed, the committee recommends changes to the request form (DV-700), an information form for

⁴ See item 23(c) on form DV-120.

petitioner (DV-700-INFO), the response form (DV-720), and the order form (DV-730). The committee also recommends a number of changes to the renewal forms to make the format and content consistent with changes that have been made to other DV forms over the past few years, and a few substantive changes that are described below.⁵

Request form (DV-700)

In response to a suggestion from a domestic violence organization, the committee recommends including an instruction at the top of the request form to indicate that the form may be used to request a renewal of a juvenile restraining order that was issued to prevent domestic violence. Under Family Code section 6345, on request of a party, the court may renew the personal conduct, stay-away, and residence exclusion orders for a period of at least five years, or permanently. The availability of renewals under the Family Code is not limited to those cases arising from family court but applies to all restraining orders issued under the Domestic Violence Prevention Act.⁶ Therefore, a protected party in a juvenile restraining order to prevent domestic violence would use the DV forms to request a renewal of a juvenile restraining order.

The committee also recommends providing more space for the requesting party to include their reasons for requesting the renewal, and an item for the party to seek attorney's fees and costs.⁷

Response form (DV-720)

Additional space is provided for respondent who opposes the request to renew to explain why they do not agree. An item would also be added to allow the respondent to respond to or make a request for attorney's fees or costs consistent with the new requirements under AB 2369 (described above).

Notice and Order forms (DV-710 and DV-730)

The committee recommends adding an item to address service of the order on the respondent. The committee notes that the Domestic Violence Prevention Act is silent on the issue of service of the order to renew when the respondent did not attend the hearing. Because a renewed restraining order changes only the duration of the restraining order, the committee recommends applying the requirement in Family Code section 6384(a) that applies to temporary restraining orders where the court may order service by first-class mail if the only change to the restraining order is the duration of the order.⁸ The committee also recommends including notice of this new procedure on form DV-710, informing the restrained person that they will receive a copy of the renewed restraining order at the address provided on form DV-710 if they do not appear at the

⁵ Because the formatting changes are so widespread on these forms, highlighting the proposed changes would result in highlighting the entire forms. For that reason, in order to make it easier to read the forms, the changes have not been highlighted.

⁶ *Garcia v. Escobar* (2017) 17 Cal.App.5th 267; *Priscila N. v. Leonardo G.* (2017) 17 Cal.App.5th 1208.

⁷ New item 5 on form DV-700.

⁸ New item 6 on form DV-730.

hearing. A similar notice is already provided on the existing temporary restraining order (form DV-110, at page 7).

Information form (DV-700-INFO)

This form provides information for the protected party (person requesting the renewal). The committee recommends adding information on what the protected party will have to prove to the court at the renewal hearing, as provided by the Court of Appeal in *Richie v. Konrad*.⁹ The committee also recommends adding information on when a juvenile restraining order involves domestic violence.

Continuance forms (DV-715 and DV-716)

The committee recommends adopting a new request to continue form and an order for continuance form, to be used when a request to renew a restraining order has been filed with the court. The request form (DV-715) could be used by either party to ask the court to continue a hearing. The order form (DV-716) would be used by the court to indicate its decision on a request to continue a hearing or to continue a hearing on its own motion. Substantially similar forms are also being recommended in a separate proposal by the Civil and Small Claims Advisory Committee, for the CH, EA, GV, SV, and WV protective order form sets.¹⁰

AB 1621

Changes are needed to seven forms to reflect the new definition of “firearm precursor part” under Penal Code section 16531.¹¹ The Family and Juvenile Law Advisory committee worked with other advisory committees who have purview over protective order forms to construct a plain-language description of firearm precursor parts. The committees recommend referring to precursor parts as “any item that may be used as or easily turned into a receiver or frame.” The council has already approved this language for use in other protective order forms.

An example of the proposed language is provided below.

⁹ In *Richie*, the court held that a protected party would be entitled to renewal, merely on request, if the request is uncontested. If the request to renew is contested, the court held that the court could renew on a finding of “reasonable apprehension of future abuse.” (*Richie v. Konrad* (2004) 115 Cal.App.4th 1275.)

¹⁰ Those proposals, “Protective Orders: Revisions to Gun Violence Restraining Order Forms (SPR23-28)” and “Protective Orders: Updated Law Enforcement Information Form and New Request Forms for Continuances (SPR23-26)” are available at www.courts.ca.gov/policyadmin-invitationstocomment.htm. The committee worked jointly in developing the new forms.

¹¹ See proposed changes on forms DV-100, at item 9; DV-110, at item 5; DV-120-INFO at page 2; DV-130, at item 7; DV-800-INFO; DV-840 at item 4; and EPO-001 at item 3e.

Form DV-110

No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.

These same changes have already been made to other civil protective order forms (CH, GV, EA, SV, and WV), which became effective on January 1, 2023, and will be reflected in revisions to the criminal protective orders (forms CR-160 and CR-161), which became effective on March 1, 2023.

Additional changes to form EPO-001

The committee also recommends simplifying the warning and notices contained on page 2 of the EPO form. Many of the existing notices unnecessarily repeat information that is on page 1 of the order. Also, some of words used are legalese and could be stated more plainly. Simplifying the content on this page also provides for more space to allow for a complete translation of all the content on page 2. The existing version does not translate the bolded “Warnings and Information” section, which is directed at the restrained person.

Clarification of service requirements after remote appearance

To clarify the service requirements for respondents who appear remotely in protective order proceedings, this committee and the Civil and Small Claims Advisory Committee jointly recommend two new rules of court and revisions to the CH, EA, SV, and WV forms in a separate proposal.¹² Within that proposal are revisions to the notice of hearing forms and the order after hearing forms to specify to the respondent that attending the hearing, including through the use of remote technology, will result in immediate enforcement of any orders issued. Substantially similar changes are being recommended to forms DV-109 and DV-130 in this proposal.

Form DV-109

On this notice form, the committees recommend alerting respondents that attending the hearing—whether physically, by phone, or by videoconference—will result in immediate enforcement of any orders issued. The committees also recommend including a notice to respondent regarding the consequences of not appearing at the hearing. These changes are shown below:

¹² The proposal, “Protective Orders: Service Requirements After Remote Appearances (SPR23-30)”, is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

To the person in ②:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

In response to a comment received by a court, the committees also recommend removing, at item 6, form 250 (proof of service by mail) as a form that must be served by the petitioner on respondent. This requirement can lead to delays in service by the sheriff when the petitioner does not have this form ready for the sheriff. The committees note that service of a blank proof of service form is atypical and not a requirement in other proceedings and should be removed if it can lead to delays in service.

Form DV-130

The item for service would be revised to state that no other proof of service is needed if the respondent attends the hearing “either physically or through the use of remote technology.” This conforms with the new rules in the joint proposal.

Alternatives Considered

For the new continuance forms for renewal proceedings, the committee considered revising existing forms DV-115 and DV-116. However, the committee rejected this approach because some of the provisions of the Family Code apply only to continuances of the initial request for restraining order (e.g., under Family Code section 245, a respondent is entitled to one continuance, for a reasonable period of time, to respond to the petition). Creating a form that would work both for the initial request for restraining order and for a renewal would make the forms more complicated. Instead, the committee decided that a separate continuance form set for renewals would be more user-friendly. The committee also considered whether to adopt a new information form, similar to form DV-115-INFO. The committee decided against a separate information form at this time and instead included more instruction on new form DV-715, under “Your Next Steps.”

The committee considered not adding an item on form DV-730 to address service on respondent. However, the committee rejected this approach because adding the information provides clarity to both parties on when further service of the order is required. It would also inform law enforcement as to whether further service is required for enforcement purposes, because this information would be entered into CLETS.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly approved and revised forms. Courts will also incur costs to incorporate the revised forms into the paper or electronic processes.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

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

Attachments and Links

1. Forms DV-100, DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-700, DV-700-INFO, DV-710, DV-715, DV-716, DV-720, DV-730, DV-800-INFO/ JV-270-INFO, DV-840/FL-840, and EPO-001, at pages 9–76
2. Link A: Assem. Bill 2369,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2369
3. Link B: Sen. Bill 935,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB935
4. Link C: Assem. Bill 1621,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1621

Clerk stamps date here when form is filed.

Draft- Not approved by the Judicial Council

3.8.23

Instructions

To ask for a domestic violence restraining order, you will need to complete this form and other forms (see page 12 for list of forms). If this case includes sensitive information about a minor child (under 18 years old), see form DV-160-INFO, Privacy Protection For a Minor (Person Under 18 Years Old) Domestic Violence Prevention for more information on how to protect the child's information.

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 Person Asking for Protection

a. Your name: _____

b. Your age: _____

c. Address where you can receive court papers

(This address will be used by the court and by the person in 2 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

d. Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 2 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

e. Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Person You Want Protection From

a. Full name: _____

b. Age (give estimate if you do not know exact age): _____

c. Date of birth (if known): _____

d. Gender: M F Nonbinary

e. Race: _____

This is not a Court Order.



3 Your Relationship to the Person in 2

(If you do not have one of these relationships with the person in 2, do not complete the rest of this form. You may be eligible for another type of restraining order. Learn more at <https://selfhelp.courts.ca.gov/restraining-orders>.)

(Check all that apply)

- a. We have a child or children together
(names of children): _____
- b. We are married or registered domestic partners.
- c. We used to be married or registered domestic partners.
- d. We are dating or used to date.
- e. We are or used to be engaged to be married.
- f. We are related. The person in 2 is my *(check all that apply)*:
- | | |
|---|--|
| <input type="checkbox"/> Parent, stepparent, or parent-in-law | <input type="checkbox"/> Brother, sister, sibling, step-sibling, or sibling in-law |
| <input type="checkbox"/> Child, stepchild, or legally adopted child | <input type="checkbox"/> Grandparent, step-grandparent, or grandparent-in-law |
| <input type="checkbox"/> Child's spouse | <input type="checkbox"/> Grandchild, step-grandchild, or grandchild-in-law |
- g. We live together or used to live together. *(If checked, answer question below):*
 Have you lived together with the person in 2 as a family or household (more than just roommates)?
 Yes No *(If no, you do not qualify for this kind of restraining order unless you checked one of the other relationships listed above.)*

4 Other Restraining Orders and Court Cases

- a. Are there any restraining orders currently in place or that have expired in the last six months (examples: Did the police give you a restraining order that lasts a few days? Do you have one from the criminal court?)
 No
 Yes *(If yes, give information below and attach a copy if you have one.)*
 (1) *(date of order):* _____ *(date it expires):* _____
 (2) *(date of order):* _____ *(date it expires):* _____
- b. Are you involved in any other court case with the person in 2?
 No
 Yes *(If you know, list where the case was filed (city, state, or tribe), the year it was filed, and case number.)*
- | | |
|---|-------|
| <input type="checkbox"/> Custody | _____ |
| <input type="checkbox"/> Divorce | _____ |
| <input type="checkbox"/> Juvenile <i>(child welfare or juvenile justice):</i> | _____ |
| <input type="checkbox"/> Guardianship | _____ |
| <input type="checkbox"/> Criminal | _____ |
| <input type="checkbox"/> Other <i>(what kind of case?):</i> | _____ |

This is not a Court Order.



Describe Abuse

In this section, explain how the person in (2) has been abusive. The judge will use this information to decide your request. Listed below are some examples of what "abuse" means under the law. **It is not a complete list** of all examples of abuse. Give information on any incident that you believe was abusive.

- made repeated unwanted contact with you
- tracked, controlled, or blocked your movements
- kept you from getting food or basic needs
- isolated you from friends, family, or other support
- made threats based on actual or suspected immigration status
- made you do something by force, threat, or intimidation
- stopped you from accessing or earning money
- tried to control/interfere with your contraception, birth control, pregnancy, or access to health information
- harassed you
- hit, kicked, pushed, or bit you
- injured you or tried to
- threatened to hurt or kill you
- sexually abused you
- abused a pet or animal
- destroyed your property
- choked or strangled you
- abused your children

5 Most recent abuse

- a. Date of abuse (give an estimate if you don't know the exact date): _____
- b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____
- c. Did the person in (2) use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____
- d. Did the person in (2) cause you any emotional or physical harm?
 No Yes (If yes, describe harm): _____
- e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in (4).)
- f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.
- _____
- _____
- _____
- _____
- _____
- _____
- g. How often has the person in (2) abused you like this?
 Just this once 2 –5 times Weekly Other: _____
- Give dates or estimates of when it happened, if known:
- _____
- _____

This is not a Court Order.



6 Has the person in 2 abused you in a different way from the abuse you described in 5? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

This is not a Court Order.



7 Is there other abuse by the person in 2 that you want the judge to know about? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

Check this box if you need more space to describe the abuse. You can use [form DV-101, Description of Abuse](#), and turn it in with this form. You can also use a separate sheet of paper, write "Describe Abuse" abuse at the top, and turn it in with this form.

This is not a Court Order.



8 Other Protected People

Do you want the restraining order to protect your children, family, or someone you live with?

- a. No
- b. Yes *(If yes, complete the section below):*

(1) <u>Full name</u>	<u>Age</u>	<u>Relationship to you</u>	<u>Lives with you?</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Check this box if you need to list more people. Use a separate piece of paper and write "DV-100, Other Protected People" at the top. Turn it in with this form.

(2) Why do these people need protection?

9 Does Person in (2) Have Firearms (Guns), Firearm Parts, or Ammunition?

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes *(If you have information, complete the section below.)*

Describe firearms (guns), firearm parts, or ammunition	How many or what amount?	Location, if known
(1) _____	_____	_____
(2) _____	_____	_____
(3) _____	_____	_____
(4) _____	_____	_____
(5) _____	_____	_____
(6) _____	_____	_____

This is not a Court Order.



Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different.
Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

10 **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not do the following things to me or anyone listed in **(8)**:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace. (For more information on what "disturbing the peace" means, read [form DV-500-INFO](#), *Can A Domestic Violence Restraining Order Help Me?*)

11 **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or anyone listed in **(8)**.

12 **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from:

(Check all that apply)

- | | | |
|---|--|--|
| <input type="checkbox"/> Me. | <input type="checkbox"/> My vehicle. | <input type="checkbox"/> My children's school or childcare. |
| <input type="checkbox"/> My home. | <input type="checkbox"/> My school. | <input type="checkbox"/> Other <i>(please explain)</i> : _____ |
| <input type="checkbox"/> My job or workplace. | <input type="checkbox"/> Each person in (8) . | _____ |

b. How far do you want the person to stay away from all the places you checked above?

- 100 yards (300 feet) Other *(give distance in yards)*: _____

c. Do you and the person in **(2)** live together or live close to each other?

- No Yes *(If yes, check one)*:
- Live together *(If you live together, you can ask that the person in (2) move out in (13) .)*
- Live in the same building, but not in the same home
- Live in the same neighborhood
- Other *(please explain)*: _____

d. Do you and the person in **(2)** have the same workplace or go to the same school?

- No Yes *(If yes, check all that apply)*:
- Work together at *(name of company)*: _____
- Go to the same school *(name of school)*: _____
- Other *(please explain)*: _____

This is not a Court Order.



13 **Order to Move Out**

a. I ask the judge to order the person in **(2)** to move out of the home, located at:

(Give address): _____

b. I have a right to live at this address because:

(Check all that apply)

- I own the home.
- I have lived at this address for _____ years, _____ months.
- My name is on the lease.
- I pay for some or all the rent or mortgage.
- I live at this address with my child(ren).
- Other (please explain): _____

14 **Other Orders**

(Describe any additional orders you want the judge to make to keep you, your children, or the people in **(8)** safe.):

15 **Child Custody and Visitation**

(Check this box if you have a child with the person in **(2)** and want the judge to make or change a child custody or visitation order. **You must fill out [form DV-105, Request for Child Custody and Visitation Orders](#), and attach it to this form.**)

Orders that you can request on form DV-105 include:

- Child custody
- No visits with your children
- Stop person in **(2)** from accessing your child's school or medical information
- Supervised (monitored) visits with your children
- Unsupervised (unmonitored) visits with your children

This is not a Court Order.



16 **Protect Animals**

a. (You may ask the court to protect your animals, your children’s animals, or the person in ②’s animals.)

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in ② to:

(Check all that apply)

- (1) Stay away from the animals by at least: 100 yards (300 feet) Other (number of yards): _____
- (2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) Give me sole possession, care, and control of the animals because (check all that apply):
 - Person in ② abuses the animals. I take care of these animals.
 - I purchased these animals. Other (please explain): _____

17 **Control of Property**

a. I ask the judge to give **only me** temporary use, possession, and control of the property listed here (describe):

b. Explain why you want control of the property you listed:

18 **Health and Other Insurance**

I ask the judge to order the person in ② to **not** make any changes to any insurance or other coverage for me, the person in ②, or our children, including not being allowed to cancel, cash, borrow against, transfer, dispose of, or change the beneficiaries for the insurance.

19 **Record Communications**

I ask the judge to allow me to record calls or communications the person in ② makes to me, when those calls or communications violate this restraining order.

This is not a Court Order.



20 **Property Restraint** (only if you are married or a registered domestic partner with the person in 2.)

I ask the judge to order the person in 2 not to borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in 2 to notify me of any new or big expenses and to explain them to the court.

21 **Extend My Deadline to Give Notice to Person in 2**

(Usually, the judge will give you about two weeks to give notice, or to "serve" the person in 2 of your request. If you need more time to serve, the judge may be able to give you a few extra days.)

I ask the judge to give me more time to serve the person in 2 because (explain why you need more time):

22 **Pay Debts (Bills) Owed for Property**

(If you want the person in 2 to pay any debts owed for property, list them and explain why. The amount can be for the entire bill or only a portion. Some examples include rent, mortgage, car payment, etc.)

a. I ask the judge to order the person in 2 to make these payments while the restraining order is in effect:

- (1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

Explain why you want the person in 2 to pay the debts listed above:

b. **Special decision (finding) by the judge if you did not agree to the debt (optional)**

(If you did not agree to the debt or debts listed above, you can ask the judge to decide (find) that one or more debts was made without your permission and resulted from the person in 2's abuse. This may help you defend against the debt if you are sued in another case.)

Do you want the judge to make this special decision (finding)?

No Yes (If yes, answer the questions below.)

(1) Which of the debts listed above resulted from the abuse? (check all that apply):

a(1) a(2) a(3)

(2) Do you know how the person in 2 made the debt or debts?

No Yes

(If yes, explain how the person in 2 made the debt or debts):

This is not a Court Order.



Orders That You Want a Judge to Make at Your Court Date

Below is a list of orders that a judge cannot make right away but can make at your court date in a few weeks. The person in (2) must be notified of your court date before the judge can consider making any of the orders listed below. Check all the orders that you want the judge to make at your court date.

(23) Pay Expenses Caused by the Abuse

I ask the judge to order the person in (2) to pay for things **caused directly** by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). Bring proof of these amounts to your court date.

Pay to: _____ For: _____ Amount: \$ _____
 Pay to: _____ For: _____ Amount: \$ _____
 Pay to: _____ For: _____ Amount: \$ _____

(24) Child Support *(this only applies if you have a minor child with the person in (2))*

(Check all that apply)

- a. I do not have a child support order and I want one.
- b. I have a child support order and I want it changed *(attach a copy if you have one)*.
- c. I now receive or have applied for TANF, Welfare, or CalWORKS.

(25) Spousal Support *(this only applies if you are married or a registered domestic partner with person in (2))*

I ask the judge to order the person in (2) to give me financial assistance.

(26) Lawyer's Fees and Costs

I ask that the person in (2) pay for some or all of my lawyer's fees and costs.

(27) Batterer Intervention Program

I ask the judge to order the person listed in (2) to go to a 52-week batterer intervention program. (The goal of a batterer's intervention program is to stop abuse. There are weekly classes to teach accountability, abuse effects, and gender roles. If ordered to complete this program, the person in (2) would have to show proof to the judge that they enrolled and completed the program.)

(28) Transfer of Wireless Phone Account

(If the person in (2) holds the rights to your cell phone account, you can ask the judge to transfer your number or your child's number to you. This means you will be financially responsible for these accounts. If you want to have control over a mobile device, like a cell phone, make this request at (17).)

I ask the judge to order the wireless service provider to transfer the billing responsibility and rights to the wireless phone numbers listed below to me because the account currently belongs to the person in (2):

- a. My number Number of child in my care (including area code): _____
- b. My number Number of child in my care (including area code): _____

This is not a Court Order.



Automatic Orders if the Judge Grants Restraining Order

29 No Firearms (Guns), Firearm Parts, or Ammunition

If the judge grants you a restraining order, the person in (2) must turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control. The person in (2) would also be prohibited from buying firearms (guns), firearm parts, and ammunition.

30 Cannot Look for Protected People

If the judge grants you a restraining order, the person in (2) will not be allowed to look for the address or location of any person protected by the restraining order, unless the court finds good cause not to make this order.

31 Additional pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

32 Your signature

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

Date: _____

Type or print your name

Sign your name

33 Your lawyer's signature (if you have one)

Date: _____

Lawyer's name

Lawyer's signature

Your Next Steps

1 You must complete at least three additional forms:

- [Form DV-110](#), *Temporary Restraining Order (only items 1, 2 and 3)*
- [Form DV-109](#), *Notice of Court Hearing (only items 1 and 2)*
- [Form CLETS-001](#), *Confidential CLETS Information*
- **If you are asking for child custody and visitation orders**, you must complete [form DV-105](#), *Request for Child Custody and Visitation Orders*, and [form DV-140](#), *Child Custody and Visitation Order*.

2 Turn in your completed forms to the court. Find out when your forms will be ready for you.

3 Once you get your forms back from the court, have someone "serve" a copy of all forms on the person in (2). The sheriff or marshal can do this for free. See form SER-001, *Request for Sheriff to Serve Court Papers*. Learn more about service at <https://selfhelp.courts.ca.gov/sheriff-serves-your-request-restraining-order>.

4 If you are asking for child support or spousal support you must also complete [form FL-150](#), *Income and Expense Declaration*. If you are only asking for child support, you may be eligible to fill out a simpler form, [FL-155](#). Read [form DV-570](#) to see if you are eligible. Turn in your completed form to the court before your court date. You must also have someone mail or personally deliver a copy to the person in (2).

This is not a Court Order.

Clerk stamps date here when form is filed.

**Draft- Not approved by the
Judicial Council
3.13.23**

Instruction: The person asking for a restraining order must complete items ① and ②. The court will complete the rest of this form.

① Person Asking for Protection

Name: _____

Fill in court name and street address:

Superior Court of California, County of

② Person to Be Restrained

Name: _____

Court fills in case number when form is filed.

Case Number:

③ Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in ② :



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

Name and address of court if different from above: _____

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to: www.courts.ca.gov/find-my-court.htm.

To the person in ②:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

④ Temporary Restraining Orders (Any orders granted are attached on form DV-110.)

a. Temporary Restraining Orders (*any order requested under Family Code section 6320*): (check one)

- (1) All **granted** until the court hearing.
- (2) All **denied** until the court hearing. (*Reasons for denial are given below in b.*)
- (3) Partly **granted** and partly **denied** until the court hearing. (*Reasons for denial are given in b.*)



- 4 b. Reasons for denial of some or all of the orders requested on form DV-100.
- (1) The facts given in the request (form DV-100) do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
- (2) The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
- (3) Other reasons for denial:

5 **Confidential Information Regarding Minor**

- a. A *Request to Keep Minor's Information Confidential* (form DV-160) was made and **granted** (see form DV-165, *Order on Request to Keep Minor's Information Confidential*, served with this form.)
- b. **If the request was granted, the information described on the order (form DV-165, item 7) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

6 **Service of Documents by the Person in 1**

At least five _____ days before the hearing, someone age 18 or older—**not you or anyone to be protected**—must personally give (serve) a court file-stamped copy of this form (DV-109, *Notice of Court Hearing*) to the person in 2 along with a copy of all the forms indicated below:

- a. DV-100, *Request for Domestic Violence Restraining Order* (file-stamped)
- b. DV-110, *Temporary Restraining Order* (file-stamped), **if granted**
- c. DV-120, *Response to Request for Domestic Violence Restraining Order* (blank form)
- d. DV-120-INFO, *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- e. DV-170, *Notice of Order Protecting Information of Minor*, and DV-165, *Order on Request to Keep Minor's Information Confidential* (file-stamped), **if granted**
- f. Other (*specify*): _____

Judge's Signature

Date: _____

Judicial Officer



To the Person in ① :

- **At the hearing:** The judge will decide if a restraining order is needed to keep you or your children safe. If the judge grants you a restraining order, it can last up to five years. You must attend the hearing if you want the judge to make any of the orders you requested on form DV-100. Bring any evidence or witnesses you have. For more information, read [form DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*.
- **Option to cancel hearing:** If item ④a(2) or ④a(3) is checked, you have the option of canceling the hearing. If you cancel the hearing, your request for restraining order will not move forward. Any temporary orders made will expire on the day of the hearing. If you want to cancel the hearing, use [form DV-112](#), *Waiver of Hearing on Denied Request for Temporary Restraining Order*.
- **Before the hearing:** You must have someone personally serve (give) the person in ② a copy of all the papers listed in ⑥ by the deadline listed in ⑥. For more information, read form DV-200-INFO, *What Is "Proof of Personal Service"?* If you are unable to serve the person in ② before your hearing, you may ask for more time to serve your court papers. Read [form DV-115-INFO](#), *How to Ask for a New Hearing Date*.

To the Person in ② :

- **Respond in writing (optional):** You can respond in writing by completing form DV-120, *Response to Request for Domestic Violence Restraining Order*. For more information, read [form DV-120-INFO](#), *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- **At the hearing:** Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. At the hearing, tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have. Read [form DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*.
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date. Read [form DV-115-INFO](#), *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

Original Order Amended Order

Draft- Not approved by the
Judicial Council
3.8.23

Instruction: The person asking for a restraining order must complete items
1, 2, and 3 only. The court will complete the rest of this form.

1 Protected Person (name):

2 Restrained Person

*Full Name:

*Gender: M F Nonbinary

*Age: (Give estimate, if age unknown.)

Date of Birth: Height: Weight:

Hair Color: Eye Color:

*Race:

Relationship to person in 1:

Address of restrained person:

City: State: Zip:

Type, number, and location of firearms, firearm parts, or ammunition:

(Information that has a star (*) next to it is required to add this order
into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

3 Other Protected People

In addition to the person named in 1, the people listed below are protected by the orders listed in 8 through 11.

Table with 3 columns: Full name, Relationship to person in 1, Age

Check here if you need to list more people. List them on a separate piece of paper, write "DV-110, Other
Protected People" at the top, and attach it to this form.

(The court will complete the rest of this form)

4 Your Hearing Date (Court Date)



This order expires at the end of the hearing listed below:

Hearing Date: Time: a.m. p.m.

This order must be enforced throughout the United States. See page 7.

This is a Court Order.



To the Person in 2

The judge has granted temporary orders. See items 5 through 20. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

5 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

6 Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description <i>(include serial number, if known)</i>	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



7 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed on form DV-109, item **(3)**, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in **(5)b)** you still have or own, including any items listed in **(6)**. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.



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

Name and address of court, if different than court address listed on page 1

8 **Cannot Look for Protected People**

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

9 **Order to Not Abuse** **Not requested** **Denied until the hearing** **Granted as follows:**

You must not do the following things to the person in **(1) and any person listed in **(3)**:**

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

This is a Court Order.



10 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 10a:
 - (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (*explain*): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

11 Stay-Away Order Not requested Denied until the hearing Granted as follows:

- a. You must stay at least (*specify*): _____ yards away from (*check all that apply*):

<input type="checkbox"/> Person in ①.	<input type="checkbox"/> School of person in ①.
<input type="checkbox"/> Home of person in ①.	<input type="checkbox"/> Persons in ③.
<input type="checkbox"/> Job or workplace of person in ①.	<input type="checkbox"/> Children’s school or child care.
<input type="checkbox"/> Vehicle of person in ①.	<input type="checkbox"/> Other (<i>explain</i>): _____
- b. Exception to 11a:
The stay-away orders do not apply:
 - (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
 - (2) For you to visit with your children for court-ordered contact or visits.
 - (3) Other (*explain*): _____

12 Order to Move Out Not requested Denied until the hearing Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): _____

13 Other Orders Not requested Denied until the hearing Granted as follows:

This is a Court Order.



14 Child Custody and Visitation Not requested Denied until the hearing Granted as follows:

Granted on the attached [form DV-140](#), *Child Custody and Visitation Order*, and

(list other form): _____.

15 Protect Animals Not requested Denied until the hearing Granted as follows:

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16 Control of Property Not requested Denied until the hearing Granted as follows:

Until the hearing, **only** the person in ① can use, control, and possess the following property:

17 Health and Other Insurance Not requested Denied until the hearing Granted as follows:

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties —or their children, if any— for whom support may be ordered, or both.

18 Record Communications Not requested Denied until the hearing Granted as follows:

The person in ① may record communications made by the person in ② that violate this order.

This is a Court Order.



19 Property Restraint Not requested Denied until the hearing Granted as follows:

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted ⑧, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

20 Pay Debts Owed for Property Not requested Denied until the hearing Granted as follows:

The person in ② must make these payments until this order ends:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

21 Orders That May Be Made at the Hearing Date (Court Date)

If the person in ① checked any of these orders on form DV-100, a judge could grant them at your court date.

- Child Support • Lawyer’s Fees and Costs • Batterer Intervention Program
- Spousal Support • Pay Expenses Caused by Abuse • Transfer of Wireless Phone Account

22 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, complete form SERVE-001, *Request for Sheriff to Serve Court Papers*. Give SERVE-001 and a copy of this order to the sheriff.

23 **Attached pages** (*All of the attached pages are part of this order.*)

- a. Number of pages attached to this nine-page form: _____
- b. Attachments include forms (*check all that apply*):
- DV-140 DV-145 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Warnings and Notices to the Restrained Person in ②

Your Address to Receive Court Orders

If the judge makes a restraining order at the hearing (court date), which has the same orders as in this Temporary Restraining Order, you will get a copy of that order by mail at your last known address, which is written in ② on page 1. If your address was not listed on this form or is incorrect, contact the court. If you did not attend your hearing and want to know if the judge granted a restraining order against you, contact the court.

Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not attend your hearing (court date), the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve [form FL-150, Income and Expense Declaration](#), or [form FL-155, Financial Statement \(Simplified\)](#), if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve [form FL-150, Income and Expense Declaration](#), so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

Firearms (Guns), Firearm Parts, and Ammunition

Under California law, you cannot have any firearms (guns), certain firearm parts, or ammunition. (Family Code sections 6216 and 6389(a)). Ask the court for information on how to properly turn in, sell, or store these items in your city or county. You can also contact your local police department for instructions.

This is a Court Order.



Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (6), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.

Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at items (10) and (11) of this order to see if the judge granted an exception for brief and peaceful contact with the person in (1) as needed to follow court-ordered visits. Contact by the person in (2) that is **not** brief and peaceful is a violation of this order. **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item ⑩ is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

*Clerk stamps date here when form is filed.***Draft- Not approved by
the Judicial Council
3.8.23**

Use this form if someone has asked for a domestic violence restraining order against you, and you want to respond in writing. You will need a copy of form DV-100, *Request for Domestic Violence Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

Do not use this form if you want to ask for your own restraining order. Read [form DV-500-INFO](#), *Can a Domestic Violence Restraining Order Help Me?* to find out more about this type of restraining order.

*Fill in court name and street address:***Superior Court of California, County of***Fill in case number:***Case Number:****1 Name of Person Asking for Protection:***(See form DV-100, item 1):*

2 Your Name:**! Address where you can receive court papers**

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)

Your hearing date is listed on form DV-109, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, attend your hearing date. If you do not attend your hearing, the judge could grant a restraining order that could last up to five years.

This is not a Court Order.

How to complete this form: To answer the questions below, look at the form DV-100 filled out by the person in ①. Tip: When the restraining order forms say "the person in ②" that means you, and the "person in ①" means the person who is asking for a restraining order against you.

④ Information About You (see ② on form DV-100)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

⑤ Your Relationship to the Person in ①

In item ③ of form DV-100, has the person in ① correctly described your relationship with them?

Yes No If no, what is your relationship with the person in ①?:

⑥ History of Court Cases and Restraining Orders (see ④ on form DV-100)

The person in ① may have listed other court cases or restraining orders involving you. If information is incorrect or missing, use the space below to give information.

Check here if you are including a copy of restraining order or court order that you want the judge to know about.

⑦ Other Protected People

If the judge grants a restraining order, it can include family or household members of the person in ①. See ⑧ on form DV-100 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

⑧ Order to Not Abuse (see ⑩ on form DV-100)

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



9 **No-Contact Order** (see **11** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**10** **Stay-Away Order** (see **12** on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**11** **Order to Move Out** (see **13** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**12** **Other Orders** (see **14** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**13** **Child Custody and Visitation** (see **15** on form DV-100 and DV-105)

- a. I am **not** the parent of the child listed in form DV-105, *Request for Child Custody and Visitation Orders*
b. I am the parent of the child or children listed in form DV-105 (*check one*):

- (1) I agree to the orders requested.
(2) I do not agree to the orders requested. (Complete form DV-125, *Response to Request for Child Custody and Visitation Orders*, and attach it to this form.)

This is not a Court Order.

14 **Protect Animals** (see 16 on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

15 **Control of Property** (see 17 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

16 **Health and Other Insurance** (see 18 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

17 **Record Communications** (see 19 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

18 **Property Restraint** (see 20 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

19 **Pay Debt (Bills) Owed for Property** (see 22 on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



20 **Pay Expenses Caused by the Abuse** (see 23 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

21 **Child Support** (see 24 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.
c. I agree to pay guideline child support. (Learn more about guideline child support at www.courts.ca.gov/selfhelp-support.htm.)

22 **Spousal Support** (see 25 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

23 **Lawyer's Fees and Costs** (see 26 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

- c. I ask that the person in 1 pay for some or all of my lawyer's fees and costs.

(Note: The judge may award you lawyer's fees and costs if the judge denies the person in 1's request for restraining order and finds that the request had no basis (in fact or law) or was made only to abuse, intimidate, or cause unneeded delay.)

24 **Batterer Intervention Program** (see 27 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



25 **Transfer Wireless Phone Account** (see **28** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

26 **Firearms (Guns), Firearm Parts, or Ammunition** (see **29** on form DV-100)

If you were served with form DV-110, *Temporary Restraining Order*, you must follow the orders in **5** on form DV-110. You must file a receipt with the court from the law enforcement agency or a licensed gun dealer within 48 hours after you received form DV-110. You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).

(Check all that apply)

- a. I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or own to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items *(check all that apply)*: is attached has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)

(Give details, like what your job is and why you need a firearm): _____

27 **Cannot Look for Protected People** (see **30** on form DV-100)

- a. I agree to the order.
- b. I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to: _____

28 **Additional Reasons I Do Not Agree with the Request** (optional)

Explain why you do not agree to any of the orders requested by the person in **1** (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper and write “DV-120, Additional Reasons I Do Not Agree with the Request” at the top.

This is not a Court Order.



29 **My Out-of-Pocket Expenses**

If the request for restraining order is denied by the judge at the court hearing, I ask the judge to order the person in **1** to pay my out-of-pocket expenses because the temporary restraining order was granted without enough supporting facts. The expenses are:

For: _____	Because: _____	Amount: \$ <input type="text"/>
For: _____	Because: _____	Amount: \$ <input type="text"/>
For: _____	Because: _____	Amount: \$ <input type="text"/>

30 **Additional Pages**

Number of pages attached to this form, if any: _____

31 **Your signature**

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

Date: _____

Type or print your name

▶ _____
Sign your name

32 **Your lawyer's signature** *(if you have one)*

Date: _____

Lawyer's name

▶ _____
Lawyer's signature

Your Next Steps

- If the person in **1** asked for child support, spousal support, or lawyer's fees, you must complete [form FL-150](#), *Income and Expense Declaration*. If the person in **1** is only asking for child support (item 24 on form DV-100), you may be eligible to fill out a simpler form, [form FL-155](#). Read [form DV-570](#) to see if you are eligible to fill out form FL-155. Before your court date, you must file form FL-150 or FL-155 with the court. Then you must have a server mail a copy to the person in **1** and have your server complete [form DV-250](#), *Proof of Service by Mail*. After form DV-250 is completed, file it with the court.
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at: <https://selfhelp.courts.ca.gov/respond-domestic-violence-restraining-order>. More information is also available on [form DV-120-INFO](#), *How Can I Respond to a Request for Domestic Violence Restraining Order?*

This is not a Court Order.

DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

I was served with form DV-100, DV-109, or DV-110. What does this mean?

Someone has asked for a domestic violence restraining order against you. On the forms, you are the "person in ②" and the person who wants a restraining order against you is listed in ① on all the forms.

Form DV-100: This form has all the orders that the person in ① has asked the judge to order.

Form DV-109: Your court hearing (court date) is listed on this form. You should attend the court hearing if you do not agree to the orders requested. If you do not attend, the judge can make orders against you without hearing from you.

Form DV-110: If you were served with form DV-110, it means that the judge granted a temporary restraining order against you. You must follow the orders.

What is a Domestic Violence Restraining Order?

It is a court order that can help protect people who have been abused by someone they have been intimate with, or are closely related to. To be eligible, the person asking for the restraining order must be:

- Someone you date or used to date
- A spouse, ex-spouse, registered domestic partner, or ex-domestic partner
- Someone you live or lived with (more than a roommate)
- Your parent, sibling, child, grandparent, or grandchild related by blood, marriage, or adoption

What can a restraining order do?

A restraining order can include orders for you to:

- Not contact or harm the protected person, including children or others listed as protected people
- Stay away from all protected people and places
- Not have any firearms (guns), firearm parts, or ammunition. This includes homemade or untraceable guns, like "ghost guns."
- Move out of the place that you share with the protected person
- Follow custody and visitation orders
- Pay child support
- Pay spousal support
- Pay debt for property
- Give control of property (examples: cell phone, car, home) to the person asking for protection.

What if I have children with the person asking for a restraining order?

A restraining order can include orders for your children, including listing them as protected persons. It can also include child custody and visitation orders and orders to limit your ability to travel with your children.

How long does the order last?

If the judge granted a temporary restraining order (form DV-110), it will last until the hearing date. At your court hearing, the judge will decide whether to extend the order or cancel the order. The judge can extend the order for up to five years. Custody, visitation, child support, and spousal support orders can last longer than five years and they do not end when the restraining order ends.



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

What do I do next?

Part 1: Turn in or sell prohibited items

If there is a temporary restraining order against you (see form DV-110), then you must immediately turn in, sell, or store any prohibited items you have or own.



Prohibited items include:

- **Firearms**, including any handgun, rifle, shotgun, and assault weapon
- **Firearm parts**, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame
- **Ammunition**, including bullets, shells, cartridges, and clips

You must then prove to the court that you've complied with the orders. Bring [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#), to a gun dealer or law enforcement when you turn in your items. After DV-800/JV-270 is complete, file it with the court. You may ask the court for information on how to turn in, sell, or store these items in your city or county. You can also read [form DV-800-INFO/JV-270-INFO, How Do I Turn In, Sell, Or Store My Firearms, Firearm Parts, and Ammunition?](#)

Part 2: Respond in writing (optional)

"Respond" means to let the judge and the other side know whether you agree or disagree with the request for restraining order, and why. Responding in writing is optional and there is no penalty if you don't. If you need more time to prepare for your case, talk to a lawyer or self-help center staff before you file a response.

If you want to respond in writing, complete [form DV-120, Response to Request for Domestic Violence Restraining Order](#). After you complete the form, file it with the court. There is no court fee to file this form. Then "serve" the form on the person asking for the restraining order. "Serve" means to have someone 18 years old or older mail a copy to the person asking for the restraining order. You cannot be the one to mail your papers. The person who mails your form must fill out [form DV-250, Proof of Service by Mail](#). After form DV-250 is completed, file it with the court.

Part 3: Get ready and go to your court hearing

Your court hearing is listed on form DV-109, *Notice of Court Hearing*. You have the option of attending your hearing in-person or remotely (by phone, or videoconference if available). For information on how to attend your hearing remotely, go to the court's website. Some courts may require advance notice. At the hearing, you and the other side will have the opportunity to tell your side of the story. For more information, read [form DV-520-INFO, Get Ready for the Restraining Order Court Hearing](#). If you need more time to prepare your case, you may ask the judge for a new court date. The judge will decide whether to grant your request. Read [form DV-115-INFO, How to Ask For a New Hearing Date](#), for more information. Note that if the judge does give you a new court date and if there is a temporary restraining order against you, the judge will usually extend the temporary restraining order until the next court date.

What if I need an interpreter?



You may use [form INT-300](#) to request an interpreter or ask the clerk how you can request one.

What if I have a disability and need an accommodation?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

Do I need a lawyer?

It's possible to go through this process without a lawyer. But having a restraining order against you may have a lot of consequences, and you may want to hire a lawyer. If you don't hire a lawyer, you can get free help from your court's self-help center.

What if I was arrested or have criminal charges against me?

Anything you write in your court papers or say at a hearing for this case and for any criminal case can be used against you. Talk to a lawyer if you have any concerns about what you can do and say.

Where can I find a self-help center?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine. You must still follow the orders even if you are not a U.S. citizen. If you are worried about your immigration status, talk to an immigration lawyer.

Can I use the restraining order to get divorced or end a domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

What if I want to leave the county or state?

You must still comply with the restraining order, including custody and visitation orders. The restraining order is valid anywhere in the United States.

What if I have more than one restraining order against me?

If the police are called to enforce the order, they will need to follow the rules of enforcement (see "Priority of Enforcement" listed on the back of form DV-110, DV-130, and CR-160). If you have questions about any of the orders against you, contact your local self-help center or talk to a lawyer. Find your local court's self-help center at:

www.courts.ca.gov/selfhelp.

What if I am a victim or survivor of domestic violence?

The National Domestic Violence Hotline provides free and private safety tips. Help is available in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

What if I need a restraining order against the other person?

Do not use form DV-120 to request a domestic violence restraining order. For information on how to file your own restraining order, read [form DV-505-INFO](#). You can also ask the court clerk about free or low-cost legal help.

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/respond-to-DV-restraining-order>

Restraining Order After Hearing (Order of Protection)

Clerk stamps date here when form is filed.

Draft- Not approved by the Judicial Council

3.13.23

Original Order Amended Order

1 Protected Person (name):

2 Restrained Person

*Full Name:
*Gender: M F Nonbinary
*Age: (Give estimate, if age unknown.)
Date of Birth: Height: Weight:
Hair Color: Eye Color:
*Race:
Relationship to person in 1:
Address of restrained person:
City: State: Zip:
(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

3 Other Protected People

In addition to the person in 1, the following persons are protected by orders as indicated in items 11 through 14.

Table with 3 columns: Full name, Relationship to person in 1, Age

Check here if you need to list more people. List them on a separate piece of paper, write "DV-130, Other Protected People" at the top, and attach it to this form.

4 Expiration Date

This restraining order, except the orders noted below,* end on:
(date): at (time): a.m. p.m. or midnight
*Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. Custody, visitation, and child support orders usually end when the child is 18.

- If no date is written, the restraining order ends three years after the date of the hearing in item 5a.
If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 9.

This is a Court Order.



5 Hearing

- a. The hearing was on *(date)*: _____ with *(name of judicial officer)*: _____
- b. These people attended the hearing *(check all that apply)*:
- The person in ① The lawyer for the person in ① *(name)*: _____
- The person in ② The lawyer for the person in ② *(name)*: _____

6 Future Court Hearing

The person in ① person in ② must attend court on:

Date: _____ Department: _____

Time: _____ a.m. p.m. to review *(list issues)*: _____

To the Person in ②

The court has granted a long-term restraining order. See ⑦ through ⑲. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

7 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
- (1) Firearms;
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.
- f. Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm *(make, model, and serial number of firearm)*: _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



Case Number: _____

8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "DV-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____
The court has not received a receipt or proof of compliance for all the items listed in **8**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation
(law enforcement agency or agencies): _____

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation
(prosecuting agency): _____

10 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **6** to prove that you have properly turned in, sold, or stored all prohibited items (described in **7**b) you still have or own, including any items listed in **8**. If you do not attend the court hearing listed in **6**, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.

This is a Court Order.



11 Cannot Look for Protected People

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

12 Order to Not Abuse

You must not do the following things to the person in ① and any person listed in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- “Disturb the peace” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

13 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to 13a:

(1) You may have brief and peaceful contact with the person in ① to only communicate about your children for court-ordered visits.

(2) You may have contact with your children only during court-ordered contact or visits.

(3) Other (*explain*): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



14 **Stay-Away Order**

a. You **must** stay at least (*specify*): _____ yards away from (*check all that apply*):

- Person in ①.
- Home of person in ①.
- Job or workplace of person in ①.
- Vehicle of person in ①.
- School of person in ①.
- Persons in ③.
- Children’s school or child care.
- Other (*specify*): _____

b. Exception to 14a:

The stay-away orders do not apply:

- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) For you to visit with your children for court-ordered contact or visits.
- (3) Other (*explain*): _____

15 **Order to Move Out**

You must move out immediately from (*address*):

16 **Other Orders**

17 **Child Custody and Visitation Order**

The judge has granted orders regarding minor children. The orders are included on **form DV-140**, and (*list other form*): _____

18 **Protect Animals**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This is a Court Order.



19 **Control of Property**

Only the person in ① can use, control, and possess the following property:

20 **Health and Other Insurance**

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their children, if any, for whom support may be ordered, or both.

21 **Record Communications**

The person in ① may record communications made by the person in ② that violate this order.

22 **Property Restraint**

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted the order in ⑬, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

23 **Pay Debts (Bills) Owed for Property**

a. You must make these payments until this order ends:

(1) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
(2) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
(3) Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

b. The court finds that the debt or debts listed above in a(1) a(2) a(3) were the result of abuse in this case, and made without the person in ①'s agreement.

This is a Court Order.



24 **Pay Expenses Caused by the Abuse**

You must pay the following:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

25 **Child Support**Child support is ordered on the attached [form FL-342](#), *Child Support Information and Order Attachment* or (*list other form*): _____**26** **Spousal Support**Spousal support is ordered on the attached [form FL-343](#), *Spousal, Partner, or Family Support Order Attachment* or (*list other form*): _____**27** **Lawyer's Fees and Costs**

You must pay the following lawyer's fees and costs:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

28 **Batterer Intervention Program**

- a. The person in **2** must go to and pay for a probation certified 52-week batterer intervention program and show proof of completion to the court.
- b. The person in **2** must enroll by (*date*): _____ or if no date is listed, must enroll within 30 days after the order is made.
- c. The person in **2** must complete, file, and serve [form DV-805](#), *Proof of Enrollment for Batterer Intervention Program*.

29 **Transfer of Wireless Phone Account**The court has made an order transferring one or more wireless service accounts from you to the person in **1**. These orders are contained on [form DV-900](#), *Order Transferring Wireless Phone Account*.**This is a Court Order.**

30 Service

(Check a, b, or c)

- a. **No other proof of service is needed.** The people in ① and ② attended the hearing, either physically or through the use of remote technology, or agreed in writing to this order.
- b. **The person in ② was not present.** Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. (Check all that apply):
 - (1) This order can be served by mail. The judge’s orders in this form are the same as in form DV-110 except for the expiration date. The person in ② must be served, either by mail or in person.
 - (2) This order must be personally served. The judge’s orders in this form are different from the orders in form DV-110, or form DV-110 was not issued. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by (date): _____
 - (B) Mail at the person in ②'s last known address by (date): _____
- c. **Proof of service of form FL-300 to modify the orders in form DV-130 was presented to the court.**
 - (1) The people in ① and ② attended the hearing or agreed in writing to this order. No other proof of service is needed.
 - (2) The person in ① in ② did not attend the hearing and must be personally served (given) a copy of this amended (modified) order.

31 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form SER-001, *Request for Sheriff to Serve Court Papers*, and (2) give the completed form and a copy of this order to the sheriff.

32 Attached pages

All of the attached pages are part of this order.

- a. Number of pages attached to this 10-page form: _____
- b. Attachments include forms (check all that apply):
 - DV-140 DV-145 DV-900 FL-341(C) FL-342 FL-343 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

Start Date and End Date of Orders

This order starts on the earlier of the following dates:

- The hearing date in item ⑤(a) on page 2; or
- The date next to the judge’s signature on this page.

This order ends on the expiration date in ④. If no date is listed, they end three years from the hearing date.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in ⑦b, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b)-(c).)

This is a Court Order.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at items 13 and 14 of this order to see if the judge granted an exception for brief and peaceful contact with the person in 1 as needed to follow court-ordered visits. Contact by the person in 2 that is **not** brief and peaceful is a violation of this order.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 13 is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

*Clerk stamps below when form is filed.***Draft- Not approved by the
Judicial Council****Changes are substantial
and not highlighted.****Instructions**

Use this form to renew (extend) *Restraining Order After Hearing* (form DV-130), or a juvenile restraining order (form JV-255 or JV-265) based on domestic violence. For more information about how to renew a restraining order, read [form DV-700-INFO](#), *How Do I Ask the Court to Renew My Restraining Order.*)

1 Your name: _____*Fill in court name and street address:***Superior Court of California, County of****! Address where you can receive court papers**

(This address will be used by the court and by the person in **2** to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

*Fill in case number:***Case Number:**

Address: _____

City: _____ Zip: _____ State: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in **2** to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Name of Restrained Person _____**This is not a Court Order.**

3 Request to Renew

- a. When does your current restraining order expire?
(Expiration date: month, day, year): _____

- b. Has the order been renewed before?
 No Yes (If yes, how many times?) _____

- c. How long do you want the restraining order to be renewed for? (check one)
 five years permanently Other (any length more than five years): _____

(Attach a copy of your current restraining order. Your current restraining order would be on form DV-130, DV-730, JV-255, or JV-265, and must have a judge’s signature or stamp.)

4 Reason For Renewal

(In this section, explain why you want the judge to renew your restraining order.)
(Check all that apply)

- a. I am afraid that the person in **2** will abuse me in the future because:

(For information about what “abuse” means under the law, go to form DV-500-INFO, *Can a Domestic Violence Restraining Order Help Me?*)

4 Reason For Renewal (continued)

b. **The person in ② has violated the order**

(Note: For the judge to grant your request, you do not have to prove to the judge that the person in ② violated the order. But this information can help the judge make a decision, if it applies in your case.)

(1) Date violation happened (give estimate if you don't know the date): _____

Explain what person in ② did: _____

How often has the person in ② violated the order like this?

Just this once 2-5 times Weekly Other: _____

Give dates of other violations or estimates of when they happened, if known:

(2) Date it happened (give estimate if you don't know the date): _____

Explain what person in ② did: _____

How often has the person in ② violated the order like this?

Just this once 2-5 times Weekly Other: _____

Give dates of other violations or estimates of when they happened, if known:

c. **Other reason or violation (explain):**

Check here if you need more space. Attach a sheet of paper and write "Form DV-700, Reason for Renewal" for a title.

This is not a Court Order.



5 **Lawyer's Fees and Costs**

I ask that the person in **(2)** pay for some or all of my lawyer's fees and costs.

6 **Your signature**

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

Date: _____

Type or print your name



Sign your name

7 **Your lawyer's signature** *(if you have one)*

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- After you complete this form, complete items 1 and 2 of [form DV-710, Notice of Hearing to Renew Restraining Order](#).
- File this form and form DV-710 with the court clerk. You must do this before your restraining order expires.
- Once you get your forms back from the court, have someone "serve" a copy of all forms on the person in **(2)**. The sheriff or marshal can do this for free. See form SER-001, *Request for Sheriff to Serve Court Papers*. Learn more about service at <https://selfhelp.courts.ca.gov/sheriff-serves-your-request-restraining-order>.
- Learn more about how to prepare for your hearing at <https://selfhelp.courts.ca.gov/DV-restraining-order/renew/court>.

This is not a Court Order.

DV-700-INFO How Do I Ask the Court to Renew My Restraining Order?

What does "renew" mean?

It means to extend your current restraining order (form DV-130). If renewed, the judge would extend it for at least five years, or make the order permanent (no expiration).

What if I want to renew a juvenile restraining order?

If you have a juvenile restraining order (on form JV-255 or JV-265), that was based on domestic violence, you can ask the judge to renew your restraining order. Your restraining order is based on domestic violence if it was granted to protect you or your child from the other parent, or to protect you from someone you dated or had an intimate relationship with. If you are not sure whether your juvenile restraining order was based on domestic violence, talk to your lawyer. If you do not have a lawyer, your local self-help center may be able to help you. Find your local court's self-help center at

www.courts.ca.gov/selfhelp.

What if I also want to change (modify) my restraining order?

There is another process to ask to change your restraining order. If you ask to renew your restraining order, and also ask to change your restraining order, you can ask the judge to decide both requests at the same time. For information on how to ask to change your order, read form DV-400-INFO, *How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing*.

When do I ask for the renewal?

You must ask for the renewal before your current restraining order expires. You can make the request up to three months before it expires. The expiration date is listed on the first page of your current restraining order.

Is there a court fee to ask for a renewal?

No.

Do I have to go to court?

Yes, if you ask for a renewal, you will get a court date. At your court hearing, the judge will ask you why you want your restraining order renewed. If you do not attend your hearing, your restraining order will not be renewed.

Where can I find free help?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

What if I am worried about my safety?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).



Steps to ask for a renewal

① Complete two forms:

- Form DV-700, *Request to Renew Restraining Order*; and
- Form DV-710, *Notice of Hearing to Renew Restraining Order* (items 1 and 2 only).

② File forms with court

File both forms with the court clerk. Make sure you include a copy of your current restraining order (DV-130, JV-255, or JV-265) with form DV-700. You can file in person or electronically. For more information on how or where to file, go to the court's website.

③ Get your papers back from the court

Make sure you get at least two copies back: one for you and one to have served on the restrained person.

④ Have restrained person served with papers

You must have an adult personally give a copy of all the court papers (all forms listed on form DV-710, item 5) to the person you want a restraining order against. It cannot be you or anyone listed on the restraining order. Your server must then complete a proof of service form (DV-200). Make a copy of the completed form DV-200 and file it with the court.

Serving papers can be a dangerous situation. If you want the sheriff to serve your papers, they will do so for free. If you want the sheriff to serve your papers, complete form SER-001, *Request for Sheriff to Serve Court Papers*. Give the sheriff a copy of the completed form and all papers that need to be served on the other side (all forms listed on form DV-710, item 5). For more information on service, go to <https://selfhelp.courts.ca.gov/DV-restraining-order/renew/sheriff-serves>.

If you can't serve the restrained person before your court date, contact the court's self-help center or a lawyer. Ask them how to ask the judge for permission to serve your forms another way (called alternative service). Make sure you attend your court date (listed on DV-710 or DV-716) and let the judge know you were unable to serve the restrained person.

⑤ Get ready and attend your court hearing

At your court hearing, the judge will decide whether to grant your request to renew your restraining order. What you will need to prove at your court hearing will depend on if the other side attends the hearing:

- If the restrained person does not attend the hearing, the judge can renew your restraining order based on only your request.
- If the restrained person attends the hearing and does not agree to the renewal, then you must prove that you have a reasonable fear or concern that the restrained person will abuse you or is likely to abuse you in the future. But you don't have to prove that you've been abused by the person since the restraining order has been in effect.

At the hearing, you and the other side will have the opportunity to tell your side of the story. Bring any evidence or witnesses you have.

If you don't want to attend your court hearing in person, go to the court's website to find out more information about attending by phone or videoconference. For information on your court hearing go to <https://selfhelp.courts.ca.gov/DV-restraining-order/renew/court>.

What if the judge renews my restraining order?

- ① You will need form DV-730, *Order to Renew Domestic Violence Restraining Order*, signed by the judge. If the court does not complete this form for you, make sure you complete it and give it to the court clerk. Contact the court's self-help center if you need help.
- ② You will need to get copies of form DV-730, once it is signed by the judge. Ask the court clerk when your forms will be ready. There is no fee for turning in this form, and you should receive some free copies.
- ③ Look at form DV-730 to see if the judge ordered you to serve the form by mail or in person. If you are ordered to serve the form by mail, this means your server only has to mail a copy of the restraining order. But, serving someone in person is always best. When you mail court papers, it may be hard to prove that the person actually received a copy especially if the person moves a lot. Learn more about service at <https://selfhelp.courts.ca.gov/DV-restraining-order/renew/serve-order>.

What if I need an interpreter?



You may use [form INT-300](#) to request an interpreter or ask the clerk how you can request one.

What if I have a disability and need an accommodation?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Information about this process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/renew>

Clerk stamps date here when form is filed.

**Draft- Not approved by
the Judicial Council-3.8.23**

**Changes are substantial
and not highlighted.**

Instruction: The protected person must complete items
① and ② only. The court will complete the rest of this form.

① Protected Person (name):

② Restrained Person (full name):

Address of restrained person:

City: _____ State: _____ Zip: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number..

Case Number:

③ Court Hearing

The judge has set a court hearing (court date) for the request to renew restraining order.

The Restraining Order After Hearing (Order of Protection) stays in effect until the expiration date on that order or the end of the hearing below, whichever is later.



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

Name and address of court if different from above:

④ To the person in ②:

- At the hearing, the judge can renew the current restraining order for at least five years or make it permanent.
- You **must** continue to obey the current restraining order until the expiration date on the current order or the hearing date, whichever is later.
- At the hearing, you can tell the judge why you agree or disagree with the request to renew the orders.
- If you do not attend the hearing, the judge can still renew the restraining order. You will receive a copy of the order at the address listed above in ②.
- If the restraining order is renewed, you *must* obey the orders even if you do not attend the hearing.
- If you want to respond in writing to the request to renew the restraining order, fill out form DV-720, *Response to Request to Renew Restraining Order*. File the original with the court, and have someone 18 or over—**not you**—mail a copy of it to the person in ① before the hearing. Also file form DV-250, *Proof of Service by Mail*, with the court before the hearing. Bring a copy of form DV-250, *Proof of Service by Mail*, to the court hearing.

This is a Court Order.



5 To the Person in 1

a. You must have the person in 2 personally served with a copy of all the forms listed below in item (b) by
(date of deadline): _____

b. Forms to serve:

- DV-700, *Request to Renew Restraining Order* (file stamped);
- DV-710, *Notice of Hearing to Renew Restraining Order* (this form);
- DV-720, *Response to Request to Renew Restraining Order* (blank copy);
- DV-130, the current *Restraining Order After Hearing (Order of Protection)* that you want to renew.

(“Service” means someone 18 or over—not you or anyone else protected by the restraining order—must personally give the court forms to the person in 2). After the person has been served, file form DV-200, *Proof of Personal Service*, with the court clerk. For help with service, read form DV-200-INFO, *What Is “Proof of Personal Service”?* Bring a copy of form DV-200, *Proof of Personal Service*, to the court hearing.

Judge's Signature

Date: _____

Judge or Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Instructions to Clerk: The court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Notice of Hearing to Renew Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

**Draft- Not approved by the
Judicial Council****3.8.23**

Instructions: Either party may use this form to ask the court to reschedule the hearing (court date) listed on form **DV-710, Notice of Hearing to Renew Restraining Order**. Note: if your hearing is rescheduled, the restraining order will be extended until the new court hearing.

1 Your Information

a. Name: _____

b. Who are you in this case?:

 Protected party (*skip to 2*) Restrained party (*give your contact information below*).**! Address where you can receive court papers**

(This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

*Fill in court name and street address:***Superior Court of California, County of***Fill in case number:***Case Number:****2 Information About Your Case**a. The other party in this case is (*full name*): _____b. The court date is currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party personally served.
- b. Other reason:

4 Your signature

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

Date: _____

Type or print your name

▶ _____
Sign your name

5 Your lawyer's signature (if you have one)

Date: _____

Lawyer's name

▶ _____
Lawyer's signature

Your Next Steps

- Complete form DV-716, *Order to Reschedule Hearing to Renew Restraining Orders* (only items 1 and 2)
- File this form and form DV-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of this form and any other form that the judge ordered you to serve (see form DV-716, item 5). Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to <https://selfhelp.courts.ca.gov/DV-restraining-order/renew/sheriff-serves>.
- If the judge denies your request to reschedule, you must attend your court hearing (listed on form DV-710).

Clerk stamps date here when form is filed.

**Draft -Not approved by the
Judicial Council
3.13.23**

Instruction: Complete ① and ② only. The court will complete the rest of this form.

① **Protected Party:** _____

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The *Restraining Order After Hearing* (form DV-130) granted in this case stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The *Restraining Order After Hearing* (form DV-130) lasts until the hearing date below or the original expiration date, whichever is later. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Warning and Notice to the Restrained Party:
You must obey the restraining order until it expires.

This is a Court Order.



4 Reason Court Date Is Rescheduled

a. The protected party has not served the restrained party.

b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Protected party**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they were or their lawyer was at the court date or agreed to reschedule the court date.

(1) You do not have to serve the protected party because they were or their lawyer was at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of this order and all forms listed on DV-710, item 5 by (date): _____

(2) You must have the protected party personally served with a copy of this order by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



6 No Fee to Serve

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form SERVE-001, *Request for Sheriff to Serve Court Papers*, and (2) give form SERVE-001 and a copy of this order to the sheriff.

7 Other Orders

8 Attached Pages *(All of the attached pages are part of this order.)*

a. Number of pages attached to this three-page form: _____

b. Attachments include forms *(check all that apply)*:

DV-710 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Instructions for Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk's Certificate

[seal]

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form DV-716) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Draft- Not approved by the
Judicial Council
3.13.23

Changes are substantial and not
highlighted.

Instructions: Use this form if the protected person has asked to renew the restraining order against you and you want to respond in writing. There is no court fee to file this form.

1 Protected Person (See form DV-700, item 1):

Fill in court name and street address:

Superior Court of California, County of

2 Your Name: _____

! Address where you can receive court papers

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

Fill in case number:

Case Number:

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)



Your hearing date is listed on form DV-710, (*Notice of Hearing to Renew Restraining Order*). If you do not agree to having the restraining order renewed (extended), attend your hearing date. If you do not attend your hearing, the judge could renew the restraining order against you for at least five years or make it a permanent order with no expiration.



4 Do you agree with the request to renew the restraining order?

- a. I agree.
- b. I do not agree.

Explain why you disagree, or describe a different order that you would agree to: _____

5 Additional Reasons I Do Not Agree With the Request (optional)

If you do not agree to the request to renew restraining order, you may explain why (*give specific facts and reasons*):

Check here if you need more space. Attach a sheet of paper and write “DV-720, Additional Reasons I Do Not Agree With the Request” at the top.

6 Lawyer's Fees and Costs (see 5 on form DV-700)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

- c. I ask that the person in 1 pay for some or all of my lawyer’s fees and costs.
(Note: The judge may award you lawyer’s fees and costs if the judge denies the person in 1’s request for restraining order and finds that the request had no basis (in fact or law) or was made only to abuse, intimidate, or cause unneeded delay.)

7 Your signature

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

Date: _____

Type or print your name



Sign your name

8 Your lawyer's signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Have someone mail the person in ① a copy of this form and any attached pages. *(The person who mails this form must be at least 18 years old and cannot be you or someone protected on the restraining order.)* Have the person who mailed your papers complete form DV-250, *Proof of Service by Mail*. File form DV-250 with the court.
- Prepare for your court date by gathering evidence or witnesses, if you have any. If you need an interpreter for your court date, use [form INT-300](#) to request an interpreter, or ask the court clerk how you can request one. If you need a disability accommodation, use [form MC-410](#) to request assistance, and contact the disability/ADA coordinator at your local court for more information.
- Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp.

Clerk stamps date here when form is filed.

Draft- Not approved by Judicial Council**Changes are substantial and not highlighted.****Instructions:** Restraining Order After Hearing (form DV-130, JV-255, or JV-265) must be attached to this form.**1 Protected Person**

Name: _____

2 Restrained Person

Full Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

3 Renewal and Expiration

The request to renew the attached restraining order is:

a. **Denied.** The attached restraining order expires as stated in that order.b. **Granted.** The attached restraining order is renewed for (check one): five years permanently Other (give duration longer than five years): _____

The attached order will expire on:

(date): _____ (time): _____ a.m. p.m. or midnight*(Child custody and visitation, property, and support orders may have been changed (modified) and may be different from those issued on the attached restraining order.)***4 Hearing**There was a hearing on (date): _____ at (time): _____ a.m. p.m.

These people were at the hearing (check all that apply):

 The person in ① The lawyer for the person in ① (name): _____ The person in ② The lawyer for the person in ② (name): _____**5 No Fee to Serve (Notify) Restrained Person**The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form SER-001, *Request for Sheriff to Serve Court Papers*, and (2) give the completed form and a copy of this order to the sheriff.**This is a Court Order.**

6 Service by Person in 1

(Check a or b)

- a. **No other proof of service is needed.** The people in 1 and 2 attended the hearing, either physically or through the use of remote technology, or agreed in writing to this order.
- b. **The person in 2 was not present.** Person in 1 must have person in 2 served with a copy of this order by: *(Check all that apply)*
 - (1) Mail (at the address listed on form DV-710)
 - (2) Other: _____
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in 1 must have a copy of this order served on the person in 2 by:
 - (A) Personal service by *(date)*: _____
 - (B) Mail at the person in 2's last known address by *(date)*: _____

7 Lawyer's Fees and Costs

The person in 1 in 2 must pay the following lawyer's fees and costs:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
 Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

8 Attached Pages Number of pages attached to this two-page form: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

Certificate of Compliance With VAWA

This restraining (protective) order meets all "full faith and credit" requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.

(The clerk will fill out this part.)

*Clerk's Certificate
 [seal]*

—Clerk's Certificate—

I certify that this *Order on Request to Renew Restraining Order (form DV-730)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

DV-800-INFO/JV-270-INFO

How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

What do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or own:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, includes receivers, frames, and any item that may be used as or easily turned into a receiver or frame (also called “ghost guns”); and
- Ammunition, including bullets, shells, cartridges, and clips.

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items for safekeeping or to destroy,
or
- A licensed gun dealer, who can buy or store your firearms. If you have firearm parts or ammunition, call ahead for more information.

When do I turn in, sell, or store prohibited items?

Immediately, if law enforcement asks you to. Otherwise, within 24 hours of being served, or told by a judge to do so.

Can I give my prohibited items to family or friends?

No, only to law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact law enforcement or a licensed gun dealer about fees and whether they have space to store your items.

How do I take prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. They will give you specific instructions, like making sure your firearms are unloaded and in the trunk of the car. Take a copy of the restraining order with you. **Do not** bring your firearms to court.

If I turn in my firearms to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after a restraining order expires. Ask the law enforcement agency.

After I give my firearms to law enforcement, can I change my mind?

Yes. You are allowed to make one sale through a licensed gun dealer. To do this, a licensed gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the firearms you are selling.

How do I prove to the judge that I have complied with (obeyed) the orders?

- ① Bring a copy of form DV-800/JV-270, *Receipt for Firearms, Firearm Parts, and Ammunition*, with you, and ask the dealer or officer to complete and sign the form.
- ② File form DV-800/JV-270 with the court. Make sure you get two copies. All receipts must be filed with the court within 48 hours from the time you were served with the restraining order, unless the judge gave you another deadline.



Do I need to bring a copy of the receipt to anyone besides the judge?

Yes, if:

- ▶ Law enforcement served you with the restraining order, you must give them a copy of your receipt (example: form DV-800/JV-270). If you don't know who served you with the restraining order, ask the court clerk for a copy of the proof of service form for the restraining order. The law enforcement agency is listed on that form.
- ▶ You did not obey the order when you were supposed to, and the court notified law enforcement or a prosecuting attorney. (Tip: Look at forms DV-110, DV-130, or DV-820 to see if the court notified another agency. If the court did, give a copy of the receipt to the agencies listed on any of the forms).

Where can I find free help?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

More information on how to obey these orders is available online

<https://selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders>.

DV-840/FL-840 Notice of Compliance Hearing for Firearms and Ammunition

Clerk stamps date here when form is filed.
**Draft- Not approved by the
Judicial Council
3.8.23**

1 Protected Person
(name): _____

2 Restrained Person
(name): _____

3 Notice of Compliance Hearing
To the person in 2:
The court has issued a domestic violence restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, or ammunition that you have or own, as required in the restraining order and listed below in 4.

Fill in court name and street address:
Superior Court of California, County of

Court fills in case number when form is filed.
Case Number:

 Date: _____ Dept.: _____
Time: _____ Room: _____
Name and address of court, if different from the one listed above: _____

4 No Firearms (Guns), Firearm Parts, or Ammunition
a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
b. Prohibited items are:
(1) Firearms (guns);
(2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
(3) Ammunition.
c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

5 **Restrained Person Has Prohibited Items**

The court has found that you have the following prohibited items:

a. Firearms and/or firearm parts

Description <i>(include serial number, if known)</i>	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(2) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(3) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(4) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(2) _____	_____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(3) _____	_____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(4) _____	_____	_____	<input type="checkbox"/> <i>(date)</i> : _____

Check here to list additional items. List them on a separate piece of paper, write "DV-840/FL-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

6 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with (obeyed) the orders previously granted on *(date)*: _____. The court has not received a receipt or proof of compliance for all the items listed in **5**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation *(name of agency)*: _____.

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency)*: _____.

7 **Service**

The person in **2** does not have notice of these orders. The person in **1** must have the person in **2** served by:

a. Personal service by *(date)*: _____

b. Mail, at the person in **2**'s last known address by *(date)*: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

EPO-001

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

LAW ENFORCEMENT CASE NUMBER:

EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)

1. PROTECTED PERSONS (insert names of all persons protected by this Order):

2. RESTRAINED PERSON (name): Gender: M F X
Ht.: Wt.: Hair color: Eye color: Race: Age: Date of birth:

3. TO THE RESTRAINED PERSON:

- a. YOU MUST NOT harass, attack, strike, threaten, assault...
b. YOU MUST NOT contact, either directly or indirectly...
c. YOU MUST stay away at least: yards from each person...
d. YOU MUST NOT take any action, directly or through others...
e. YOU MUST NOT own, possess, purchase, receive, or attempt to purchase or receive any firearm...

4. (Name): is given temporary care and control of the following minor children of the parties (names and ages):

5. Order Expires on (date): at (time): EXPIRES ON THE 5TH COURT DAY OR 7TH CALENDAR DAY, WHICHEVER IS EARLIER. DO NOT COUNT THE DAY THE ORDER IS GRANTED.

6. To Person in 1: To ask for a longer restraining order, ask for help at your local court. If there is an open juvenile case, file in that case. (Name and address of court):

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): granted this Order on (date): at (time):

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons):

10. Firearms or ammunition were (check all that apply): observed reported physically searched for seized

11. The persons in 1 and 2 live together. The person in 1 asks that the person in 2 immediately move out from the address in item 3c

12. The person in 1 has minor children in common with the person in 2, and a temporary custody order is requested because of the facts alleged in item 9. A custody order does exist. does not exist.

By: (PRINT NAME OF LAW ENFORCEMENT OFFICER) (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: Telephone No.: Badge No.:

PROOF OF SERVICE

13. I personally delivered (served) copies of this Order to the person named in 2 on: (date): at (time): Address where person in 2 was served:

14. At the time of service, I was at least 18 years of age and not a party to this cause. I am a California law enforcement officer.

15. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

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

Date: (TYPE OR PRINT NAME OF SERVER) (SIGNATURE OF SERVER)

EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-001

To the restrained person: You must follow this order until it expires (see item 5). If you violate the order, you can be arrested, charged with a crime, and/or fined. If you are served with another restraining order, you must follow the order. If you have any questions about your rights, free help may be available at your court's local self-help center, or you can hire a lawyer.

Spanish translation

If you have firearms, firearm parts, or ammunition, follow the orders in item 3e. After you have turned in or sold your items, you must file a receipt with the court that proves that all items listed in 3e have been turned in or sold. You may use form DV-800, *Receipt for Firearms, Firearm Parts, and Ammunition*.

To the protected person: This order will expire on the date and time listed in item 5. If you want a longer restraining order to protect you or your children, you will have to ask for one from your local court. There is no court fee to ask for one. You do not need a lawyer to ask for one, but the process can be hard to get through on your own. Free help may be available at your local court's self-help center.

Spanish translation

To Law Enforcement

This order must be served on the restrained person by the officer, if the restrained person can be found. A copy must be given to the protected person. A copy must be filed with the court as soon as practicable. Also, the officer must have the order entered into CLETS (CARPOS).

Spanish translation

This emergency protective order is effective when made and must be enforced by all law enforcement officers in the State of California who are aware of or shown a copy of this order. The terms and conditions of this order are enforceable regardless of the acts of the parties; it may be changed only by order of the court (Penal Code section 13710(b)). A law enforcement officer shall use every reasonable means to enforce this order. An officer acting in good faith to enforce the order will not be held liable.

The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons if the provisions of this order are more restrictive. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order.

The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

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

Title of proposal: Protective Orders: Service Requirements after Remote Appearances

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

Adopt Cal. Rules of Court, rules 3.1162 and 5.496; revise forms CH-109, CH-130, EA 109, EA-130, EA-309, EA-330, SV-109, SV-130, WV-109 and WV-130

Committee or other entity submitting the proposal:

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; (415) 865-7662; frances.ho@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): November 1, 2022

Project description from annual agenda:

Family and Juvenile Law Advisory Committee agenda:

Work with Protective Order Working Group to develop rule and form recommendations as appropriate. Service requirements for protective orders differ depending on whether the restrained party attended the hearing on the order. The Legislature has enacted laws on remote appearances for such hearings and amended certain aspects of the protective order process but has not clarified whether remote attendance at a protective order hearing amounts to a "personal appearance" for the purposes of service. A rule or revised forms may provide clarity for courts and litigants on the issue.

Civil and Small Claims Advisory Committee agenda:

Work with Protective Order Working Group (under lead of Family and Juvenile Law Advisory Committee) to develop rule and form recommendations as appropriate. Service requirements for protective orders differ depending on whether the restrained party attended the hearing on the order. The Legislature has enacted laws on remote appearances for such hearings and amended certain aspects of the protective order process but has not clarified whether remote attendance at a protective order hearing amounts to a "personal appearance" for the purposes of service. A rule or revised forms may provide clarity for courts and litigants on the issue.

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

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

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

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

This proposal:

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

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

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

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

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

INVITATION TO COMMENT

SPR23-30

Title

Protective Orders: Service Requirements
After Remote Appearances

Action Requested

Review and submit comments by May 12,
2023

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rules 3.1162 and
5.496; revise forms CH-109, CH-130,
EA-109, EA-130, EA-309, EA-330, SV-109,
SV-130, WV-109, and WV-130

Proposed Effective Date

January 1, 2024

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov
Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair
Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

Together, the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend approving two rules of court and revising notice and order forms to clarify the service requirements for respondents who appear remotely in protective order proceedings.

Background

In 2020, the Judicial Council adopted a number of emergency rules of court in response to the COVID-19 pandemic. During the early part of the pandemic time, most courts had to reduce in-person services. Emergency rule 8 was approved to ensure that restraining orders would not lapse unintentionally while courts adjusted their services and incorporated remote technology. One component of emergency rule 8 was that it treated a remote appearance by a respondent the

same as a physical appearance in the courtroom for purposes of service.¹ Under emergency rule 8, if a respondent appeared remotely, no further service was required on respondent for enforcement of the order, so long as the requirements of Family Code section 6384(a) were met.² Because the emergency orders are no longer in effect, but remote appearances are still authorized in these proceedings, clarification is needed as to whether a remote appearance should be treated the same as a physical appearance in court, for purposes of enforcement of the order against the respondent.

Additionally, the statutory authority governing service of protective orders after hearing does not indicate the type of service required if the respondent appears remotely at the hearing. Specifically, the Code of Civil Procedure, the Family Code, and the Welfare and Institutions Code provide that if a respondent to “a restraining order issued after a hearing has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, additional proof of service is not required for enforcement of the order.”³ Similarly, the Penal Code, which governs gun violence restraining orders, provides that respondent’s “presence in court constitutes proof of service of notice of the terms of the order.” (Pen. Code, § 18115(d).) Nowhere in the California Codes is “personal appearance in court” or “presence in court” defined and the committees are unaware of any authority that prevents such phrases from being understood to include remote appearances. Given that the statutes do not expressly address this issue, the committees recommend clarification of the issue through court rules and reflecting such clarification on the applicable court forms.

The Proposal

The committees propose approving two rules of court and revising notice and order forms in the CH (civil harassment), DV (domestic violence), GV (gun violence), EA (elder abuse), SV (private post-secondary school violence), and WV (workplace violence) form sets. Because other changes relevant only to the DV and GV form sets are recommended in other proposals, the

¹ Judicial Council of Cal., *Judicial Branch Administration: Emergency Rules in Response to the COVID-19 Pandemic* (Apr. 4, 2020), <https://jcc.legistar.com/View.ashx?M=F&ID=8233133&GUID=4CE2DDDF-426E-446C-8879-39B03DE418B3>.

² Fam. Code § 68634(a): If a respondent named in an order issued under this part after a hearing has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order. . . . Emergency rule 8 applied this to all civil restraining orders, including ones issued under the Code of Civil Procedure and Welfare and Institution Code in addition to those issued under the Family Code.

³ Code Civ. Proc., §§ 527.6(q) (civil harassment restraining orders), 527.8(q) (workplace violence restraining orders), 527.85(q) (school violence restraining orders); Fam. Code, § 6384(a) (domestic violence restraining orders); Welf. & Inst. Code, § 15657.03(o) (elder abuse restraining orders).

proposed revisions to the DV and GV forms on this point are included in those proposals rather than within this one, but include the changes described below.⁴

Rules 3.1162 and 5.496

The committees recommend two substantively identical rules of court to explain that if a respondent appears at a protective order hearing through the use of remote technology and meets the other requirements of the statutes, then no further proof of service is required to enforce an order issued after hearing. The only difference between the two rules proposed is to what types of protective orders the rules apply. Rule 3.1162 is part of the Civil Rules and governs protective orders issued under certain sections of the Code of Civil Procedure, the Penal Code, and the Welfare and Institutions Code. Such application covers civil harassment, elder abuse, gun violence, school violence, and workplace violence restraining orders. Rule 5.496 is part of the Family and Juvenile Rules and applies to protective orders issued under certain sections of the Family Code that cover domestic violence restraining orders and of the Welfare and Institutions Code that cover juvenile restraining orders.⁵

The substance of the rules borrows heavily from the statutory provisions quoted above, which establish the circumstances in which no additional proof of service of the order issued after hearing is needed for enforcement purposes—namely that the respondent “appear[ed]” at the hearing when the order was issued and received actual notice of the terms of the order.

Notice of Court Hearing (form 109)

The committees recommend including a notice (as shown below) on the first page of the *Notice of Court Hearing* form in each form series, alerting respondents that attending the hearing will result in immediate enforcement of any orders issued. The committees also recommend including a notice to the respondent regarding the consequences of not appearing at the hearing.⁶

To the person in ②:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

⁴ Those proposals, titled “Protective Orders: Revisions to Gun Violence Restraining Order Forms” and “Domestic Violence: Form Changes to Implement New Laws,” can be found at <https://www.courts.ca.gov/policyadmin-invitationstocomment.htm>.

⁵ The proposed rules do not apply to criminal protective orders.

⁶ This notice is currently on the forms but not on the first page of the forms. The committees believe this notice should be moved to the first page, within the item providing the date and time of the hearing.

In reviewing and proposing revisions to the notices to the respondent, the committee realized that the notices to both parties on the second and third pages of the form omitted certain items. Specifically, petitioner was not advised to attend the hearing and bring any witnesses and evidence (although respondent was) and respondent was not advised of the ability to request a continuance of the hearing (although petitioner was). The forms in this proposal now contain such notices.

In response to a suggestion received from a court, the committees also recommend revising the notice of hearing forms to remove the requirement that petitioner serve respondent with a blank proof of service by mail (form 250). There is no separate rule or statute supporting this requirement, beyond its inclusion on the notice of hearing form.⁷ This requirement can lead to delays in service by the sheriff when the petitioner does not have this form ready for the sheriff. The committees note that service of a blank proof-of-service form is atypical and not a requirement in other proceedings and should be removed if it can lead to delays in service. The committees are seeking specific comment on whether removing this requirement would result in any unintended consequences.

Restraining Order After Hearing (form 130)

The item for service in the order form would be revised to state that no other proof of service is needed if the respondent attends the hearing “either physically or through the use of remote technology.”⁸

Alternatives Considered

The committees considered no action on this issue but decided against it as the committees have been asked to address this issue several times by courts and members of the Judicial Council.

Fiscal and Operational Impacts

The committees anticipate that this proposal would require courts to train court staff and judicial officers on the newly approved rules and revised forms. Courts will also incur costs to incorporate the revised forms into the paper or electronic processes.

⁷ As an example, see item 6e on the current version of form DV-109.

⁸ This revision is in the attached forms at CH-130, item 13; EA-130, item 17; EA-330, item 10; SV-130, item 13; and WV-130, item 13. The same revision has been made in the DV-130 and GV-130 in the separately posted invitations to comment for those forms sets.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Would removing the requirement to serve the proof of service by mail (form 250) on respondent along with the notice of hearing have any unintended consequences?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 3.1162 and 5.496, at pages 6–7
2. Forms CH-109, CH-130, EA-109, EA-130, EA-309, EA-330, SV-109, SV-130, WV-109, and WV-130, at pages 8–51

1 Title 3. Civil Rules

2
3 Division 11. Law and Motion

4
5 Chapter 3. Provisional and Injunctive Relief

6
7 Article 4. Protective Orders

8
9
10 **Rule 3.1162. Service requirement for respondents who appear remotely**

11
12 **(a) Application of rule**

13
14 This rule applies to protective orders issued under Code of Civil Procedure sections
15 527.6, 527.8, and 527.85; Penal Code sections 18100–18205; and Welfare and
16 Institutions Code section 15657.03.

17
18 **(b) No additional proof of service required**

19
20 If the respondent named in an order issued after hearing appears at that hearing
21 through the use of remote technology, and through that appearance has received
22 actual notice of the existence and substance of the restraining order after hearing,
23 no additional proof of service is required for enforcement of the order.

24
25
26
27
28 Title 5. Family and Juvenile Rules

29
30 Division 2. Rules Applicable in Family and Juvenile Proceedings

31
32 **Chapter 4. Protective Orders**

33
34
35 **Rule 5.496. Service requirement for proposed restrained persons who appear**
36 **remotely**

37
38 **(a) Application of rule**

39
40 This rule applies to orders issued under part 4 of division 10 (Domestic Violence
41 Prevention Act) of the Family Code and Welfare and Institutions Code section
42 213.5.

1
2
3
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8

(b) No additional proof of service required

If the proposed restrained person named in an order issued after hearing appears at that hearing through the use of remote technology, and through that appearance has received actual notice of the existence and substance of the restraining order after hearing, no additional proof of service is required for enforcement of the order.

Clerk stamps date here when form is filed.

DRAFT

2/28/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Person Seeking Protection

a. Your Full Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Person From Whom Protection Is Sought

Full Name: _____

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

<div style="border: 1px solid black; border-radius: 15px; padding: 5px; display: inline-block;">Hearing Date</div>	→ Date: _____	Time: _____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	

To the person in 2:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

4 Temporary Restraining Orders (Any orders granted are on form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

(1) All **GRANTED** until the court hearing.

(2) All **DENIED** until the court hearing. (Specify reasons for denial in b, below.)

(3) Partly **GRANTED** and partly **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in form CH-100, *Request for Civil Harassment Restraining Orders*, are:

(1) The facts as stated in form CH-100 do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.

(2) Other (specify): As stated on Attachment 4b.

⑤ **Confidential Information Regarding Minor**

a. A *Request to Keep Minor’s Information Confidential* (form CH-160) was made and **GRANTED**. (See form CH-165, Order on Request to Keep Minor's Information Confidential, served with this form.)

b. **If the request was granted, the information described in item ⑦ on the order (form CH-165) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

⑥ **Service of Documents for the Person in ①**

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court’s file-stamped copy of this form CH-109 to the person in ② along with a copy of all the forms indicated below:

- a. CH-100, *Request for Civil Harassment Restraining Orders* (file-stamped)
- b. CH-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
- d. CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
- e. CH-170, *Notice of Order Protecting Information of Minor* and CH-165, *Order on Request to Keep Minor’s Information Confidential* (file-stamped) **IF GRANTED**
- f. Other (specify): _____

Date: _____

Judicial Officer



To the Person in ① :

- The court cannot make the restraining orders after the court hearing unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form. Form CH-200, *Proof of Personal Service*, may be used.
- For information about service, read form CH-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents. Use form CH-115, *Request to Continue Court Hearing*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form CH-100, *Request for Civil Harassment Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form CH-100-INFO, *Can a Civil Harassment Restraining Order Help Me?*

To the Person in ② :

- If you want to respond to the request for orders in writing, file form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ①.
- The person who mailed the form must fill out a proof of service form. Form CH-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use form CH-115, *Request to Continue Court Hearing*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Person in ① must complete items ①, ②, and ③ only.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Protected Person

a. Your Full Name: _____

Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

② Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____

*Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____

*Gender: M F Nonbinary Home Address: _____

City: _____ State: _____ Zip: _____

Relationship to Protected Person: _____

③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Gender	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



5 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The person in ①. (3) The lawyer for the person in ① *(name)*: _____
 - (2) The person in ②. (4) The lawyer for the person in ② *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the person named in ①
 - and to the other protected persons listed in ③:
 - (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person’s address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other *(specify)*: _____
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

7 Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
 - (1) The person in ① .
 - (2) Each person in ③ .
 - (3) The home of the person in ① .
 - (4) The job or workplace of the person in ① .
 - (5) The school of the person in ① .
 - (6) The school of the children of the person in ① .
 - (7) The place of child care of the children of the person in ① .
 - (8) The vehicle of the person in ① .
 - (9) Other *(specify)*: _____

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers and frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. If you have not already done so, you must:
 - Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
 - File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.
- e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in ② is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in the physical possession of the person in ② only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

9 Lawyer's Fees and Costs

The person in ___ must pay to the person in ___ the following amounts for

<input type="checkbox"/> lawyer's fees	<input type="checkbox"/> costs:			
<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>	
_____	\$ _____	_____	\$ _____	
_____	\$ _____	_____	\$ _____	

Additional items and amounts are attached at the end of this Order on Attachment 9.

10 Possession and Protection of Animals

- a. The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

- b. The person in ② must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

This is a Court Order.



11 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment 11.

To the Person in ①:

12 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

13 **Service of Order on Restrained Person**

- a. The person in ② personally attended the hearing, either physically or through the use of remote technology. No other proof of service is needed.
- b. The person in ② did not attend the hearing.
 - (1) Proof of service of form CH-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form CH-110 except for the expiration date. The person in ② must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form CH-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

14 **No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warning and Notice to the Restrained Person in ②:**You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

Unless item 8e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item ⑧ above. The court will require you to prove that you did so.

Instructions for Law Enforcement**Enforcing the Restraining Order**

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in item ④ on page 1.

Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Elder or Dependent Adult in Need of Protection

a. Full Name: _____

Person requesting protection for the elder or dependent adult, if different (person named in item 3 of form EA-100):

Full Name: _____

Lawyer for person named above (if any for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address for person named above (If you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Person You Want Protection From

Full Name: _____

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

Form for hearing date and location. Includes fields for Date, Time, Dept., Room, and Name and address of court if different from above.

To the person in 2:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

4 Temporary Restraining Orders (Any orders granted are on form EA-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form EA-100, Request for Elder on Dependent Adult Abuse Restraining Orders, are (check only one box below):

- (1) All GRANTED until the court hearing.
(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)
(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)



4 Temporary Restraining Orders (Continued)

b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*, are:

(1) The facts as stated in form EA-100 do not sufficiently show reasonable proof of a past act or acts of abuse of the elder or dependent adult by the person in **(2)**.

(2) Other (*specify*): As stated on Attachment 4b.

5 Service of Documents by the Person in (1)

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form EA-109, *Notice of Court Hearing*, to the person in **(2)** along with a copy of all the forms indicated below:

- a. EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders* (file-stamped)
- b. EA-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. EA-120, *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (blank form)
- d. EA-120-INFO, *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?*
- e. Other (*specify*): _____

Date: _____



Judicial Officer

To the Person in (1) :

- The court cannot make the restraining orders after the court hearing unless the person in **(2)** has been personally given (served) a copy of your request and any temporary orders. To show that the person in **(2)** has been served, the person who served the forms must fill out a proof of service form. Form EA-200, *Proof of Personal Service*, may be used.
- For information about service, read form EA-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the person in **(2)** in time, you may ask for more time to serve the documents. Use form EA-115, *Request to Continue Court Hearing*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form EA-100-INFO, *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?*



To the Person in ② :

- If you want to respond to the request for orders in writing, file form EA-120, *Response to Request for Elder or Dependent Adult Abuse Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ① .
- The person who mailed the form must fill out a proof of service form. Form EA-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to sell or turn in any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use form EA-115, *Request to Continue Court Hearing*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Person in ① must complete items ①, ②, and ③ only.

① Elder or Dependent Adult Seeking Protection

- a. Full Name: _____
 Name of person asking for the protection, if different (This is the person named in item ③ of the request (form EA-100).)
 Full Name: _____
 Lawyer for person named above (if any for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

② Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

③ Additional Protected Persons

In addition to the elder or dependent adult named in ①, the following family or household members or conservator of the elder or dependent adult named in ① are protected by the orders indicated below:

Full Name	Gender	Age	Lives with Person in ①?	Relation to Person in ①
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.

5 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
- (1) The elder or dependent adult in need of protection
 - (2) The lawyer for the elder or dependent adult *(name)*: _____
 - (3) The person in ① asking for protection (if not the elder or dependent adult)
 - (4) The lawyer for the person in ① asking for protection *(name)*: _____
 - (5) The person in ②
 - (6) The lawyer for the person in ② *(name)*: _____
- Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the elder or dependent adult named in ①
- and to the other protected persons listed in ③:
- (1) Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other *(specify)*: _____
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

7 Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
- (1) The elder or dependent adult in ①.
 - (2) Each person in ③.
 - (3) The home of the elder or dependent adult. _____
 - (4) The job or workplace of the elder or dependent adult. _____
 - (5) The vehicle of the elder or dependent adult.
 - (6) Other *(specify)*: _____
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



- 8** **Move-Out Order**
You must immediately move out from and not return to (*address*):

and must take only the personal clothing and belongings you need.

9 **Order for Counseling or Anger Management**

- a. The person in item **(2)** is ordered to attend:
- clinical counseling for _____ (*specify number*) sessions; or
- an anger management course
- provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the State of California to provide counseling or anger management courses).
- b. The person in item **(2)** must schedule clinical counseling or enroll in an anger management course by (*date*): _____, or if no date is listed, within 30 days after this order is made. The person in item **(2)** is ordered to file written proof of scheduling or enrollment with the court.
- c. Written proof of completion of the ordered number of clinical counseling sessions or written proof of completion of the court-ordered anger management course must be filed with the court by (*date*): _____, or the person in item **(2)** must appear for a court date on (*date*): _____ at (*time*): _____ in Dept.: _____ Room: _____

10 **No Firearms (Guns), Firearm Parts, or Ammunition**

This Order must be granted unless the abuse is financial only.

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. If you have not already done so, you must:
- Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use form EA-800, *Receipt for Firearms and Firearm Parts*, for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

This is a Court Order.



- 10 e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in 2 is not required to relinquish this firearm (specify make, model, and serial number of firearm): _____

The firearm must be in the physical possession of the person in 2 only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in 2 may be subject to federal prosecution for possessing or controlling a firearm.

11 **Financial Abuse**

This case does not does involve solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

12 **Possession and Protection of Animals**

- a. The person in 1 is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.

(Identify animals by, e.g., type, breed, name, color, sex.)

- b. The person in 2 must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

13 **Specific Debts**

The court finds (decides) that the following debts were incurred as a result of financial abuse of the person in 1 by the person in 2.

<u>Money Owed To:</u>	<u>For:</u>	<u>Amount:</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

- Additional debts are attached at the end of this Order on Attachment 13.

14 **Lawyer's Fees and Costs**

You must pay to the person in 1 the following amounts for lawyer's fees costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

- Additional amounts are attached at the end of this Order on Attachment 14.

This is a Court Order.



15 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment 15.

To the Person in 1 :

16 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof of service form into CARPOS.
- b. The clerk will transmit this Order and its proof of service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, you or your lawyer should deliver a copy of the Order and its proof of service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 16.

17 **Service of Order on Restrained Person**

- a. The person in 2 personally attended the hearing, either physically or through the use of remote technology. No other proof of service is needed.
- b. The person in 1 was at the hearing. The person in 2 was not.
 - (1) Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form EA-110 except for the end date. The person in 2 must be served with this Order. Service may be by mail.
 - (2) Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are different from the orders in form EA-110. Someone—but not anyone in 1 or 3—must personally serve a copy of this Order on the person in 2.

18 **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, they will do so for free.

19 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warning and Notice to the Restrained Person in ②:

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

If the court grants the orders in item ⑩ on page 3 (unless item 10e on page 4 is checked), you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 10b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item ⑩. The court will require you to prove that you did so.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Order

This order *starts* on the date next to the judge's signature on page 5. The order *ends* on the expiration date in item ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Instructions for Law Enforcement

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Elder or Dependent Adult Abuse Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Elders or Dependent Adults

Full Name: _____

Full Name: _____

Full Name: _____

2 Person Alleged to Be Preventing Contact

Full Name: _____

3 Person Who Wants Contact With the Elders or Dependent Adults

Full Name: _____

4 Person Requesting Order

a. Full Name: _____

Lawyer for person requesting order:

Name: _____

Firm Name: _____

b. Address for the person requesting order *(If you have a lawyer, give your lawyer's information. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)*

Address: _____

City: _____ State: ____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

The court will complete the rest of this form.

5 Notice of Hearing

A court hearing is scheduled on the request for restraining order allowing contact against the person in (2):

Hearing Date	→ Date: _____	Time: _____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	

To the person in (2):

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.



6 Service of Documents by the Person in 4

At least five _____ days before the hearing, someone age 18 or older—**not you or anybody else involved in the case**—must personally give (serve) a court file-stamped copy of this form EA-309, *Notice of Court Hearing to Allow Contact*, to the person in 2 along with a copy of all the forms indicated below:

- a. EA-300, *Request for Elder or Dependent Adult Restraining Order Allowing Contact* (file-stamped)
- b. EA-320, *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact* (blank form)
- c. EA-320-INFO, *How Can I Respond to a Request for an Elder or Dependent Adult Restraining Order Allowing Contact?*

Date: _____

*Judicial Officer***To the Person in 4 :**

- The court cannot make the restraining order requested unless the person in 2 has been personally given (served) a copy of your request. To show that the person in 2 has been served, the person who served the forms must fill out a proof of service form. Form EA-200, *Proof of Personal Service*, may be used.
- For information about service, read form EA-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the person in 2 in time, you may ask for more time to serve the documents. Use form EA-315, *Request to Continue Court Hearing on Request to Allow Contact*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form EA-300, *Request for Elder or Dependent Adult Restraining Order Allowing Contact*. Bring any evidence or witnesses you have. For more information, read form EA-300-INFO, *Can an Elder or Dependent Adult Restraining Order Allowing Contact Help Me?*

To the Person in ② :

- If you want to respond to the request for an order in writing, file form EA-320, *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact*, and have someone age 18 or older—**not you or anybody else involved in the case**—mail it to the person in ④.
- The person who mailed the form must fill out a proof of service form. Form EA-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make a restraining order against you that could last up to five years.
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use form EA-315, *Request to Continue Hearing on Request to Allow Contact*.



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing to Allow Contact* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Person in ④ must complete items ①, ②, ③, and ④ only.

① Elders or Dependent Adults

Full Names: _____

② Person Preventing Contact

Full Name: _____

③ Person Who Wants Contact With the Elders or Dependent Adults

Full Name: _____

④ Person Requesting Order

a. Full Name: _____

Lawyer for person requesting order (if any for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

⑤ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires three years from the date of issuance.

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The elders or dependent adults to receive contact
 - (2) The lawyer for the elders or dependent adults *(name)*: _____
 - (3) The person in ④ requesting the order *(name)*: _____
 - (4) The lawyer for the person in ④ requesting the order *(name)*: _____
 - (5) The person in ② *(name)*: _____
 - (6) The lawyer for the person in ② *(name)*: _____
 Additional persons present are listed at the end of this Order on Attachment 6.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Order Allowing Contact

- a. You may not prevent the person in ③ from in-person or remote online or telephonic visits with the elders or dependent adults in ①.
- b. Other terms of order allowing contact *(specify)*:

8 Other Orders *(specify)*:

- Additional orders are attached at the end of this Order on Attachment 8.

This is a Court Order.



9 **Lawyer's Fees and Costs**

You must pay to the person who requested the order the following amounts for lawyer's fees costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 9.

To the Person in 4 :

10 **Service of Order**

- a. The person in 2 personally attended the hearing, either physically or through the use of remote technology. No other proof of service is needed.
- b. The person in 2 was not at the hearing. Someone—but not anyone in 1 or 4—must personally serve a copy of this Order on the person in 2.

11 **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, they will do so for free.

12 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order or is shown a copy of the order. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Order

This order *starts* on the date next to the judge's signature on page 3. The order *ends* on the expiration date in item 5 on page 1.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was informed of the order by an officer.

If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Elder or Dependent Adult Restraining Order Allowing Contact After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner (Educational Institution Officer or Employee)

a. Name:

Lawyer for Petitioner (if any for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address (If you have a lawyer, give your lawyer's information.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Student in Need of Protection

Full Name: _____

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____

The court will complete the rest of this form.

4 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the respondent:

<div style="border: 1px solid black; border-radius: 15px; padding: 5px; display: inline-block;">Hearing Date</div>	→ Date: _____	Time: _____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	
	_____	_____	

To the person in 3:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

5 Temporary Restraining Orders (Any orders granted are on form SV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form SV-100, Request for Private Postsecondary School Violence Restraining Orders, are (check only one box below):

- (1) All **GRANTED** until the court hearing.
- (2) All **DENIED** until the court hearing. (Specify reasons for denial in b, below.)
- (3) Partly **GRANTED** and partly **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



b. Reasons that Temporary Restraining Orders as requested in form SV-100, *Petition for Private Postsecondary School Violence Restraining Orders*, for personal conduct or stay-away are denied are:

- (1) The facts as stated in form SV-100 do not sufficiently show reasonable proof that the student has suffered a credible threat of violence made off the school campus or facility by the respondent, and that great or irreparable harm would result to the student if a temporary restraining order is not issued.
- (2) Other (*specify*): As stated on Attachment 5b.

6 Service of Documents by the Petitioner

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form SV-109, *Notice of Court Hearing*, to the respondent along with a copy of all the forms indicated below:

- a. SV-100, *Petition for Private Postsecondary School Violence Restraining Orders (file-stamped)*
- b. SV-110, *Temporary Restraining Order (file-stamped) IF GRANTED*
- c. SV-120, *Response to Petition for Private Postsecondary School Violence Restraining Orders (blank form)*
- d. SV-120-INFO, *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?*
- e. Other (*specify*): _____

Date: _____

Judicial Officer

To the Petitioner:

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request and any temporary orders. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form SV-200, *Proof of Personal Service*, may be used.
- For information about service, read form SV-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the respondent in time, you may ask for more time to serve the documents. Use form SV-115, *Request to Continue Court Hearing*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form SV-100, *Petition for Private Postsecondary School Violence Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form SV-100-INFO, *How Do I Get an Order to Prohibit Private Postsecondary School Violence?*



To the Respondent:

- If you want to respond to the request for orders in writing, file form SV-120, *Response to Petition for Private Postsecondary School Violence Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form SV-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use form SV-115, *Request to Continue Court Hearing*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

**Private Postsecondary School
Violence Restraining Order After
Hearing**

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE
JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Educational Institution Officer or Employee)

a. Name: _____
Lawyer for Petitioner *(if any, for this case)*
Name: _____ State Bar No.: _____
Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information.)*
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

2 Student (Protected Person)

Full Name: _____

3 Respondent (Restrained Person)

(Give all the information you know. Information with a star () is required to add this order to the California police database. If age is unknown, give an estimate.)*

*Full Name: _____ *Age: _____ Date of Birth: _____
*Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
*Gender: M F Nonbinary Home Address: _____
City: _____ State: _____ Zip: _____
Relationship to Protected Person: _____

4 Additional Protected Persons

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to student
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Date: _____ Time: _____ a.m. p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The petitioner/school representative *(name)*: _____
 - (2) The lawyer for the petitioner/school *(name)*: _____
 - (3) The student (4) The lawyer for the student *(name)*: _____
 - (5) The respondent (6) The lawyer for the respondent *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 6b.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Respondent:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Personal Conduct Orders

- a. You are ordered **not** do the following things to the student
 - and to the other protected persons listed in **4**:
 - (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Commit acts of violence or make threats of violence against the person.
 - (3) Follow or stalk the person during school hours or to or from the school.
 - (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (5) Enter the person’s school.
 - (6) Take any action to obtain the person’s address or locations. If this item is not checked, the court has found good cause not to make this order.
 - (7) Other *(specify)*:
 Other personal conduct orders are attached at the end of this Order on Attachment 7a(7).

- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



8 Stay-Away Orders

a. You **must** stay at least _____ yards away from (*check all that apply*):

- (1) The student.
- (2) Each other protected person listed in ④.
- (3) The school.
- (4) The student's home.
- (5) The student's job or workplace.
- (6) The student's children's school.
- (7) The student's children's place of child care.
- (8) The student's vehicle.
- (9) Other (*specify*): _____

b. This stay-away order does not prevent you from going to or from your home or place of employment.

9 No Firearms (Guns), Firearm Parts, or Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

- (1) Firearms (guns);
- (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
- (3) Ammunition.

c. If you have not already done so, you must:

- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
- File a receipt with the court within 48 hours of receiving this Order that proves that your firearm (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form SV-800) for the receipt.)

d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in ③ is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in the physical possession of the person in ③ only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in ③ may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



10 **Costs**

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 10.

11 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment 11.

To the Person in 1:

12 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

13 **Service of Order on Respondent**

- a. The respondent personally attended the hearing, either physically or through the use of remote technology. No other proof of service is needed.
- b. The respondent did not attend the hearing.
 - (1) Proof of service of form SV-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form SV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form SV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

This is a Court Order.



14 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this Order without charge because the Order is based on a credible threat of violence or stalking.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warning and Notice to the Respondent:
You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

Unless item 9e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 9b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item 9 above. The court will require you to prove that you did so.

Instructions for Law Enforcement
Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 5 and *ends* on the expiration date in item 5 on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.


Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 7a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Private Postsecondary School Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner (Employer)

a. Name:

Lawyer for Petitioner (if any for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address (If you have a lawyer, give your lawyer's information.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Employee in Need of Protection

Full Name: _____

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____

The court will complete the rest of this form.

4 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the respondent:

<div style="border: 1px solid black; border-radius: 50%; padding: 5px; display: inline-block;"> Hearing Date </div>	→ Date: _____	Time: _____	_____
	Dept.: _____	Room: _____	_____

To the person in 3:

- At the hearing, the judge could grant a restraining order against you that could last up to five years, even if you do not attend the hearing. For more information, see page 3.
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately and you could be arrested if you violate the order.

5 Temporary Restraining Orders (Any orders granted are on form WV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form WV-100, Request for Workplace Violence Restraining Orders, are (check only one box below):

- (1) All **GRANTED** until the court hearing.
- (2) All **DENIED** until the court hearing. (Specify reasons for denial in b, below.)
- (3) Partly **GRANTED** and partly **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



5 b. Reasons that Temporary Restraining Orders as requested in form WV-100, *Petition for Workplace Violence Restraining Orders*, for personal conduct or stay-away are denied are:

- (1) The facts as stated in form WV-100 do not sufficiently show reasonable proof that the employee has suffered unlawful violence or a credible threat of violence by the respondent, and that great or irreparable harm to the employee would result if a temporary restraining order is not issued.
- (2) Other (*specify*): As stated on Attachment 5b.

6 Service of Documents by the Petitioner

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form WV-109, *Notice of Court Hearing*, to the respondent along with a copy of all the forms indicated below:

- a. WV-100, *Petition for Workplace Violence Restraining Orders* (file-stamped)
- b. WV-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. WV-120, *Response to Petition for Workplace Violence Restraining Orders* (blank form)
- d. WV-120-INFO, *How Can I Respond to a Petition for Workplace Violence Restraining Orders?*
- e. Other (*specify*): _____

Date: _____

Judicial Officer

To the Petitioner:

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request and any temporary orders. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form WV-200, *Proof of Personal Service*, may be used.
- For information about service, read form WV-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the respondent in time, you may ask for more time to serve the documents. Use form WV-115, *Request to Continue Court Hearing*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form WV-100, *Petition for Workplace Violence Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form WV-100-INFO, *How Do I Get an Order to Prohibit Workplace Violence?*



To the Respondent:

- If you want to respond to the request for orders in writing, file form WV-120, *Response to Petition for Workplace Violence Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form WV-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use form WV-115, *Request to Continue Court Hearing*.



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

3/8/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Employer)

a. Name: _____
 Lawyer for Petitioner *(if any, for this case)*
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information.)*
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

2 Employee (Protected Person)

Full Name: _____

3 Respondent (Restrained Person)

(Give all the information you know. Information with a star () is required to add this order to the California police database. If age is unknown, give an estimate.)*

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

4 Additional Protected Persons

In addition to the employee, the following family or household members or other employees are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to employee
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Date: _____ Time: _____ a.m. p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The petitioner/employer *(name)*: _____
 - (2) The lawyer for the petitioner/employer *(name)*: _____
 - (3) The employee (4) The lawyer for the employee *(name)*: _____
 - (5) The respondent (6) The lawyer for the respondent *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 6b.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Respondent:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Personal Conduct Orders

- a. You are ordered **not** do the following things to the employee
 - and to the other protected persons listed in **4**:
 - (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Commit acts of violence or make threats of violence against the person.
 - (3) Follow or stalk the person during work hours or to or from the place of work.
 - (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (5) Enter the person’s workplace.
 - (6) Take any action to obtain the person’s address or locations. If this item is not checked, the court has found good cause not to make this order.
 - (7) Other *(specify)*:
 - Other personal conduct orders are attached at the end of this Order on Attachment 7a(7).
 - _____
 - _____
 - _____
 - _____
 - _____
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



8 Stay-Away Orders

- a. You **must** stay at least _____ yards away from (*check all that apply*):
- (1) The employee.
 - (2) Each other protected person listed in ④.
 - (3) The employee’s workplace.
 - (4) The employee’s home.
 - (5) The employee’s school.
 - (6) The employee’s children’s school.
 - (7) The employee’s children’s place of child care.
 - (8) The employee’s vehicle.
 - (9) Other (*specify*): _____

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

9 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. If you have not already done so, you must:
- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
 - File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form WV-800) for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.
- e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in ③ is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in the physical possession of the person in ③ only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in ③ may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



10 **Costs**

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 10.

11 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment 11.

To the Person in 1:

12 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 12.

13 **Service of Order on Respondent**

- a. The respondent personally attended the hearing, either physically or through the use of remote technology. No other proof of service is needed.
- b. The respondent did not attend the hearing.
 - (1) Proof of service of form WV-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form WV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form WV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

This is a Court Order.



14) No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this Order without charge because the Order is based on a credible threat of violence or stalking.

15) Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warning and Notice to the Respondent:

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

Unless item 9e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 9b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item 9 above. The court will require you to prove that you did so.

Instructions for Law Enforcement

Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge’s signature on page 5 and *ends* on the expiration date in item 5 on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 7a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Workplace Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/29/23

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

Title of proposal: Traffic and Criminal Law: Notice to Appear Forms

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

Amend Cal. Rules of Court, rule 4.103; revise forms TR-130, TR 140, and TR INST; revoke forms TR-135 and TR-145

Committee or other entity submitting the proposal:

Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, 415-865-5327 Jamie.Schechter@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: Traffic citation forms fall within the purview of the Traffic Advisory Committee. The forms were last modified in 2015. The forms are confusing, and some sections are out of date. In 2022, the committee began developing revisions to citation forms using plain language and other updates. Behavioral science experts who helped to identify improvements to the MyCitations system for online ability-to-pay determinations have been assisting with this effort.

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

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

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

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

This proposal:

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

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

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

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

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



Judicial Council of California

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

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

INVITATION TO COMMENT

SPR23-31

Title

Traffic and Criminal Law: Notice to Appear Forms

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 4.103; revise forms TR-130, TR-140, and TR-INST; revoke forms TR-135 and TR-145

Proposed Effective Date

January 1, 2024.

Contact

Jamie Schechter, 415-865-5327

Jamie.Schechter@jud.ca.gov

Proposed by

Traffic Advisory Committee
Hon. Gail Dekreon, Chair

Executive Summary and Origin

The Traffic Advisory Committee recommends amending a rule of court, revising and revoking notice to appear forms (commonly known as a “citation” or “traffic ticket”), revising the notice to correct violation, and revising the related instruction forms. These changes are recommended to reflect recent statutory changes, improve litigant understanding of the citation, and avoid redundant form requirements.

Background

Vehicle Code section 40500(b) requires the Judicial Council to prescribe the notice to appear used when a person is arrested for misdemeanor or infraction violations of the Vehicle Code. Penal Code section 959.1(d) permits a notice to appear issued on a form approved by the Judicial Council to be received and filed by a court in electronic form. When a notice to appear issued on a Judicial Council form is verified by the issuing officer, it constitutes a criminal complaint, including for infractions. (Pen. Code, § 853.9; Veh. Code, § 40513(b).)

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.

Notice to Appear Form (Form TR-130)

Form TR-130 was developed prior to 1990. Since its adoption, it has been revised several times and was last revised in 2015.¹ Law enforcement agencies must comply with the requirements of form TR-130 for any citation to serve as a criminal complaint. Each law enforcement agency prints its own citations or uses an e-citation platform. Form TR-130 has three key users: law enforcement agencies, courts, and litigants. The proposed revisions to form TR-130 aim to encourage timely responses to citations and avoid failures to appear.

In 2021, the Traffic Advisory Committee (TAC) convened a working group to consider changes to form TR-130 and related forms. The working group is comprised of TAC members and other stakeholders, including representatives from law enforcement agencies and the Department of Motor Vehicles, court administrators, and criminal defense attorneys. Ideas42, a behavioral science research firm that specializes in behaviorally informed design, recommended and supported design revisions to the form. The working group undertook an extensive redesign process that consisted of reviewing statutory requirements, interviewing stakeholders and subject-matter experts, contemplating the design of citations in other states, and gaining an understanding for the workflow and processing of each citation. The design was iterated numerous times to account for feedback from the working group and emerging legislation.

Throughout this process, the design underwent extensive user testing. Feedback was sought from law enforcement officers, court clerks, and litigants to ensure that the design met the needs of all users. The proposed design is the result of over a year of research, stakeholder engagement, and iterative designs.

Recent legislation, Assembly Bill 2773 (Stats. 2022, ch. 805), added section 1656.3 to the Vehicle Code to require, among other things, that beginning January 1, 2024, peace officers document the reason for a stop on the citation. The working group incorporated this change in its revision of form TR-130. This legislation also adds section 12525.5 to the Government Code to require all peace officer agencies to annually report to the Attorney General the data on all stops.

Correctable Offense Notice Form (Form TR-140)

Unless certain disqualifying conditions exist, a law enforcement officer who chooses to take action on certain registration, license, or equipment violations of the Vehicle Code must issue a notice to appear that specifies the offense is correctable or a notice to correct violation. (Veh. Code, §§ 40303.5, 40533, 40610). The notice to correct must be on a form approved by the Judicial Council. (*Id.*, § 40610). If an agency does not receive proof of correction, the agency can deliver to the court the signed promise with a certification that no proof of correction was received. (*Id.*, § 40618). If the notice to correct violation is prepared on a Judicial Council form, the promise and the certification together with the form constitute a complaint, and if the complaint is verified, the court may issue a warrant. (*Ibid.*)

¹ The Traffic Advisory Committee will consider whether form TR-130 and related forms are adopted by the Judicial Council for mandatory use. The Committee welcomes comments on this issue.

In 2000, the Judicial Council adopted form TR-140, a standard notice to correct violation for law enforcement agencies.

Electronic Notice to Appear Forms (Forms TR-135 and TR-145)

In 2015, the Judicial Council adopted *Electronic Traffic/Nontraffic Notice to Appear (4-inch format)* (form TR-135) and *Electronic Traffic/Nontraffic Notice to Appear (3-inch format)* (form TR-145) for electronic citations. At the time the forms were adopted, TAC believed it was preferable to have paper citation forms (form TR-130) and separate electronic forms.

The Form Packet (Form TR-INST)

Form TR-INST is a packet of traffic forms that includes forms TR-100, TR-106, TR-108, TR-115, TR-120, TR-130, TR-135, and TR-145. Form TR-INST provides instructions for all these forms. For unknown reasons, form TR-140 has not previously been part of the TR-INST packet or available on the Judicial Council website, but it is still a valid form.

The Proposal

Amendment of rule 4.103

This proposal would amend rule 4.103 to remove all references to forms TR-135 and TR-145, as the proposal would revoke these two forms. The rule would still allow for electronic submission of citations using form TR-130.

Revision of form TR-130²

The proposal would revise form TR-130, changing the location of many data fields and overhauling the format and information on the back of the form. On the current form, areas shaded in gray indicate spaces subject to modification and customization for local agency requirements. For this proposal, boxes shaded in yellow indicate fields that can be customized to accommodate local needs. The gray shading on the proposed form is provided to improve readability and does not indicate a customizable field. Unless a field is shaded in yellow, it is mandatory on the proposed design.

Proposed revisions to improve litigant understanding

Many proposed changes aim to improve litigant understanding of necessary steps to address their citation and avoid consequences such as a civil assessment or a warrant. Misdemeanors and infractions have different courses of action for the litigant; however, the current citation does not clearly distinguish between misdemeanors and infractions. This proposal divides the description of next steps on both the back and the front of the ticket into different courses of action for misdemeanors and infractions and aims to provide clearer instructions. This proposal also recommends moving the date of required action and the location of the court to the top of the citation for increased visibility. Additionally, this proposal adds a box that warns litigants of potential consequences for failing to act. This proposal also removes items from the top of the

² The proposed changes to this form are not highlighted due to the substantial revision and reorganization as well as the use of highlights to indicate mandatory fields. The current TR-130 is included as an attachment for reference.

citation that may confuse the litigant, such as the form's title, checkboxes for violation type, and case number. Specific recommended changes:

- Moved date of required action and court address(es) to the top of the citation
- Divided the required action for the litigant into two options, to differentiate requirements for infractions (“RESPOND TO CITATION BEFORE”) and misdemeanors (“APPEAR IN COURT AT”)
- Removed check boxes at top of the ticket for misdemeanor, traffic, and nontraffic
- Removed “NOTICE TO APPEAR” at the top of the ticket and moved the form's title to the bottom corner of the ticket
- Replaced “FOLLOW THE INSTRUCTIONS ON THE REVERSE” with “See back for detailed instructions”
- Added a warning to the top to emphasize consequences for failing to act
- Added contact information to the bottom to facilitate court reminders
- Added “Fix-It” to correctable violations section
- Changed the wording of the signature line
- Increased the font size on the back of the citation
- Separated instructions on the back of the citation for misdemeanor and infractions
- Changed the language and improved the descriptions of the various options for resolving the citation
- Emphasized the consequences of failing to act
- Added information about translated forms and contacting the court
- Added information about MyCitations³

Proposed revisions to improve law enforcement use

In addition to changes aimed at facilitating timely responses to citations, this proposal recommends changes that will improve the form for law enforcement agencies. These changes include removing unnecessary boxes (thereby decreasing the time it takes to fill out a citation), updating language to reflect current law enforcement agency standard language, and re-ordering boxes to match the boxes on California driver's licenses. Specific recommended changes:

- Removed redundant boxes (Day of Week, Age)
- Removed night court check box
- Removed “To be notified” check box
- Replaced “Address” with “Current Address”
- Added “all states” to the Driver's License Number data field
- Added the title “CITATION DETAILS” to ease readability
- Replaced “Case No.” with “Case Agency No.”
- Replaced “Accident” with “Crash”
- Changed order and location of data fields to facilitate ease of filling out

³ MyCitations is an online system developed by the Judicial Council. It allows a litigant to request an ability-to-pay determination for infraction fines and fees. With the passage of Assembly Bill 143 (Stats. 2021, ch. 79), each of the 58 trial courts will offer online ability-to-pay determinations using MyCitations by June 30, 2024.

Proposed revisions based on statutory changes

The final set of recommended changes were made to comply with recently enacted legislation. Assembly Bill 2746 (Stats. 2022, ch. 800) repealed Vehicle Code sections 40509 and 40509.5. As a result, courts are no longer authorized to report failures to appear to the Department of Motor Vehicles (DMV) pursuant to those sections. Therefore, this proposal removes the reference to license suspensions from the back of the citation. Assembly Bill 2773 (Stats. 2022, ch. 805) added section 1656.3 to the Vehicle Code to require, among other things, that beginning January 1, 2024, peace officers document the reason for a stop on the citation. Assembly Bill 2956 (Stats. 2022, ch. 295) removed the requirement to document evidence of financial responsibility on the citation. This proposal replaces “Evidence of Financial Responsibility” with “Reason for Stop.”

Revision of form TR-140

A stakeholder requested form TR-140 be included in the TR-INST packet and be available on the Judicial Council website. TAC recommends that form TR-140 be included with the form TR-INST packet of forms. The proposal would also replace the data field for “Evidence of Financial Responsibility” with a data field for “Reason for Stop.” These changes are proposed to comply with Assembly Bill 2773 and Assembly Bill 2956 as discussed above.

Revision of form TR-INST

This proposal would revise form TR-INST to update the requirements for revised form TR-130, remove references to forms TR-135 and TR-145, and add information regarding form TR-140. This proposal also amends form TR-INST to clarify that form TR-130 may be submitted electronically and used as a guide for designing electronic citations. The instructions would be revised to include the following changes:

- Revision of the effective dates of form TR-INST
- Revision of Appendixes of Council Forms, to remove form TR-135 and form TR-145 and to add form TR-140
- Revision of section 1.030 to remove reference to form TR-135
- Revision of section 1.040 to remove references to forms TR-135 and TR-145 and specify that form TR-130 should be used to prepare electronic citations and may be modified as necessary to comply with technological specifications
- Addition of section 1.041 to include information about form TR-140
- Revision of section 2.010 to remove references to forms TR-135 and TR-145 and clarify that form TR-130 may be used for electronic preparation submission of citations
- Revision of section 3.010 to update effective dates of forms TR-130 and TR-140 and remove references to TR-135 and TR-145
- Revision of section 4.010 to add “or respond” to the action a defendant promises to take
- Revision of section 4.020 to add form TR-140, clarify that printed copies of electronic citations should closely resemble form TR-130 with modifications necessary for varying technological specifications, and remove references to forms TR-135 and TR-145

- Revisions of section 4.050 to remove references to forms TR-135 and TR-145 and to update requirements for form TR-130
- Revisions of Chapter 5 to update requirements for form TR-130
- Revisions of Chapter 6 to update requirements for form TR-130 and remove references to forms TR-135 and TR-145
- Addition of section 6.091 to make *Race / Ethnicity* a required data field on form TR-130
- Addition of section 6.130 to replace the requirement for financial responsibility with the *Reason for Stop* requirement
- Revision of Chapter 7 to update requirements for form TR-130 and remove references to forms TR-135 and TR-145

Revocation of forms TR-135 and TR-145

This proposal would revoke forms TR-135 and TR-145. Given technological advances, the committee believes that separate electronic Notice to Appear forms are no longer necessary and that the redesigned form TR-130 can serve both paper and electronic formats. Law enforcement agencies may still prepare and file citations electronically using form TR-130.

Alternatives Considered

The committee considered revising forms TR-135 and TR-145 to be consistent with changes to form TR-130. However, given the technological advancement of electronic citations and the need for electronic citation vendors to design forms that meet a variety of specifications, the committee determined that revoking the forms and clarifying that form TR-130 should be used for the design of electronic citations would better encourage the expansion of electronic citations.

The committee did not consider taking no action. The committee decided that action on the revision of forms TR-130 and TR-140 was necessary given the January 1, 2024, effective date of Assembly Bill 2773.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly revised forms. TAC also anticipates that extensive training will be needed for law enforcement officers. In addition, costs would be incurred by law enforcement agencies to make and replace paper forms packets and work with vendors to incorporate changes to existing electronic citation systems.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Would any of the changes to form TR-130 pose challenges in developing a revised printed citation form for officers typing in data on a handheld or mobile terminal in their cars?
- Is revised TR-130 sufficient for designing an electronic citation printout? Are forms TR-135 and TR-145 necessary for the development of an electronic citation printout?
- Does form TR-130 provide sufficient customizable (shaded in yellow) data fields for law enforcement agencies and/or courts?
- Form TR-130 does not currently include a mandatory field for vehicle type; should such a field be added as a mandatory field, or should it remain a field that jurisdictions can choose to include in a customizable field?
- Should any of the mandatory fields (fields not shaded in yellow) on proposed form TR-130 not be mandatory?
- Is the new “Reason for Stop” field in a logical place on proposed forms TR-130 and TR-140?
- Is it clear that the cell phone field (which may be used by courts to facilitate reminders) on proposed form TR-130 is optional for the litigant to fill out?
- Should the litigant’s email field on proposed form TR-130 be optional for jurisdictions to include on the citation?
- Are the instructions on the back of proposed form TR-130 clear for the litigant?
- Is form TR-140 necessary or commonly used in your jurisdiction?

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 for courts?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Proposed Cal. Rules of Court, rule 4.103, at pages 8–9
2. Proposed forms TR-130, TR-135, TR-140, TR-145, and TR-INST, at pages 10–39
3. Attachment A: Current form TR-130 (rev. eff. 2015)

Rule 4.103 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 4.103. Notice to appear forms**

2
3 **(a) Traffic offenses**

4
5 A printed or electronic notice to appear that is issued for any violation of the
6 Vehicle Code other than a felony or for a violation of an ordinance of a city or
7 county relating to traffic offenses must be prepared and filed with the court on
8 *Automated Traffic Enforcement System Notice to Appear* (form TR-115); or
9 *Traffic/Nontraffic Notice to Appear* (form TR-130), ~~*Electronic Traffic/Nontraffic*~~
10 ~~*Notice to Appear (4-inch format) (form TR-135), or Electronic Traffic/Nontraffic*~~
11 ~~*Notice to Appear (3-inch format) (form TR-145)*~~, and must comply with the
12 requirements in the current version of the Judicial Council’s instructions, *Notice to*
13 *Appear and Related Forms* (form TR-INST).

14
15 **(b) Nontraffic offenses**

16
17 A notice to appear issued for a nontraffic infraction or misdemeanor offense that is
18 prepared on *Nontraffic Notice to Appear* (form TR-120); or *Traffic/Nontraffic*
19 *Notice to Appear* (form TR-130), ~~*Electronic Traffic/Nontraffic Notice to Appear (4-*~~
20 ~~*inch format) (form TR-135), or Electronic Traffic/Nontraffic Notice to Appear (3-*~~
21 ~~*inch format) (form TR-145)*~~, and that complies with the requirements in the current
22 version of the Judicial Council’s instructions, *Notice to Appear and Related Forms*
23 (form TR-INST), may be filed with the court and serve as a complaint as provided
24 in Penal Code section 853.9 or 959.1.

25
26 **(c) Corrections**

27
28 Corrections to citations previously issued on *Continuation of Notice to Appear*
29 (form TR-106), *Continuation of Citation* (form TR-108), *Automated Traffic*
30 *Enforcement System Notice to Appear* (form TR-115), *Nontraffic Notice to Appear*
31 (form TR-120), or *Traffic/Nontraffic Notice to Appear* (form TR-130), ~~*Electronic*~~
32 ~~*Traffic/Nontraffic Notice to Appear (4-inch format) (form TR-135), or Electronic*~~
33 ~~*Traffic/Nontraffic Notice to Appear (3-inch format) (form TR-145)*~~ must be made
34 on *Notice of Correction and Proof of Service* (form TR-100).

35
36 **(d) Electronic citation forms**

37
38 A law enforcement agency that uses an electronic citation device to issue notice to
39 appear citations on the Judicial Council’s *Traffic/Nontraffic Notice to Appear* (form
40 TR-130) ~~*Electronic Traffic/Nontraffic Notice to Appear (4-inch format) (form TR-*~~
41 ~~*135)*~~ or ~~*Electronic Traffic/Nontraffic Notice to Appear (3-inch format) (form TR-*~~
42 ~~*145)*~~ must submit to the Judicial Council an exact printed copy of the agency’s
43 current citation form that complies with the requirements in the most recent version

1 of the Judicial Council's instructions, *Notice to Appear and Related Forms* (form
2 TR-INST).
3

NOTICE TO:

APPEAR IN COURT AT _____ AM PM **ON:**
OR
 RESPOND TO CITATION BEFORE:

DATE: ___ / ___ / ___

See back for detailed instructions



- Name of Court, Division of Court, Street Address, City, State ZIP
☎ XXX.XXX.XXXX ⇒ [websiteurl.com](#)
- Name of Court, Division of Court, Street Address, City, State ZIP
☎ XXX.XXX.XXXX ⇒ [websiteurl.com](#)
- Name of Court, Division of Court, Street Address, City, State ZIP
☎ XXX.XXX.XXXX ⇒ [websiteurl.com](#)
- Name of Court, Division of Court, Street Address, City, State ZIP
☎ XXX.XXX.XXXX ⇒ [websiteurl.com](#)

ACT BY THIS DATE TO AVOID A WARRANT OR INCREASED FINES.

Date of Violation (mm/dd/yy)		Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Driver's License Number (all states)		State
Name (first, middle, last)					
Current Address (no., street, city, state, zip)					
Date of Birth (mm/dd/yy)		Parent/Guardian Phone No. <input type="checkbox"/> Juvenile		Commercial <input type="checkbox"/> Y <input type="checkbox"/> N	Insurance <input type="checkbox"/> Y <input type="checkbox"/> N
Race / Ethnicity	Sex	Hair	Eyes	Height	Weight
Vehicle License/VIN		State	Reg (M/Y)	Year	Make
Registered Owner/Lessee <input type="checkbox"/> Same as driver <input type="checkbox"/> Owner's responsibility (Veh. Code, § 40001)				Model	Body Style
Address (no., street, city, state, zip) <input type="checkbox"/> Same as driver				Color	
Reason for Stop				CHP / DOT / PUC / ICC	

CITATION DETAILS Booking Required (see reverse)

Correctable (fix-it)	Code/Section	Description	M = Misdemeanor	I = Infraction (circle)
<input type="checkbox"/> Y <input type="checkbox"/> N	_____	_____	M	I
<input type="checkbox"/> Y <input type="checkbox"/> N	_____	_____	M	I
<input type="checkbox"/> Y <input type="checkbox"/> N	_____	_____	M	I
<input type="checkbox"/> Y <input type="checkbox"/> N	_____	_____	M	I

Speed	PF/Max. Speed	Safe Speed	Radar/Lidar	Veh. Limit	<input type="checkbox"/> Commercial Veh. Veh. Code, § 15210(b)
Location of Violation					<input type="checkbox"/> Hazardous Mat. Veh. Code, § 353
City/County of Occurrence				Case Agency No.	
Comments (weather, road, traffic conditions)					<input type="checkbox"/> Crash

Violations not committed in my presence, declared on information and belief (Veh. Code, § 40600)

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

DECL. DATE	ARRESTING OR CITING OFFICER	SERIAL NO.
DECL. DATE	ARRESTING OFFICER, if different	SERIAL NO.

I promise to act by the date at the top of this citation. Signing DOES NOT admit guilt.

(_____) _____

CELL PHONE NUMBER (may be used to send reminders) _____ EMAIL (may be used to send reminders) _____

X _____

SIGNATURE

DEFENDANT COPY | FORM INFO

Continuation form

TR-130, Traffic/Nontraffic Notice to Appear
Judicial Council of California, Rev. Jan. 1, 2024
Vehicle Code, §§ 40500(b), 40513(b), 40522,
40600; Pen. Code, § 853.9

SEE REVERSE

FPO Barcode USS Code 39

TAB AREA

WHAT YOU NEED TO DO

Step ① Which box is checked on front of citation:

APPEAR IN COURT **or** RESPOND TO CITATION?

Step ② Follow instructions based on the box checked on the front.

When APPEAR IN COURT is checked on the front

- ▶ **Your next step:** Go to court on date and at location and time on front. Appearing in court is your **only option**. You can plead guilty or not guilty. ***IMPORTANT: Missing court may result in a warrant for your arrest. Don't let that happen—go to court! The judge will explain next steps.**
- **Helpful Tip:** Put the court date in your calendar, set a reminder, start planning now.
- **Juveniles:** If you were under 18 years old at the time of the offense, you must bring a parent or guardian with you to court.

When RESPOND TO CITATION is checked on the front

Citations can take up to 14 days to show up in the system.
Keep checking to find your citation, and then complete Option A, B, C, or D.

- ▶ **Your next step:** Choose an option below and act by the date listed. ***IMPORTANT: Not acting by the date on the front can result in a "failure to appear" charge, a guilty finding, and an additional fine of up to \$100. Choose one of the options below to avoid these penalties:**
- **Option A: Pay or Ask for a Reduction (Guilty Finding)**
 - Ask for a reduction at MYCITATIONS.COURTS.CA.GOV (takes about 10 minutes).
 - Pay (online, call, in person). If you cannot pay in full now, contact the court (see front for contact information) to request a payment plan or extension.
- Note: Paying may add points to your driving record and affect your insurance.**
- **Option B: Request Traffic School:** To avoid points on your driving record, you can request traffic school. You pay the citation plus an additional traffic school fee and complete traffic school. Contact the court (see front of citation) to check your eligibility.
- **Option C: Dispute the Citation (Plead Not Guilty):** You can dispute the citation in person by requesting a court date for a trial (no cost) or by mail ("trial by written declaration"), which requires you to pay the fine up front (amount returned if citation is dismissed). Contact court for more details (court info on front of citation).
- **Option D: Correctable ("Fix-It"):** When "Correctable" is checked on front, show an officer, authorized inspection agency, or DMV proof you fixed the issue and they will sign the citation (below). The court will dismiss the violation only after you submit correction proof and pay a transaction fee. For license and registration issues, you can show proof to the DMV. For insurance issues, you must show proof to the court.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)

Section(s) Violated	Signature of Person Certifying Correction	Serial No.	Agency	Date

If "booking required" is checked on front, call xxx-xxx-xxxx to schedule this appointment before the court date. You will not be arrested and will attend your court date on your own.

MORE INFORMATION

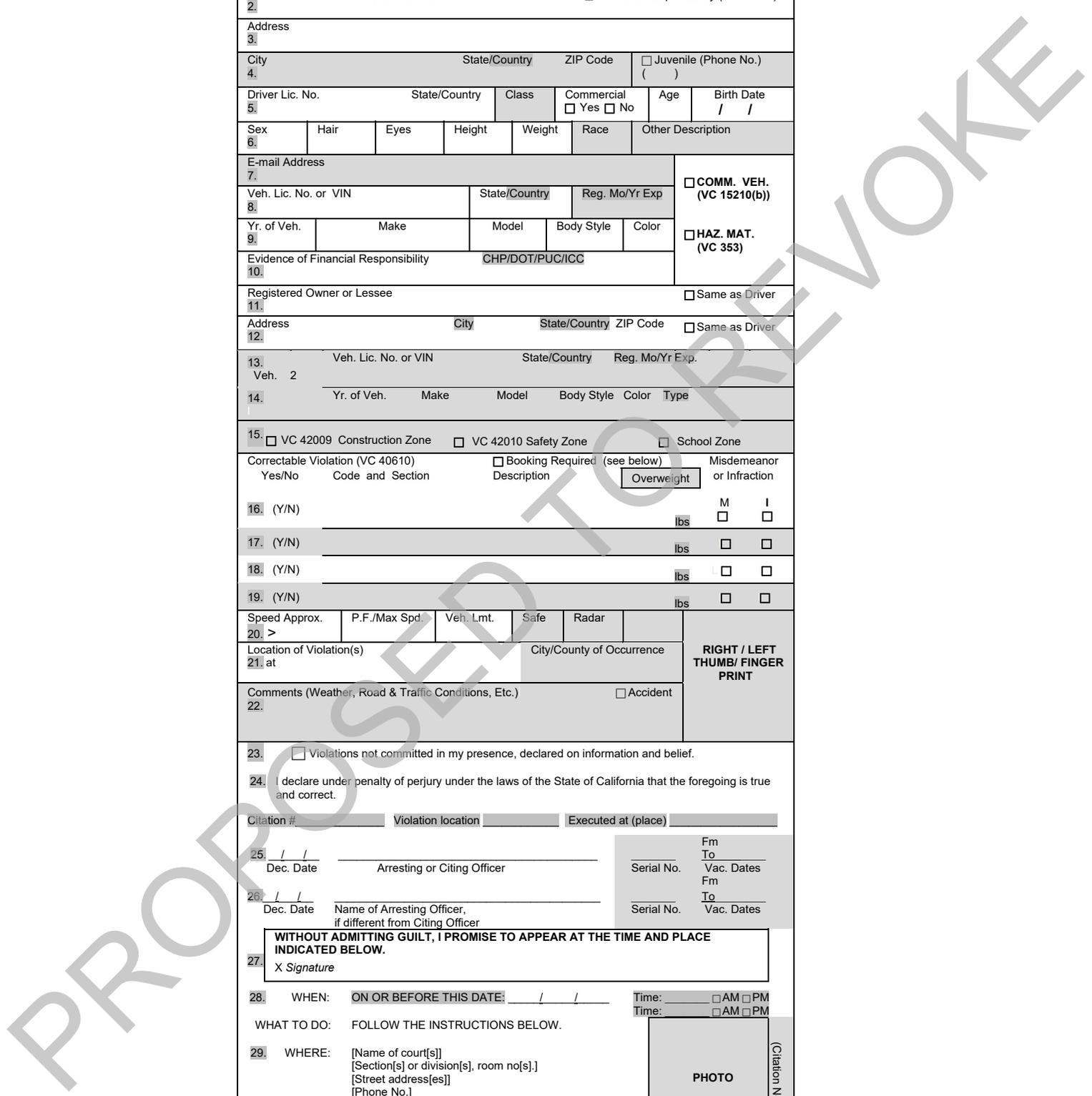
 For translations and general information about the process, visit XXXXXXXXXXXXXXXXXXXX

To contact the court, see front of citation for court's website and phone number. The court will send notice explaining next steps.

ELECTRONIC TRAFFIC/NONTRAFFIC NOTICE TO APPEAR (Defendant's Copy)

Shaded areas indicate spaces subject to modification for local or agency requirements.

(NAME OF AGENCY AND JURISDICTION)		<input type="checkbox"/> MISDEMEANOR (Citation No.)	
NOTICE TO APPEAR		<input type="checkbox"/> TRAFFIC <input type="checkbox"/> NONTRAFFIC	
Date of Violation 1. / /		Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Day of Week _____
Case No. _____		Owner's Responsibility (VC 40001) <input type="checkbox"/>	
Name (First, Middle, Last)/(Company) 2. _____			
Address 3. _____			
City 4. _____		State/Country _____	ZIP Code _____
Driver Lic. No. 5. _____		State/Country _____	Class _____
Commercial <input type="checkbox"/> Yes <input type="checkbox"/> No		Age / /	Birth Date / /
Sex 6. _____	Hair _____	Eyes _____	Height _____
Weight _____	Race _____	Other Description _____	
E-mail Address 7. _____		<input type="checkbox"/> COMM. VEH. (VC 15210(b))	
Veh. Lic. No. or VIN 8. _____		State/Country _____	Reg. Mo/Yr Exp _____
Yr. of Veh. 9. _____	Make _____	Model _____	Body Style _____
Color _____		<input type="checkbox"/> HAZ. MAT. (VC 353)	
Evidence of Financial Responsibility 10. _____		CHP/DOT/PUC/ICC	
Registered Owner or Lessee 11. _____		<input type="checkbox"/> Same as Driver	
Address 12. _____		City _____	State/Country _____
ZIP Code _____		<input type="checkbox"/> Same as Driver	
Veh. Lic. No. or VIN 13. Veh. 2 _____		State/Country _____	Reg. Mo/Yr Exp. _____
Yr. of Veh. 14. _____	Make _____	Model _____	Body Style _____
Color _____		Type _____	
15. <input type="checkbox"/> VC 42009 Construction Zone <input type="checkbox"/> VC 42010 Safety Zone <input type="checkbox"/> School Zone			
Correctable Violation (VC 40610) Yes/No		<input type="checkbox"/> Booking Required (see below)	
Code and Section		Description	Misdemeanor or Infraction
16. (Y/N)		Overweight _____ lbs	M <input type="checkbox"/> I <input type="checkbox"/>
17. (Y/N)		_____ lbs	<input type="checkbox"/> <input type="checkbox"/>
18. (Y/N)		_____ lbs	<input type="checkbox"/> <input type="checkbox"/>
19. (Y/N)		_____ lbs	<input type="checkbox"/> <input type="checkbox"/>
Speed Approx. 20. >	P.F./Max Spd. _____	Veh. Lmt. _____	Safe _____
Radar _____		<input type="checkbox"/> RIGHT / LEFT THUMB/ FINGER PRINT	
Location of Violation(s) 21. at _____		City/County of Occurrence _____	
Comments (Weather, Road & Traffic Conditions, Etc.) 22. _____		<input type="checkbox"/> Accident	
23. <input type="checkbox"/> Violations not committed in my presence, declared on information and belief.			
24. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.			
Citation # _____		Violation location _____	Executed at (place) _____
25. / / Dec. Date		Arresting or Citing Officer _____	Fm To Serial No. Vac. Dates
26. / / Dec. Date		Name of Arresting Officer, if different from Citing Officer _____	Fm To Serial No. Vac. Dates
27. WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. X Signature _____			
28. WHEN: ON OR BEFORE THIS DATE: _____ / /		Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	
WHAT TO DO: FOLLOW THE INSTRUCTIONS BELOW.		Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	
29. WHERE: [Name of court[s]] [Section[s] or division[s], room no[s].] [Street address[es]] [Phone No.]		PHOTO	
30. <input type="checkbox"/> To be notified <input type="checkbox"/> Contact the clerk to appear at a night court session.		DEFENDANT COPY	
Judicial Council of California Form New 06-26-15 (VC 40500(b), 40513(b), 40522, and 40600; PC 853.9 and 959.1) TR-135		FPO Barcode (USS Code 39)	



**ELECTRONIC TRAFFIC/NONTRAFFIC NOTICE TO APPEAR
(Defendant's Instructions)**

(Citation No.) _____

LOCAL INFORMATION FOR THE CITATION IS AVAILABLE ONLINE AT
[website address]

IMPORTANT — READ CAREFULLY

WARNING: If you fail to appear in court as you have promised, you may be arrested and punished by 6 MONTHS IN JAIL AND/OR A \$1,000 FINE regardless of the disposition of the original charge. (Veh. Code, § 40508, or Pen. Code, § 853.7.) In addition, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration (in absentia) pursuant to Vehicle Code section 40903(a) upon any alleged infraction, as charged by the arresting/citing officer.

JUVENILE: If you were under age 18 at the time the citation was issued, you must appear in court with your parent or guardian.

COURTESY NOTICE: A courtesy notice may be mailed to the address shown on your citation, indicating the required deposit of money (bail) that may be forfeited instead of your appearing in court. If you do not receive such courtesy notice, you are still required to comply with the items below by the appearance date.

WHAT TO DO

You are required to appear at court for a misdemeanor violation. For all violations, your court date/time/place are provided above in this notice to appear. Have the citation with you when contacting the court. In all infraction cases, you must do one or more of the following for each violation:

- Pay the fine (bail).
- Correct the violation (traffic cases, when applicable).
- Appear in court.
- Request traffic school (traffic cases, when applicable).
- Contest the violation.
- Request trial by written declaration (traffic cases).

If you do not do one of the above actions, then a "failure to appear" charge will be filed against you (Veh. Code, § 40508(a)) and your driver license may be withheld, suspended, or revoked. In some courts you may be charged an amount in addition to the bail amount and the case may be turned over to a collection agency. (Pen. Code, § 1214.1.)

1. If you do NOT contest the violation:

a. (Pay the bail amount) Contact the court for bail information. You will not have to appear in court. You will be convicted of the violation, and it will appear on your record at the Department of Motor Vehicles (DMV). A point count may be charged to your DMV record, and your insurance may be adversely affected.

b. (Traffic school) You may be able to avoid the point count by completing traffic school. You must pay the bail amount as a fee, and you may have to pay other fees. Contact the court to request traffic school.

c. (Correctable violations) If the "Yes" box is checked above, the violation is correctable. Upon correction of the violation, have a law enforcement officer or an authorized inspection/installation station agent sign below. (Veh. Code, § 40616.) Registration and driver license violations may also be certified as corrected at an office of the DMV or by any clerk or deputy clerk of a court. The violation will be dismissed by the court after PROOF OF CORRECTION and payment of a transaction fee are presented to the court by mail or in person by the appearance date. Violations of Vehicle Code section 16028 (automobile liability insurance) will be dismissed **only** upon (1) your **showing or mailing to the court** evidence of financial responsibility valid at the time this notice to appear was issued, and (2) your payment of a transaction fee.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)				
Section(s) Violated	Signature of Person Certifying Correction	Serial / ID No.	Agency	Date

2. If you contest the violation (select a or b):

a. (Court trial) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court by the appearance date to request a court trial on a future date when an officer and any witnesses will be present. **You may be required to submit the bail amount. Go online or call the court for information on going to court without paying bail —OR—**

b. (Trial by written declaration (traffic infractions)) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court on or before the appearance date to request a trial by written declaration. **Submit the bail amount.** You will be given forms to allow you to write a statement and to submit other evidence without appearing in court. An officer will also submit a statement. The judicial officer will consider the evidence and decide the case.

3 Make check/money order payable to **Clerk of the Court**. Write your citation number and driver license number on your check or money order. You may pay in person, by mail, or by phone.

4. If "Booking Required" is checked, you must appear for booking on a weekday prior to your court date at _____ between the hours of _____ and _____ and bring the signed verification to your court appearance. Call _____ for more information.

Booking Verification: I declare under penalty of perjury under the laws of the State of California that _____ was booked on _____

Officer _____ Defendant's name _____ Date _____ Serial / ID No. _____

NOTICE TO CORRECT VIOLATION

(Face of Violator's Copy)

(Name of Agency and Jurisdiction)		NOTICE TO CORRECT VIOLATION		(Citation No.)	
Date of Violation		Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Day of Week	Case No.
1. / /				S M T W T F S	
2. Name (First, Middle, Last)					<input type="checkbox"/> Owner's Responsibility (Veh. Code, § 40001)
3. Mailing Address					
4. City		State		ZIP Code	
5. Driver Lic. No.		State	Class	Age	Birth Date / /
					<input type="checkbox"/> Juvenile (Tel. No.) ()
6. Sex	Hair	Eyes	Height	Weight	Race
					Other Description
7. Veh. Lic. No. or VIN			State		<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b))
8. Yr. of Veh.	Make	Model	Body Style	Color	
9. Veh. Lic. No. or VIN			State		<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)
10. Yr. of Veh.	Make	Model	Body Style	Color	CHP/DOT
11. Evidence of Financial Responsibility Reason for Stop					PUC/ICC
12. Registered Owner or Lessee					<input type="checkbox"/> Same as Driver
13. Address		City	State	ZIP Code	<input type="checkbox"/> Same as Driver
Violation(s)		Code and Section	Description		
14.					
15.					
16.					
17.					
18. Location of Violation(s)					City/County
19.					
20. I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed at California					
21. Citing Officer			ID	Vacation Dates From To	
22. I PROMISE TO CORRECT THE VIOLATION(S) LISTED ABOVE AND PROVIDE PROOF OF CORRECTION TO THE ISSUING AGENCY AS INSTRUCTED BELOW WITHIN 30 DAYS.					
X SIGNATURE					
WHEN: CORRECT VIOLATION(S) IMMEDIATELY. CONTINUED OPERATION WITHOUT CORRECTION MAY RESULT IN ARREST AND PENALTY.					
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.					
WHERE: PROVIDE PROOF OF CORRECTION TO THE ISSUING AGENCY'S ADDRESS LISTED ON THE REVERSE.					
FPO Barcode					DEFENDANT COPY
TR-140, Notice to Correct Violation, Rev. Jan. 1, 2024 Judicial Council of California, www.courts.ca.gov Vehicle Code, §§ 40610(d), 40618					

Shaded areas on the sample form indicate spaces subject to modification for local or agency requirements.

REVERSE OF VIOLATOR'S COPY

INSTRUCTIONS TO DRIVER-OWNER

WHAT TO DO

METHODS FOR OBTAINING CERTIFICATION OF CORRECTION (Veh. Code, § 40616):

This Notice to Correct Violation may be cleared upon correction of the violation by providing satisfactory proof of correction within 30 days of this notice, as specified below, either in person at the issuing agency's office at [address] during normal business hours or by mail postmarked within 30 days of this notice to the issuing agency's address indicated below.

Violations may be certified as corrected on this form (as indicated below) in the following manner:

1. Brake, lamp, smog device, or muffler violations may be certified as corrected by any station licensed to inspect and certify for the specific violation(s).
2. Driver license and registration violations may be certified as corrected at offices of the DMV by an appropriate employee thereof, or by any clerk or deputy clerk of a court.
3. Any violation may be certified as corrected by a law enforcement agency regularly engaged in the enforcement of the California Vehicle Code.

DO NOT STOP AN OFFICER ON ANY FREEWAY, EXPRESSWAY, OR BRIDGE FOR CERTIFICATION OF CORRECTION.

NOTE: INSPECTION STATIONS MUST LIST THEIR ARD LICENSE NUMBER ISSUED BY THE BUREAU OF AUTOMOTIVE REPAIR IN THE SPACE PROVIDED BELOW.

WARNING: Any person willfully violating a written promise to correct or willfully failing to deliver proof of correction is guilty of a misdemeanor (Veh. Code, § 40616), which may lead to arrest, penalty, and additional fees. In addition, the Department of Motor Vehicles (DMV) will WITHHOLD the issuance or renewal of your driver license, and may revoke or suspend your driving privilege for Vehicle Code offenses. YOU MUST RETURN THE COMPLETED CERTIFICATE OF CORRECTION TO THE ISSUING AGENCY.

CERTIFICATE OF CORRECTION (RETURN TO THE ISSUING AGENCY)

Section(s) Violated	Signature of Person Certifying Correction	ID or ARD License No.	Agency or Certified Inspection Station	Date

[Name of Agency]
[Section[s] or division[s], room no[s].]
[Street address]

POSTMASTER: If undeliverable return to Name
and Mailing Address on reverse

FIRST
CLASS
POSTAGE
REQUIRED

Rev. Jan. 1, 2024

Shaded areas on the sample form indicate spaces subject to modification for local or agency requirements.

REVERSE OF COURT COPY

TO BE EXECUTED IN CASE OF FAILURE TO DELIVER PROOF OF CORRECTION

DEFENDANT HEREIN FAILED TO DELIVER PROOF OF CORRECTION IN VIOLATION OF HIS/HER SIGNED PROMISE, AND IN VIOLATION OF VEHICLE CODE SECTION 40616.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT _____ CALIFORNIA, ON _____ DATE

BY: _____ TITLE
PRINT OR TYPE NAME

SIGNATURE ID/BADGE NUMBER

ADDRESS:

FOR COURT USE ONLY

(Circle one)

RIGHT or LEFT
THUMB PRINT



Rev. Jan. 1, 2024

Shaded areas on the sample form indicate spaces subject to modification for local or agency requirements.

ELECTRONIC TRAFFIC/NONTRAFFIC NOTICE TO APPEAR (Defendant's Copy)
 Shaded areas indicate spaces subject to violation details or modification for local or agency requirements.

Agency: (Name and Jurisdiction)		Citation: (No.)	
NOTICE TO APPEAR			
Misdemeanor: (Y/N) Traffic: (Y/N) Nontraffic: (Y/N)			
Violation Date: (Day of Week) / / Time: (AM/PM) Case No.:		Owner's Responsibility: (Y/N) (VC 40001)	
Name: (First, Middle, Last)/(Company)			
Address:			
City:	State/Country:	ZIP:	
Juvenile (Phone #): ()	E-mail Address:		
Driver Lic.: (No.)	State/Country:	Class:	Comm. Lic.: (Y/N)
Birth Date: / /	Age:	Juvenile: (Y/N)	
Sex:	Hair:	Eyes:	Ht: Wt: Race: Other Descr.:
Veh. Lic. or VIN: (No.)	State/Country:	Reg.: (Mo/Yr) Exp	
Yr. of Veh.:	Make:	Model:	
Body Style:	Color:		
COMMERCIAL VEH. (VC 15210(b)): (Y/N) HAZ. MAT. (VC 353): (Y/N)			
Evid. of Financial Resp.:		CHP/DOT/PUC/ICC	
Registered Owner or Lessee: (First, Middle, Last/Company)			
Address:			
City:	State/Country:	ZIP:	
Veh. 2: Veh. Lic. or VIN: (No.)	State/Country:	Reg.: (Mo/Yr) Exp	
Yr. of Veh.:	Make:	Model:	Body Style: Color:
Veh. 3: Veh. Lic. or VIN: (No.)	State/Country:	Reg.: (Mo/Yr) Exp	
Yr. of Veh.:	Make:	Model:	Body Style: Color:
Veh. 4: Veh. Lic. or VIN: (No.)	State/Country:	Reg.: (Mo/Yr) Exp	
Yr. of Veh.:	Make:	Model:	Body Style: Color:
Construction-VC 42009 (Y/N) Safety Zone-VC 42010 (Y/N) School Zone (Y/N)			
Correctable		Booking Required: (Y/N) (see reverse)	
Violation (VC 40610)			
(Yes/No)	Code	Section	Description
(Y/N)			Overweight Misd./ Infrac.
			lbs (M/I)
(Y/N)			lbs (M/I)
(Y/N)			lbs (M/I)
(Y/N)			lbs (M/I)
(Y/N)			lbs (M/I)
(Y/N)			lbs (M/I)
Speed Approx:		P.F./Max Spd.:	Veh. Lmt.: Safe: Radar: (Y/N)
Location of Violation(s) at: (City/County of Occurrence)			
Conditions: (Weather, Road & Traffic Conditions, Etc.)			
Remarks:			RIGHT / LEFT THUMB / FINGER PRINT
Accident (Y/N)			
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW. X Signature			
WHEN: ON OR BEFORE THIS DATE: / / Time: (AM/PM)			
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.			
WHERE: BEFORE A JUDGE OR CLERK OF THE (Name of court[s]) (Section[s] or division[s], room no[s].) (Street address[es]) (Phone No.)			PHOTO
To be notified (Y/N) Contact the clerk to appear at a night court session: (Y/N)			
<input type="checkbox"/> Violations not committed in my presence, declared on information or belief. I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed at: (Place) Violation Location:			
(Signature)		/ /	
Arresting or Citing Officer		Declaration Date	
(Name)		/ /	
Arresting Officer, if different from Citing Officer:		Declaration Date	
Serial / ID: Dates Off: / / to / /			
Judicial Council of California Form New 06-26-15 (VC 40500(b), 40513(b), 40522, and 40600; PC 853.9 and 959.1) TR-145 DEFENDANT COPY		FPO Barcode USS Code 39	

PROPOSED

REVOKED

ELECTRONIC TRAFFIC/NONTRAFFIC NOTICE TO APPEAR (Defendant's Instructions)

Shaded areas indicate spaces subject to modification for local or agency requirements.

LOCAL INFORMATION FOR THE CITATION IS AVAILABLE ONLINE AT [website address]

IMPORTANT — READ CAREFULLY

WARNING: If you fail to appear in court as you have promised, you may be arrested and punished by 6 MONTHS IN JAIL AND/OR A \$1,000 FINE regardless of the disposition of the original charge. (Veh. Code, § 40508 or Pen. Code, § 853.7.) In addition, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration (in absentia) pursuant to Vehicle Code section 40903(a) upon any alleged infraction, as charged by the arresting/citing officer.

JUVENILE: If you were under age 18 at the time the citation was issued, you must appear in court with your parent or guardian.

COURTESY NOTICE: A courtesy notice may be mailed to the address shown on your citation, indicating the required deposit of money (bail) that may be forfeited instead of your appearing in court. If you do not receive such courtesy notice, you are still required to comply with the items below by the appearance date.

WHAT TO DO

You are required to appear at court for a misdemeanor violation. For all violations, your court date/time/place are provided above in this notice to appear. Have the citation with you when contacting the court. In all infraction cases, you must do one or more of the following for each violation:

- Pay the fine (bail).
- Correct the violation (traffic cases, when applicable).
- Appear in court.
- Request traffic school (traffic cases, when applicable).
- Contest the violation.
- Request trial by written declaration (traffic cases).

If you do not do one of the above actions, then a "failure to appear" charge will be filed against you (Veh. Code, § 40508(a)) and your driver license may be withheld, suspended, or revoked. In some courts you may be charged an amount in addition to the bail amount and the case may be turned over to a collection agency. (Pen. Code, § 1214.1.)

1. If you do NOT contest the violation:

a. (Pay the bail amount) Contact the court for bail information. You will not have to appear in court. You will be convicted of the violation, and it will appear on your record at the Department of Motor Vehicles (DMV). A point count may be charged to your DMV record and your insurance may be adversely affected.

b. (Traffic school) You may be able to avoid the point count by completing traffic school. You must pay the bail amount as a fee, and you may have to pay other fees. Contact the court to request traffic school.

c. (Correctable violations) If the "Yes" box is checked above, the violation is correctable. Upon correction of the violation, have a law enforcement officer or an authorized inspection/installation station agent sign below. (Veh. Code, § 40616.) Registration and driver license violations may also be certified as corrected at an office of the DMV or by any clerk or deputy clerk of a court. The violation will be dismissed by the court after PROOF OF CORRECTION and payment of a transaction fee are presented to the court by mail or in person by the appearance date. Violations of Vehicle Code section 16028 (automobile liability insurance) will be dismissed **only** upon (1) your **showing or mailing to the court** evidence of financial responsibility valid at the time this notice to appear was issued, and (2) your payment of a transaction fee.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)				
Section Violated	Signature Certifying Correction	Serial/ ID No.	Agency	Date

2. If you contest the violation (select a or b):

a. (Court trial) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court by the appearance date to request a court trial on a future date when an officer and any witnesses will be present. **You may be required to submit the bail amount. Go online or call the court for information on going to court without paying bail.—OR—**

b. (Trial by written declaration (traffic infractions)) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court on or before the appearance date to request a trial by written declaration. **Submit the bail amount.** You will be given forms to allow you to write a statement and to submit other evidence without appearing in court. An officer will also submit a statement. The judicial officer will consider the evidence and decide the case.

3 Make check/money order payable to **Clerk of the Court**. Write your citation number and driver license number on your check or money order. You may pay in person, by mail, or by phone.

4. If "Booking Required" is checked you must appear for booking on a weekday prior to your court date at _____ between the hours of _____ and _____ and bring the signed verification to your court appearance.

Call _____ for more information.

Booking Verification: I declare under penalty of perjury under the laws of the State of

California that _____ (Defendant's Name)

was booked on _____ (Date)

Officer: _____

Serial / ID No.: _____

(L/R) THUMB/
FINGER PRINT

**NOTICE TO APPEAR AND RELATED FORMS
(Form TR-INST)**

Revised Effective ~~June 26, 2015~~ January 1, 2024



JUDICIAL COUNCIL of CALIFORNIA

455 Golden Gate Avenue
San Francisco, California 94102-3688

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Chapter 1 PURPOSE OF FORMS

1.000. Definitions

For the purposes of these instructions the following words are synonymous: (a) Notice to Appear, citation; (b) violation, offense, allegation, charges; (c) defendant, violator, person, individual, citee, driver; (d) court, court of jurisdiction; (e) officer, arresting officer, citing officer, issuing officer.

1.010. In General

Notice to Appear forms are designed to meet statutory requirements and, to the extent possible, address the procedural requirements of local courts and law enforcement agencies. Notices to Appear should provide the defendant with pertinent information regarding the charges and what steps the defendant must take to answer the allegations.

The uniform language and data fields assist law enforcement and the courts in the timely and accurate processing of the citation information. The design also ensures statewide conformity of advisements important to the defendant and that those advisements are clear and explicit.

1.020. Notice to Appear

- (a) Whenever a person is arrested for any violation declared to be an infraction or misdemeanor, or for a violation of any city or county ordinance, and the person is not immediately taken before a magistrate, the arresting officer must prepare a Notice to Appear form.¹
- (b) When the Notice to Appear is prepared on a form approved by the Judicial Council it constitutes a complaint to which the defendant may enter a plea.²

1.030. Continuation Form

- (a) The *Continuation of Notice to Appear* or *Continuation of Citation* form must be used when multiple offenses are charged and the Notice to Appear form does not provide sufficient space for the listing of all the charges. A *Continuation of Citation* is a multipurpose form intended for use with either a Notice to Appear form or a Notice to Correct Violation form.
- (b) A second Notice to Appear must not be issued in lieu of a continuation form.
- (c) The Notice to Appear and the corresponding continuation form must be treated as one law enforcement document and contain the same citation number.

¹~~Per Veh. Code, § 40500(a); and Pen. Code, § 853.6.~~

²~~Per Veh. Code *Id.*, § 40513(b); and Pen. Code, § 853.9.~~

d) ~~Form TR-135, *Electronic Traffic/Nontraffic Notice to Appear* (4-inch format), may, when necessary, include a short-version continuation page to allow for citing multiple offenses or offenses that involve multiple vehicles.~~

1.040. *Electronic Notice to Appear*

(a) ~~The An electronic Notice to Appear issued on either form TR-135, *Electronic Traffic/Nontraffic Notice to Appear* (4-inch format) or form TR-145, *Electronic Traffic/Nontraffic Notice to Appear* (3-inch format) form TR-130, *Traffic/Nontraffic Notice to Appear*, eliminates those citation-processing problems caused by the illegibility of handwritten information. The use of an electronic Notice to Appear also reduces the amount of information that must be entered into law enforcement and court computer systems.~~

(b) A court is authorized to receive and file a Notice to Appear in an electronic form if all of the following conditions are met:³

(1) The information is on a form approved by the Judicial Council.

(2) The Notice to Appear is transmitted to the court by a law enforcement agency.

(3) The court has the facility to electronically store the information for the statutory period of record retention.

(4) The court has the ability to reproduce the Notice to Appear in physical form upon the demand and payment of the reproduction costs.

(c) ~~Requirements for citations issued by an electronic citation device on form TR-135 or form TR-145 that differ from those for preprinted citations are specified below where necessary. Any Notice to Appear prepared electronically must include all mandatory data fields and notices to the defendant that are on the form TR-130. The formatting and spacing may vary depending on the software used to prepare the citation.~~

1.041. *Notice to Correct Violation*

Unless certain disqualifying conditions exist, a law enforcement officer who chooses to take action on certain registration, license, or equipment violations of the Vehicle Code must issue a Notice to Appear that specifies that the offense is correctable or a Notice to Correct Violation. (Veh. Code, §§ 40610, 40522, 40303.5.) If an agency does not receive proof of correction on a Notice to Correct, the agency can deliver to the court the signed promise with a certification that no proof of correction was received. (Id., § 40618.) The Judicial Council adopted form TR-140, *Notice to Correct Violation*, in 2000. (See Appendix G.)

³ ~~Per~~ Pen. Code, § 959.1.

1.050. Notice of Correction and Proof of Service

Form TR-100, *Notice of Correction and Proof of Service*, must be used for any corrections to the original Notice to Appear citation.⁴ (See Appendix A.)

Chapter 2 AUTHORITY TO PRESCRIBE FORMAT

2.010. Judicial Council

(a) The Judicial Council has ~~adopted five~~ three forms for the Notice to Appear:

(1) Form TR-115, *Automated Traffic Enforcement System Notice to Appear*,⁵ to be used in conjunction with violations of sections 22451, 21453, and 22101 recorded by an automated traffic enforcement system. (See Appendix D.)

(2) Form TR-120, *Nontraffic Notice to Appear*,⁶ to be used for violations other than traffic offenses. (See Appendix E.)

(3) Form TR-130, *Traffic/Nontraffic Notice to Appear*,⁷ to be used for both infraction and misdemeanor offenses. If form TR-130 is prepared and submitted electronically, a computer-generated paper citation is issued to the defendant at the time of arrest and a copy is filed with the court either electronically when permitted or as a paper copy. (See Appendix F.)

~~4) Forms TR-135 and TR-145⁸ to be used for both infraction and misdemeanor offenses. (See Appendix G and Appendix H.) A computer-generated paper citation is issued to the defendant at the time of arrest and a copy is filed with the court either electronically when permitted or as a paper copy.~~

(b) Form TR-106, *Continuation of Notice to Appear*, and form TR-108, *Continuation of Citation*, are intended for use in conjunction with *Nontraffic* and *Traffic/Nontraffic Notice to Appear* forms. (See Appendix B and Appendix C.)

(c) The Judicial Council has not adopted a form for, nor established guidelines governing, the following: (1) parking citations, (2) arrest/bookings reports, and (3) court bail courtesy notices.

⁴ ~~Per~~ Veh. Code, § 40505.

⁵ ~~Per Veh. Code~~ *Id.*, § 40518.

⁶ ~~Per~~ Pen. Code, § 853.9.

⁷ ~~Per~~ Veh. Code, §§ 40500(b), 40513(b), 40522; ~~and~~ Pen. Code, § 853.9.

Chapter 3 REVISION DATES

3.010. Judicial Council

(a) Periodically, the Judicial Council will ~~adopt revisions of~~ revise Notice to Appear forms. **Law enforcement must use the revised Notice to Appear form by the effective date of the revised form adopted by the Judicial Council.** (See section 6.030 for exception.)

Depending on changes in statutory requirements, effective dates are established to allow law enforcement as much time as possible to deplete any existing supplies of the old form, print and disseminate new forms, and, if necessary, develop new procedures and train personnel regarding the revisions.

(b) The council ~~adopted forms TR-135 and TR-145~~ revised forms TR-130 and TR-140, effective January 1, 2024, and ~~revised forms TR-115 and TR-120, and TR-130~~, effective June 26, 2015, ~~with implementation as soon as reasonably possible, but no later than November 15, 2015.~~ The council ~~adopted f~~ Forms TR-100, TR-106, and TR-108 ~~with~~ have an effective date of January 1, 2004.

Chapter 4 FORM SPECIFICATIONS

4.010. Required Copies

The arresting officer must prepare the Notice to Appear form, at a minimum, in triplicate with a copy delivered to the court and the issuing agency for Vehicle Code violations⁸ and in duplicate for all other violations.⁹ The copy of the citation issued to the arrested person must include all of the information on the copy of the citation filed with the court, including any signature for the defendant's promise to appear or respond.¹⁰ Before printing or programming Notice to Appear forms, law enforcement agencies should contact their local court to determine if there are any local requirements for the court's case management system.

4.020. Size and Color

The size and color of Notice to Appear copies for printed forms TR-106, TR-108, TR-120, and TR-130, and TR-140 should conform with the requirements of the courts in which they are filed. Printed copies of forms completed electronically should comply as closely as possible with these specifications, but may vary depending on the technological capabilities. The Judicial Council recommends the following minimum size and other form specifications:

⁸~~Per~~ Veh. Code, §§ 40500(a), and 40506.

⁹~~Per~~ Pen. Code, § 853.6.

¹⁰~~Per~~ Veh. Code, § 40505.

-
- (a) A “trim” size of 4 1/4 inches wide and 7 1/2 inches long; 5/8-inch tabs on the top or bottom of the form.
 - (b) Original (Court’s copy) white, 15-pound paper stock. Print head-to-head.
 - (c) Duplicate (Police agency’s copy) pink, 15-pound paper stock. No printing on reverse.
 - (d) Triplicate (Officer’s copy) green, 15-pound paper stock. Print reverse head-to-head.
 - (e) Quadruplicate (Defendant’s copy) yellow, 20-pound paper stock. Print reverse head-to-head.
 - (f) The colors of the “Court’s copy” and “Police agency’s copy” correspond with rule 1:3-1 of the “Model Rules Governing Procedure in Traffic Cases” adopted by the National Conference of Commissioners on Uniform State Laws.

~~Form TR-135 has a “trim” size of 4 inches wide, and form TR-145 has a “trim” size of 3 inches wide.~~

4.030. Paper Stock

Paper stock for hand-written citations must be pressure sensitive and have a shelf life of at least five years. The citation text must be reproducible on photocopy equipment.

4.040. Serial Numbers

- (a) The serial numbers of the form sets must be sequential. There must be no “duplication” of numbers between form sets.
- (b) The format of the serial numbers is at the discretion of local law enforcement with the approval of the court.

4.050. Printing Format

- (a) A vertical format is required, except for the Proof of Service on form TR-100, which is printed horizontally to facilitate mailing.
- (b) All text on the forms must be printed in black ink, except the warning at the top of the TR-130, which should be printed in white ink. All text on citation forms TR-115; and TR-120; TR-130, TR-135, and TR-145 must have a minimum font size of 6.0. All text on the TR-130 must have a minimum font size of 5.0. Serial numbers may be printed in red ink. The box for the defendant’s signature and the box for the warning may be printed in red ink. The TR-130 may include gray shading around the appearance and response information, the citation details section, and each section on the back of the citation to improve readability.

4.060. Printing Expenses

The printing of the forms and the associated costs are not the responsibility of the Judicial Council; printing is to be arranged in accordance with local custom.

Chapter 5 VARIATIONS OF MANDATORY LANGUAGE/DATA FIELDS

5.000. In General

Mandatory language and data fields are indicated on examples of Judicial Council-adopted forms by unshaded areas; see section 5.010 for exceptions. On form TR-130, yellow shading indicates fields that can be customized.

5.010. Permitted Variations

- (a) To meet the unique customs and/or needs of local law enforcement agencies and courts, the Judicial Council form permits limited variations in the “time,” “place,” and “proof of correction certification” specified data fields, ~~among others~~. To indicate that variations may be permitted, these data fields are identified by shaded areas. On form TR-130, this shading is yellow. Shading should not appear on printed forms.
- (b) The California Highway Patrol is permitted to alter the format and location of the fields for the name of the court, court address, and phone number and to add a field for the location of a CHP Inspection Facility on the face of a form TR-130, *Traffic/Nontraffic Notice to Appear* for their form CHP-215X.
- (c) Formatting for the bracketed information that is required in the “Where” field on notice to appear forms may be modified to include information for multiple court locations. On form TR-130, formatting for the information in the yellow box containing the court addresses may be modified as necessary to include the desired number of court locations.

Chapter 6 MANDATORY LANGUAGE/DATA FIELDS

6.000. In General

The mandatory language and data fields vary between the various Notice to Appear forms depending on the purpose of the form. All language and data fields in unshaded (or nonyellow, for form TR-130) areas on the forms are mandatory, even if not discussed below. Mandatory text or data fields of the forms may not be reworded or omitted, except for references to statutory authorities, which may be abbreviated differently. ~~Electronic Notice to Appear citations issued on forms TR-135 and TR-145~~ Citations prepared electronically may abbreviate terms to facilitate printing of forms.

Law enforcement agencies should be aware that if a written Notice to Appear is not prepared on an approved council form, a court may conclude that it does not constitute a complaint to which a defendant may enter a plea. (Veh. Code, § 40513(b).) If a defendant pleads other than “guilty” or “nolo contendere” and the court concludes that the Notice to Appear is defective, it could be necessary to refile the charges by a formal complaint. (Veh. Code, § 40513(a).)

6.010. Agency Name

The name of the citing agency and jurisdiction must appear near the top of the form.

6.020. Title of Form

The title of the form must be printed near the top of the form, or in the bottom corner, for form TR-130.

6.030. Serial Number

- (a) A sequential serial number for each multipart set of Notice to Appear forms must appear horizontally near the top right corner of each form.
- (b) To facilitate the filing systems of some courts, statewide law enforcement agencies must also print the serial number in the lower right margin of the court’s copy. Statewide law enforcement agencies must comply with this requirement as specified in section 3.010. Local law enforcement agencies must comply with the requirement for the duplication of the serial number in the right margin within one calendar year of a request from a local court.
- (c) The serial number may be preprinted on the Notice to Appear.
- (d) The serial number on continuation form TR-106 or TR-108 must be the same as that on the corresponding Notice to Appear; the duplication of the serial number in the right margin is not required.
- (e) Bar coding of the serial number permits those courts with bar code readers to improve the timeliness and accuracy of processing Notice to Appear forms. Within the following parameters, the bar coding of the serial number must be placed on the face of the court’s copy of the Notice to Appear form:
 - (1) The bar code must appear as near as practical to the bottom of the form and is the USS Code 39 barcode data format.
 - (2) The bar code should have a 1/4-inch area (quiet zone) that is clear and free of all printing preceding the start character and the following stop character.
 - (3) Statewide law enforcement agencies must comply with the bar code requirement as specified in section 3.010.

-
- (4) Local law enforcement agencies must comply with the bar code requirement within one calendar year of a request from a local court.

6.040. Misdemeanor Check Box

To facilitate processing, the citing officer must check “Respond to Citation before” on form TR-130 or the misdemeanor box at the top of the other Notices to Appear if one of the offenses charged is a misdemeanor. The misdemeanor check box does not appear on the *Automated Traffic Enforcement System* notice, form, TR-115.

6.050. Date and Time

- (a) The date and time of the issuance of the Notice to Appear must be indicated near the top of the form.
- (b) The “Date of Violation” data field must be Mo./Day/Yr.
- (c) A check box “A.M./P.M.” format is provided as an optional field to indicate the time. Indicating the time in the form of “A.M./P.M.” is more easily understood by most defendants than the use of the 24-hour clock (military time).

6.060. Defendant’s Name

- (a) The defendant’s name is required on the Notice to Appear.¹¹
- (b) The sequence of the defendant’s name must be First/Middle/Last. This sequence corresponds with the California Driver License/Identification Card.

6.070. Defendant’s Address

- (a) The defendant’s current address must be indicated on the Notice to Appear.¹²
- (b) The address must be the defendant’s mailing address. The mailing address allows the court to mail a courtesy notice and/or other correspondence to the defendant.
- (c) A street address may also be indicated in addition to the mailing address.

6.071. Defendant’s Class and Category of Driver’s License

- (a) The defendant’s class of driver’s license may be specified on the Notice to Appear.

¹¹Per Veh. Code, §§ 40500(a), 40518(b); and Pen. Code, § 853.6.

¹²Per Veh. Code, §§ 40500(a), 40518(b); and Pen. Code, § 853.6.

-
- (b) Notice to Appear forms TR-115 ~~and~~, TR-130, ~~TR-135, and TR-145~~ must specify whether the defendant's driver's license is a commercial driver's license.

6.080. Defendant's Age and Birth Date

- (a) The defendant's ~~age and~~ birth date is required on the Notice to Appear. The sequence of the birth date must be: Mo./Day/Yr.
- (b) The birth date data field is designed to accept a numerical entry.

6.090. Defendant's Physical Description

- (a) The defendant's sex, hair, color of eyes, height, and weight are required on the Notice to Appear. See section 7.020 for the policy regarding the defendant's race/ethnicity.
- (b) Data fields for the recording of the defendant's physical description are designed to accept the standard abbreviations of physical descriptors.

6.091. Defendant's Race/Ethnicity

- (a) A specific data field for the defendant's "Race" or "Ethnicity" must be added to the Notice to Appear form. The data field should be located on the same line as other physical descriptors.
- (b) If the defendant's "Race" or "Ethnicity" is to be indicated, the Judicial Council recommends the use of a single alpha character. Reference: California Department of Justice's *Arrest and Disposition Instruction Manual*.

6.100. Commercial Vehicle

If the vehicle involved in an offense when a notice to appear is issued is a commercial vehicle,¹³ the citing officer must mark the check box within the data field, "**COMMERCIAL VEHICLE** (Veh. Code, § 15210(b))."

6.110. Hazardous Material

If the vehicle involved in an offense when a notice to appear is issued was transporting hazardous material, the citing officer must mark the check box within the data field, "**HAZARDOUS MATERIAL** (Veh. Code, § 353)."

¹³ *Commercial vehicle* is defined in Vehicle Code, § section 15210(b). The requirement to indicate if offense involves a motor vehicle is per Vehicle Code, § section 40300.2.

6.120 Vehicle Description

The year, make, model, body style, and color of the vehicle operated by the defendant at the time of the offense must be indicated on the Notice to Appear.¹⁴

6.130. ~~Financial Responsibility Reason for Stop~~

~~The officer must write the driver's evidence of financial responsibility on the Notice to Appear.¹⁵ A person issued a Notice to Appear for a violation of this section may submit to the clerk of the court, in person or by mail, written evidence that the driver was in compliance with this section at the time of the citation.~~ reason for stop on Notices used for traffic stops (forms TR-130 and TR-140).¹⁵

6.140. Name of Registered Owner/Lessee

- (a) The Notice to Appear must contain the name of the registered owner or lessee.¹⁶
- (b) The name must be indicated on the Notice to Appear in the sequence First/Middle/Last, unless a company is listed as the registered owner of the vehicle or vehicles.

6.150. Address of the Registered Owner/Lessee

- (a) The address of the registered Owner/Lessee must be indicated on the Notice to Appear.¹⁷
- (b) The address must be the registered owner's mailing address.

6.160. Correctable Violation Advisement and Check Boxes

- (a) Whenever a person is arrested for violations specified in Vehicle Code section 40303.5 and none of the disqualifying conditions set forth in Vehicle Code section 40610(b) exist, and the officer issues a Notice to Appear, the notice must specify the offense charged and note in a form approved by the Judicial Council that the charge will be dismissed upon proof of correction.¹⁸
- (b) For offenses identified in Vehicle Code section 40303.5 the citing officer must indicate by marking the appropriate "Yes" or "No" check box whether or not the offense is eligible for dismissal upon proof of timely correction. Marking the "No" box denotes that disqualifying conditions specified in Vehicle Code section 40610(b) exist.

¹⁴~~Per Veh. Code, § 40500(a).~~

¹⁵~~Per Veh. Code, § 16028 Per Veh. Code, § 1656.3~~

¹⁶~~Per Veh. Code *Id.*, § 40500(a).~~

¹⁷~~Per Veh. Code *Ibid.*, § 40500(a).~~

¹⁸~~Per Veh. Code *Id.*, § 40522.~~

(c) The correctable violation advisement and the check boxes do not appear on the *Automated Traffic Enforcement System* notice form, TR-115.

6.170. Booking Required

The officer may either book the arrested person prior to release; or indicate on the Notice to Appear that the arrested person must be booked before appearing in court.¹⁹ If the “Booking Required” check box is checked on form TR-120 ~~or~~; TR-130, ~~TR-135, or TR-145~~ the arresting agency must complete the verification of booking section on the defendant’s copy of the form. The “booking required” check box does not appear on the *Automated Traffic Enforcement System* notice, form; TR-115.

6.180. Violations

The Notice to Appear must state the offenses charged.²⁰ ~~Forms TR-135 and TR-145 may include special data fields to cite construction zone violations (Veh. Code, § 42009), Safety Enhancement Double Fine Zone violations (Veh. Code, § 42010), and overweight violations (Veh. Code, §§ 42030 and 42030.1).~~

6.190. Speed

A Notice to Appear charging a speeding violation must specify the approximate speed, prima facie or maximum speed, and any other speed limit exceeded.²¹

- (a) The “safe speed” box is provided so that the officer can indicate a speed different from the maximum or prima facie (posted) speed when the Notice to Appear is prepared charging a violation of the basic speed law (Veh. Code, § 22350). Conditions affecting the safe speed limit should be noted on the Notice to Appear (e.g., fog, rain, etc.).
- (b) When a speed violation is charged, both the approximate speed and the prima facie speed applicable to the street or highway should be indicated.
- (c) Entry of the maximum speed limit pertaining to the particular type of vehicle, or combination of vehicles, is only required if the defendant is cited for exceeding the speed limit for that vehicle.

6.200. Location of Violation

The Notice to Appear must state the location of where the offenses charged occurred.

¹⁹~~Per~~ Pen. Code, § 853.6.

²⁰~~Per~~ Veh. Code, § 40500(a); ~~and~~ Pen. Code, § 853.6.

²¹~~Per~~ Veh. Code, § 40503.

6.210. Officer's Declaration on Information and Belief

The officer must indicate on the Notice to Appear (check box) when the offense was not committed in his/her presence and that his/her declaration is on information and belief. A citizen's complaint and a collision investigation are examples of a situation that may result in the officer checking the box. The declaration is separate and distinct from the officer's declaration under penalty of perjury discussed in section 6.220.

6.220. Officer's Declaration Under Penalty of Perjury

The Notice to Appear must contain the officer's dated declaration, under penalty of perjury, subscribed by the officer, that the information regarding the violations is true and correct.²² The date of the declaration must appear in the declaration date field when completed by either an arresting or a citing officer.

6.230. Other Officer

The name of the arresting officer, if different from the name of the officer completing the Notice to Appear, must be stated on the Notice to Appear. This policy was adopted to address situations in which there are teams of officers working radar enforcement or aerial patrol. This option is not available on the *Automated Traffic Enforcement System Notice to Appear*. (See section 6.231.)

6.231. Declarant-Automated Traffic Enforcement System Citations

The name of the government agency or law enforcement representative making the declaration, "Violation was not committed in my presence. The above is declared on information and belief and is based on photographic evidence," must be stated on the *Automated Traffic Enforcement System Notice to Appear*.

6.240. Defendant's Signature

To secure release from arrest, the defendant must give his/her written promise to appear.²³ The defendant's signature on the defendant's copy of the citation must be identical to the signature on the copy of the citation filed with the court. The requirement for a signed promise to appear does not apply to citations issued for violations recorded by an *Automated Traffic Enforcement System Notice to Appear*.

The defendant has the option to provide the defendant's cell phone information when they sign the citation. This information may be used by the court to send reminders about mandatory appearances and deadlines.²⁴

²²Per Code Civ. Proc., § 2015.5.

²³Per Veh. Code, § 40504; and Pen. Code, § 853.6.

²⁴Cal. Rules of Court, rule 4.107

6.250. Time to Appear or Deadline to Respond

- (a) The time specified in a Notice to Appear issued for a traffic offense must be a specific date which is at least 21 days after arrest; the court having jurisdiction over the offense charged may authorize the arresting officer to specify on the Notice to Appear that the appearance may be made before the time specified.²⁵
- (b) When a Notice to Appear has been issued for a violation recorded by an automated traffic enforcement system, it must be mailed within 15 days of the violation date to the current address of the registered owner of the vehicle on file with the Department of Motor Vehicles, with a certificate of mailing obtained as evidence of service.²⁶ The time to appear must be at least ten days after the Notice to Appear is delivered.²⁷
- (c) The time to appear placed on Notice to Appear for a nontraffic offense must be at least 10 days after the date of arrest for a nontraffic violation. (Pen. Code, § 853.6.)
- (d) In the case of juveniles, the court having jurisdiction over the offense charged may require the arresting officer to indicate on the Notice to Appear “to be notified” rather than a specific date.²⁸

6.260. Place to Appear

The place specified on the Notice to Appear must be one of the following:

- (a) Before a magistrate or judge.²⁹
- (b) Before a person authorized to receive a deposit of bail.³⁰
- (c) Before the juvenile court, juvenile court referee, or juvenile hearing officer.³¹

6.270. Night Court

If the court identified in the Notice to Appear holds night sessions, the notice must include a statement advising the defendant.³²

²⁵~~Per~~ Veh. Code, § 40501(a).

²⁶~~Per Veh. Code~~ *Id.*, § 40518(a).

²⁷~~Per Veh. Code~~ *Id.*, § 40518(b).

²⁸~~Per Veh. Code~~ *Id.*, § 40501(b).

²⁹~~Per Veh. Code~~ *Id.*, § 40502(a)–(b); ~~and~~ Pen. Code, § 853.6.

³⁰~~Per~~ Veh. Code, § 40502(c); ~~and~~ Pen. Code, § 853.6.

³¹~~Per~~ Veh. Code, § 40502(d).

³²~~Per Veh. Code~~ *Ibid.*, § 40502(d).

6.280. Legend

The lower left corner of the Notice to Appear forms must denote that the form is a Judicial Council form and specify the council's form number.

Chapter 7 DISCRETIONARY LANGUAGE/DATA FIELDS

7.000. In General

The discretionary (shaded or yellow) areas on the forms (see Appendix) depict language and data fields that are frequently included at the option of the court or law enforcement agency (with the consent of the court in which the Notice to Appear is to be filed).

Because of limited space, not all of the discretionary language and data fields used throughout the state can be shown on the sample forms. The following are narrative descriptions of several discretionary data fields.

7.010. Bail Statement

If the offense is bailable, the magistrate must fix the amount of bail and endorse the following statement on the warrant for arrest.³³

BAIL:

The defendant is to be admitted to bail in the sum of _____ dollars.

Judge

Note: The mandatory requirement that the above statement appear on the reverse of the court's copy disrupts the processing of Notice to Appear forms in those automated courts² that use the space for cash register validations, automated traffic system notations, and notes of court proceedings. These courts use a separate form when issuing a warrant for arrest. For those reasons, the warrant for arrest statement is now discretionary.

~~7.020. Defendant's Race/Ethnicity~~

- ~~a) A specific data field for the defendant's "Race" or "Ethnicity" may be added to the Notice to Appear form. The data field should be located on the same line as other physical descriptors.~~
- ~~b) The defendant's "Race" or "Ethnicity" may be indicated in the "Other Description" data field.~~

³³~~Per~~ Pen. Code, § 815(a).

e) ~~If the defendant’s “Race” or “Ethnicity” is to be indicated, the Judicial Council recommends the use of a single alpha character. Reference: California Department of Justice’s Arrest and Disposition Instruction Manual.~~

7.030. Defendant’s Thumbprint

- (a) The defendant’s thumbprint may be placed on the Notice to Appear in situations in which there is a question in the citing officer’s mind as to the true identity of the defendant. The court will then have the option of comparing thumbprints in those cases where the defendant alleges that another person has committed the cited offense.³⁴
- (b) The Judicial Council recommends that the thumbprint on form TR-120 or TR-130 be placed in a one-inch square area located on the reverse of the court’s copy in the lower left corner. For electronic citations ~~on forms TR-135 or TR-145~~, a digitized thumbprint or fingerprint may be printed on the defendant’s paper copy of the citation and filed with the court as part of the notice to appear. If the defendant’s thumbprint or fingerprint is captured electronically as a digital image, but not included as part of the notice to appear, the digital image may be retained by the arresting agency for use as provided in Penal Code sections 853.5 and 853.6 and Vehicle Code sections 40500 and 40504 and any other purposes permitted by law.
- (c) The thumbprint item does not appear on the *Automated Traffic Enforcement System Notice to Appear*.

Chapter 8 PROHIBITED LANGUAGE/DATA FIELDS

8.010. Defendant’s Social Security Number

The defendant’s social security number must not be indicated on the Notice to Appear, unless the social security number is also the driver license number and/or the defendant holds a commercial driver license.

To protect an individual’s civil rights, federal statutes allow a very restricted compulsory use of a person’s social security number for the purpose of establishing identity.³⁵

Federal statutes do permit an agency having administrative responsibility for driver license and motor vehicle registration laws to use a person’s social security number to establish that person’s identity as it relates to the laws within the agency’s jurisdiction.³⁶

³⁴~~Per~~ Veh. Code, § 40500(a); ~~and~~ Pen. Code, § 853.6.

³⁵~~Per~~ Pub. Lic. Law No. 93-579, § 7.

³⁶~~Per~~ 42 U.S.C. § 405-(c)(2)(~~e~~)(C)(i)-(iv).

The California Department of Motor Vehicles requires an individual to disclose his or her social security number in order to obtain a driver license or identification card.³⁷ A number of other states use the individual's social security number as the driver license number.

³⁷Per Veh. Code, §§ 1653.5, and 12801.

TRAFFIC/NONTRAFFIC NOTICE TO APPEAR (Face of Court's Copy)

(NAME OF AGENCY AND JURISDICTION)												
NOTICE TO APPEAR										<input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> Traffic <input type="checkbox"/> Nontraffic		(Citation No.)
Date of Violation 1. / /			Time			<input type="checkbox"/> AM <input type="checkbox"/> PM		Day of Week S M T W T F S		Case No.		
Name (First, Middle, Last) 2. <input type="checkbox"/> Owner's Responsibility (Veh. Code, § 40001)												
Address 3.												
City 4.				State/Country		ZIP Code		E-mail Address				
Driver Lic. No. 5.			State		Class	Commercial <input type="checkbox"/> Yes <input type="checkbox"/> No		Age	Birth Date / /			
Sex 6.	Hair	Eyes	Height	Weight	Race		<input type="checkbox"/> Juvenile (Phone No.) ()					
Veh. Lic. No. or VIN 7.				State		Reg. MO/YR		<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b)) <input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)				
Yr. of Veh. 8.	Make	Model	Body Style	Color								
Evidence of Financial Responsibility 9.						CHP/DOT/PUC/ICC						
Registered Owner or Lessee 10.										<input type="checkbox"/> Same as Driver		
Address 11.										<input type="checkbox"/> Same as Driver		
City 12.				State		ZIP Code						
Correctable Violation (Veh. Code, § 40610)										<input type="checkbox"/> Booking Required (see reverse)		Misdemeanor or Infraction (Circle)
Yes	No	Code and Section			Description					M	I	
13. <input type="checkbox"/>	<input type="checkbox"/>									M	I	
14. <input type="checkbox"/>	<input type="checkbox"/>									M	I	
15. <input type="checkbox"/>	<input type="checkbox"/>									M	I	
16. <input type="checkbox"/>	<input type="checkbox"/>									M	I	
Speed Approx. 17.		P.F./Max Spd.		Veh. Lmt.	Safe	Radar	<input type="checkbox"/> Continuation Form Issued		N			
Location of Violation(s) 18. at						City/County of Occurrence			W	E		
Comments (Weather, Road & Traffic Conditions) 19.										<input type="checkbox"/> Accident		
										S		
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.												
20. I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.												
Executed at (place) <u>Violation Location</u>												
21. / / Dec. Date		Arresting or Citing Officer				Serial No.		to		Dates Off		
22. / / Dec. Date		Name of Arresting Officer, if different from Citing Officer				Serial No.		to		Dates Off		
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.												
X Signature												
24. WHEN: ON OR BEFORE THIS DATE: / /												
Time: <input type="checkbox"/> AM <input type="checkbox"/> PM Time: <input type="checkbox"/> AM <input type="checkbox"/> PM												
25. WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.												
WHERE: [Name of court[s]] [Section[s] or division[s], room no[s].] [Street address(es)] [Phone No.]												
26. <input type="checkbox"/> To be notified <input type="checkbox"/> You may arrange with the clerk to appear at a night session of the court.												
FPO Barcode (USS Code 39)										DEFENDANT COPY		
Judicial Council of California Form										SEE REVERSE		
Rev. 06-26-15 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600; Pen. Code, § 853.9)										TR-130		

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

TRAFFIC/NONTRAFFIC NOTICE TO APPEAR (Reverse of Defendant's Copy)

IMPORTANT — READ CAREFULLY

LOCAL INFORMATION FOR THE CITATION IS AVAILABLE ONLINE
AT [*website address*]

WARNING: If you fail to appear in court as you have promised, you may be arrested and punished by 6 MONTHS IN JAIL AND/OR A \$1,000 FINE regardless of the disposition of the original charge. (Veh. Code, § 40508 or Pen. Code, § 853.7.) In addition, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration (in absentia) pursuant to Vehicle Code section 40903(a) upon any alleged infraction, as charged by the arresting/citing officer.

JUVENILE: If you were under age 18 at the time the citation was issued, you must appear in court with your parent or guardian.

COURTESY NOTICE: A courtesy notice **may** be mailed to the address shown on your citation, indicating the required deposit of money (bail) that may be forfeited instead of your appearing in court. If you do not receive such courtesy notice, you are still required to comply with the items below by the appearance date.

WHAT TO DO

You are required to appear at court for a misdemeanor violation. For all violations, your court date/time/place are on the front of this notice to appear. Have the citation with you when contacting the court. In all infraction cases, you must do one or more of the following for each violation:

- Pay the fine (bail).
- Correct the violation (traffic cases, when applicable).
- Appear in court.
- Request traffic school (traffic cases, when applicable).
- Contest the violation.
- Request trial by written declaration (traffic cases).

If you do not do one of the above actions, then a "failure to appear" charge will be filed against you (Veh. Code, § 40508(a)) and your driver license may be withheld, suspended, or revoked. In some courts you may be charged an amount in addition to the bail amount and the case may be turned over to a collection agency. (Pen. Code, § 1214.1.)

1. If you do NOT contest the violation:

a. (Pay the bail amount) Contact the court for bail information. You will not have to appear in court. You will be convicted of the violation, and it will appear on your record at the Department of Motor Vehicles (DMV). A point count may be charged to your DMV record and your insurance may be adversely affected.

b. (Traffic school) You may be able to avoid the point count by completing traffic school. You must pay the bail amount, and you may have to pay other fees. Contact the court to request traffic school.

c. (Correctable violations) If the "Yes" box is checked on the front of your ticket, the violation is correctable. Upon correction of the violation, have a law enforcement officer or an authorized inspection/installation station agent sign below. (Veh. Code, § 40616.) Registration and driver license violations may also be certified as corrected at an office of the DMV or by any clerk or deputy clerk of a court. The violation will be dismissed by the court after PROOF OF CORRECTION and payment of a transaction fee are presented to the court by mail or in person by the appearance date. Violations of Vehicle Code section 16028 (automobile liability insurance) will be dismissed **only** upon (1) your **showing or mailing to the court** evidence of financial responsibility valid at the time this notice to appear was issued, and (2) your payment of a transaction fee.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)

Section(s) Violated	Signature of Person Certifying Correction	Serial No.	Agency	Date

2. If you contest the violation (select a or b):

a. (Court trial) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court by the appearance date to request a court trial on a future date when an officer and any witnesses will be present. **You may be required to submit the bail amount.**
Go online or call the court for information on going to court without paying bail. —OR—

b. (Trial by written declaration (traffic cases)) Send a certified or registered letter postmarked not later than five days prior to the appearance date or come to the court on or before the appearance date to request a trial by written declaration. **Submit the bail amount.** You will be given forms to allow you to write a statement and to submit other evidence without appearing in court. An officer will also submit a statement. The judicial officer will consider the evidence and decide the case.

3. Make check/money order payable to **Clerk of the Court**. Write your citation number and driver license number on your check or money order. You may pay in person, by mail, or by phone.

4. If "Booking Required" is checked, you must appear for booking on a weekday prior to your court date at: _____ between the hours of _____ and _____ and bring the signed verification to your court appearance. Call _____ for more information.

Booking Verification: I declare under penalty of perjury under the laws of the State of California that

_____ was booked on _____ Date _____ Officer _____ Serial No. _____

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

TRAFFIC/NONTRAFFIC NOTICE TO APPEAR
(Reverse of Court's Copy)

(Circle one)

RIGHT or LEFT
THUMB PRINT



Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 29, 2023

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Indian Child Welfare Act (ICWA): Discretionary Tribal Participation

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

Amend Cal. Rules of Court, rules 5.482 and 5.530; approve form ICWA-042

Committee or other entity submitting the proposal:

Tribal Court–State Court Forum

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Ann Gilmour, 415-865-4207 ann.gilmour@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): Family and Juvenile Law Advisory

Committee:Item #13 at page 17 of the Annual Agenda approved by the Rules Committee on November 1, 2022.

Tribal Court - State Court Forum: Item 4 on page 5 of the Annual Agenda approved by the Executive and Planning Committee on March 20, 2022

Project description from annual agenda: Family and Juvenile Law Advisory Committee:The Indian Child Welfare Act (ICWA) and corresponding state law do not apply in every juvenile case involving a tribal child. ICWA has limited application in delinquency cases. Not every child affiliated with a tribe comes within the definition of "Indian child" found in federal and state law. Section 306.6 of the Welfare and Institutions Code recognizes the discretion of the court to allow tribes that do not have federal recognition to participate in cases involving children affiliated with the tribe. Section 16001.9 of the Welfare and Institutions Code recognizes certain rights of all Indian children in foster care and all children who identify as Native American to maintain their cultural ties and traditions. The committee is aware that tribal entities have important resources to bring to the table to assist children in juvenile matters, and engaging tribes in these cases can improve the ability of the court to meet its statutory mandate.

Tribal Court - State Court Forum: The Indian Child Welfare Act (ICWA) and corresponding state law do not apply in every juvenile case involving a tribal child. ICWA has limited application in delinquency cases. Not every child affiliated with a tribe comes within the definition of "Indian child" found in federal and state law. Section 306.6 of the Welfare and Institutions Code recognizes the discretion of the court to allow tribes that do not have federal recognition to participate in cases involving children affiliated with the tribe. Section 16001.9 of the Welfare and Institutions Code recognizes certain rights of all Indian children in foster care and all children who identify as Native American to maintain their cultural ties and traditions.

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

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

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

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

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that

mandates translation: [Click or tap here to enter text.](#)

includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.

JUDICIAL COUNCIL OF CALIFORNIA

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

INVITATION TO COMMENT

SPR23-32

Title	Action Requested
Indian Child Welfare Act (ICWA): Discretionary Tribal Participation	Review and submit comments by May 12, 2023
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 5.482 and 5.530; approve form ICWA-042	January 1, 2024
Proposed by	Contact
Tribal Court–State Court Forum Hon. Abby Abinanti, Cochair Hon. Joyce Hinrichs, Cochair	Ann Gilmour, Attorney Center for Families, Children & the Courts 415-865-4207 ann.gilmour@jud.ca.gov
Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulseley, Cochair Hon. Amy M. Pellman, Cochair	

Executive Summary and Origin

The Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee propose that, effective January 1, 2024, the Judicial Council amend California Rules of Court, rules 5.482 and 5.530, and approve *Request for Tribal Participation* (form ICWA-042). These rules and this form clarify the process and set standards consistent with California statutes for the court’s exercise of discretion to permit the participation of a tribe in juvenile cases involving a child affiliated with the tribe, despite no statutory right to participate or intervene under the Indian Child Welfare Act (ICWA) and section 224.4 of the Welfare and Institutions Code. As discussed in more detail below, although California law set out in the Welfare and Institutions Code protects the relationship between tribes and their children beyond the scope of ICWA and permits tribal participation in juvenile cases in various situations where ICWA does not apply, tribal leaders and other advocates report that courts often decline to permit tribes to participate in juvenile cases if ICWA does not apply.

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

Background

ICWA (title 25 of the United States Code sections 1901-1963) provides certain legal rights to federally recognized Indian tribes with respect to child custody proceedings involving an Indian child, which is defined as any unmarried person who is under age 18 and is either (1) a member of an Indian tribe, or (2) eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe. Among the rights that ICWA recognizes is the tribe's right to intervene in the case at any time. When ICWA applies, but the tribe chooses not to intervene, California Rules of Court, rule 5.534(e)(2) still provides the child's tribe with certain rights to participate in a case involving an Indian child. The California legislature has also acted to protect the relationship between Native American and Indian children¹ and their tribes and tribal communities. In section 224 of the Welfare and Institutions Code, the legislature states that California is committed to "...establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community." California law goes beyond ICWA in several relevant ways. Section 306.6 of the Welfare and Institutions Code² authorizes a "...tribe not recognized to have tribal status under federal law" (also known as an "unrecognized tribe") to participate in dependency proceedings. In 2019 the legislature amended section 16001.9 of the Welfare and Institutions Code (often referred to as the Foster Care Bill of Rights) to include protections for the cultural and political connection of all Native American and Indian children in foster care.³ These protections are separate and apart from the requirements of ICWA.

This proposal addresses three specific categories of cases where ICWA may not apply, but where either the tribal group or the child may have a right to some manner of tribal participation in a juvenile case: (1) cases involving Indian children who are in the juvenile court because of an act that would be a crime if it were committed by an adult or as to whom ICWA does not apply for some other reason; (2) cases involving unrecognized tribes; and (3) children whose parents are members of tribes and are considered part of the tribal community, but who do not meet the definition of Indian child, often referred to as "heritage cases."

In each of these situations, the law recognizes a relationship between the tribe and the child notwithstanding that ICWA does not apply. Section 306.6 of the Welfare and Institutions Code specifically provides the court with discretion to allow the child's tribe to participate in the proceedings. Sections 346 and 676 of the Welfare and Institutions Code permit juvenile courts to allow anyone with a "direct and legitimate interest" in a case to be admitted to a juvenile court hearing.⁴ Several courts have adopted standing orders under the authority of these sections to

¹ The term "Indian child" is used for children who meet the definition of Indian child in ICWA. The term Native American child is used for children who are affiliated with a tribe but do not meet the definition of Indian child.

² Added by [SB 678 \(Stats. 2006, ch. 838\)](#) which wove many provisions of ICWA into the Welfare and Institutions Code, the Family Code and the Probate Code.

³ See [AB-175 \(Stats. 2019, ch. 416\)](#).

⁴ Section 346 is available at:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=2.&title=&part=1.&chapter=2.&article=9.. Section 676 is available at

create a presumption that tribes be permitted to participate in juvenile proceedings involving children affiliated with the tribe.⁵

This proposal would provide guidance for the exercise of that discretion and the role of a tribe when it is permitted to participate, consistent with Welfare and Institutions Code section 306.6 and California Rules of Court, rule 5.534(e)(2) which addresses participation of non-intervening tribes in ICWA cases.

Juvenile Justice Cases

Indian children who are placed into foster care are entitled to all the same rights as other foster children under Welfare and Institutions Code section 16001.9 (commonly referred to as the Foster Care Bill of Rights),⁶ and have unique protections for their cultural and political identity as Indian children. These protections for the cultural and political rights of Indian children in foster care apply equally whether they are placed in foster care under Welfare and Institutions Code sections 300 (the juvenile dependency code section) or 601 or 602 (the juvenile justice code sections)—even though ICWA does not apply to most juvenile justice cases. These protections include the right to:

1. A placement that upholds the prevailing social and cultural standards of the child’s Indian community, including, but not limited to, family, social, and political ties (Welf. & Inst. Code, § 16001.9(a)(1));
2. Be provided with names and contact information for representatives of the child’s Indian tribe and to communicate with these individuals privately (Welf. & Inst. Code, § 16001.9(a)(11));
3. Have contact with tribal members and members of the child’s Indian community consistent with the prevailing social and cultural conditions and way of life of the Indian child’s tribe (Welf. & Inst. Code, § 16001.9(a)(14));
4. Engage in traditional Native American religious practices (Welf. & Inst. Code, § 16001.9(a)(15));

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=2.&title=&part=1.&chapter=2.&article=17.

⁵ See the Order of the Superior Court of California, County of San Diego “In the Matter of: Tribal Participation in Juvenile Dependency and Juvenile Justice Cases Not Governed by the Indian Child Welfare Act” available at: https://www.sdcourt.ca.gov/sites/default/files/sdcourt/juvenile3/policiesproceduresandprotocols/juvpoliciesproceduresandprotocolsforms/order_author_tribes.pdf and Rule 9.1 of Local Rules of Superior Court of California, County of Inyo referencing standing orders dealing with this issue <https://www.inyo.courts.ca.gov/system/files?file=localrules.pdf>

⁶ Available at:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=16001.9.

5. Have probation personnel who have received instruction on ICWA and on cultural competency and sensitivity relating to, and best practices for, providing adequate care to Indian children in out-of-home care (Welf. & Inst. Code, § 16001.9(a)(20));
6. Have recognition of the child's political affiliation with an Indian tribe or Alaskan village, including a determination of the child's membership or citizenship in an Indian tribe or Alaskan village; receive assistance in becoming a member of an Indian tribe or Alaskan village in which the child is eligible for membership or citizenship, receive all benefits and privileges that flow from membership or citizenship in an Indian tribe or Alaskan village, and be free from discrimination based on the child's political affiliation with an Indian tribe or Alaskan village (Welf. & Inst. Code, § 16001.9(a)(21));
7. Have a representative of the child's Indian tribe in attendance during hearings (Welf. & Inst. Code, § 16001.9(a)(34)); and
8. Have a case plan that includes protecting the essential tribal relations and best interests of the Indian child by assisting the child in establishing, developing, and maintaining political, cultural, and social relationships with the child's Indian tribe and Indian community (Welf. & Inst. Code, § 16001.9(a)(37)).

These provisions recognize a strong beneficial relationship between an Indian child and the child's tribe including in juvenile justice cases.

Unrecognized tribes

Section 306.6 of the Welfare and Institutions Code⁷ permits the court to allow an unrecognized tribe from which a child is descended to participate in a dependency proceeding. In addition, section 16001.9 of the Welfare and Institutions Code, as amended in 2019, provides protection to certain rights of all children in foster care that may be particularly important to those children who identify as Native American, and will apply even if their tribe is not federally recognized. These include the right to:

1. Receive adequate clothing, grooming, and hygiene products that respect the child's culture and ethnicity (Welf. & Inst. Code, § 16001.9(a)(3));
2. Be placed with a relative or nonrelative extended family member if an appropriate and willing individual is available (Welf. & Inst. Code, § 16001.9(a)(5));
3. Attend religious services, activities, and ceremonies of the child's choice, including, but not limited to, engaging in traditional Native American religious practices (Welf. & Inst. Code, § 16001.9(a)(15)); and

⁷ Available at:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=306.6.

4. Participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities (Welf. & Inst. Code, § 16001.9(a)(16)).

Section 306.6 states that:

(d) This section is intended to assist the court in making decisions that are in the best interest of the child by permitting a tribe in the circumstances set out in subdivision (a) to inform the court and parties to the proceeding about placement options for the child within the child's extended family or the tribal community, services and programs available to the child and the child's parents as Indians, and other unique interests the child or the child's parents may have as Indians. This section shall not be construed to make the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), or any state law implementing the Indian Child Welfare Act, applicable to the proceedings, or to limit the court's discretion to permit other interested persons to participate in these or any other proceedings.

(e) The court shall, on a case-by-case basis, make a determination if this section is applicable and may request information from the tribe, or the entity claiming to be a tribe, from which the child is descended for the purposes of making this determination, if the child would otherwise be an Indian child pursuant to subdivision (a).

Heritage cases

Sometimes a child's parents are members of a tribe, but the child is not a member or eligible for membership. This can be because the tribe's membership rolls are closed, or because the child does not meet one or more of the tribe's specific membership criteria. These children may still live on tribal lands, be eligible for tribal services, and be considered members of the tribal community.

Under section 16001.9 of the Welfare and Institutions Code, these children have the same rights as described above for children from unrecognized tribes to maintain their cultural and political connections to the tribe.

Protection of these rights is furthered by the participation of the tribe with which the child and family are affiliated, notwithstanding that the child does not meet the definition of Indian child under ICWA. Sections 346 and 676 of the Welfare and Institutions Code⁸ permit the judicial officer presiding over a case to admit to a hearing such persons as are deemed to have a direct and legitimate interest in the case or work of the court. As discussed above, several courts have adopted local standing orders creating a presumption that tribes have a direct and legitimate interest in cases involving their children.

⁸ Available at:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=2.&title=&part=1.&chapter=2.&article=9.

The Proposal

This proposal responds to a concern identified by tribal advocates and leaders that courts often will not allow a tribe to participate in a juvenile case if ICWA does not apply. It advances the Judicial Council's goals of access to justice for Native American and Indian children and their tribes by protecting the rights to maintain cultural and political connections discussed above. This proposal would provide guidance and ensure consistency in accordance with the statutes discussed above, in cases falling within these three categories where ICWA does not mandate, but state laws allow tribal participation in a juvenile case. Tribes, particularly unrecognized tribes, often have limited resources. They may participate in court via a tribal representative rather than an attorney. It can be challenging for tribal advocates to draft requests for orders without additional guidance. This proposal would create a process and provide a form for tribes to use when they want to participate in actions involving their children when ICWA does not apply. It provides presumptions that are consistent with state policies in furthering tribal participation.

The proposal would amend California Rules of Court, rule 5.482(d), which currently implements section 204.4 of the Welfare and Institutions Code governing tribal intervention in cases where ICWA mandates apply, to address tribal participation in the three situations discussed above where ICWA does not mandate, but where state laws allow tribal participation. Each of the three case types is set forth in a new, separate paragraph because each relies on different sections of the Welfare and Institutions Code that provide slightly different protections to Native American and Indian children and their tribes. Each establishes a presumption that a child's tribe should be permitted to participate. A fourth new paragraph lists, for tribes whose request to participate has been granted, the actions they may take to participate in the proceedings. This list mirrors the extent of participation that the Legislature has established in section 306.6 of the Welfare and Institutions Code for unrecognized tribes and the council has already echoed in rule 5.534(e)(2) for tribes in ICWA cases where they choose not to intervene.

The proposal would also amend rule 5.530, which governs the persons permitted to be present during juvenile proceedings, by adding subdivision (g) to clarify that discretionary tribal participation is governed by the new provisions in rule 5.482.

The committees also propose a new, optional form that tribes may use to make a request to participate in a case.⁹

Alternatives Considered

The committees considered whether educational resources or job aids would be sufficient to address the issues raised by tribal leaders and advocates. Given the complexity of the legal issues and the importance of the interests and rights of tribal children and tribes that are at stake, the

⁹ The proposed form must be signed under penalty of perjury because asserts facts that the court is asked to rely upon in deciding whether to permit tribal participation. Because the law does not specifically require a signature under penalty of perjury the committees are considering whether to retain this requirement.

committees decided that rules and forms were the best way to protect those rights and interests and bring consistency to the exercise of discretion across courts.

Fiscal and Operational Impacts

The committees do not anticipate fiscal or operational impacts beyond the updating of systems to reflect the new form. By providing greater clarity and creating a process and form, the committees believe that this proposal will ultimately reduce contested motions.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 5.482 and 5.530, at pages 8–9
2. Form ICWA-042, at page 10

Rules 5.482 and 5.530 of the California Rules of Court would be amended, effective January 1, 2024, to read:

1 **Rule 5.482. Proceedings after notice**

2
3 (a)–(c) * * *

4
5 (d) **Intervention and tribal participation**

6
7 (1) When the Indian Child Welfare Act applies, the Indian child’s tribe and Indian
8 custodian are entitled to intervene, orally or in writing, at any point in the
9 proceedings. The tribe may, but is not required to, file with the court the *Notice*
10 *of Designation of Tribal Representative in a Court Proceeding Involving an*
11 *Indian Child* (form ICWA-040) to give notice of its intent to intervene.

12
13 (2) When the Indian Child Welfare Act does not apply, but there is discretion to
14 allow a tribe to participate in a juvenile case, the tribe may request permission
15 to participate in the proceedings using the *Request for Tribal Participation*
16 (form ICWA-042) and the court should exercise its discretion as follows:

17
18 (A) In cases involving an Indian child, the child’s tribe may request permission to
19 participate in the proceedings under section 346 or 676 of the Welfare and
20 Institutions Code. Consistent with sections 224 and 16001.9 of the Welfare
21 and Institutions Code, there is a presumption that the tribe has a direct and
22 legitimate interest in the proceedings under section 346 or 676 of the Welfare
23 and Institutions Code and the request should be approved absent a finding by
24 the court that the tribe’s participation would not assist the court in making
25 decisions that are in the best interest of the child.

26
27 (B) In a proceeding involving a child described by section 306.6 of the Welfare
28 and Institutions Code, the tribe from which the child is descended may request
29 permission to participate in the proceedings. Consistent with sections 224 and
30 16001.9 of the Welfare and Institutions Code, the request should be approved
31 absent a finding by the court that the tribe’s participation would not assist the
32 court in making decisions that are in the best interest of the child.

33
34 (C) When a child does not meet the definition of an Indian child but either of the
35 child’s parents is a member of a tribe and the tribe wishes to participate in
36 juvenile proceedings involving the child, the tribe may request permission to
37 participate in the proceedings under section 346 or 676 of the Welfare and
38 Institutions Code. Consistent with sections 224 and 16001.9 of the Welfare
39 and Institutions Code, there is a presumption that the tribe has a direct and
40 legitimate interest in the proceedings under section 346 or 676 of the Welfare
41 and Institutions Code and the request should be approved absent a finding by

1 the court that the tribe's participation would not assist the court in making
2 decisions that are in the best interest of the child.

3
4 (D) Upon approval of a request, although the tribe does not become a party, unless
5 the court orders otherwise, the tribe is authorized to:

6
7 (i) Be present at the hearing;

8
9 (ii) Address the court;

10
11 (iii) Request and receive notices of hearings;

12
13 (iv) Request to examine court documents relating to the proceeding;

14
15 (v) Present information to the court that is relevant to the proceeding;

16
17 (vi) Submit written reports and recommendations to the court; and

18
19 (vii) Perform other duties and responsibilities as requested or
20 approved by the court.

21
22 (e)–(g) * * *

23
24 **Rule 5.530. Persons present**

25
26 (a)–(f) * * *

27
28 **(g) Discretionary tribal participation (§§ 224, 306.6, 346, 676, 827, 16001.9)**

29
30 When a proceeding not governed by the Indian Child Welfare Act involves an
31 Indian child, a child descended from an Indian tribe, or a child described by section
32 306.6 of the Welfare and Institutions Code, a request by the child's tribe to
33 participate in the proceeding is governed by rule 5.482(d)(2).

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
REQUEST FOR TRIBAL PARTICIPATION	CASE NUMBER: RELATED CASES (if any):

TO ALL PARTIES:

1. The (name of tribe): _____ is a federally recognized tribe
 a tribe not recognized to have tribal status under federal law. (Welfare and Institutions Code section 306.6.)

2. The above named child or children are (select one):
 a. Members of the tribe;
 b. Eligible for membership in the tribe and the biological child of a member; or
 c. Otherwise affiliated with the tribe and considered members of the tribal community.

3. The tribe is (select one):
 a. requesting leave to participate in the proceedings involving an Indian child but to which ICWA does not apply. (Welfare and Institutions Code sections 346 and 676.)
 b. requesting leave to participate in the proceedings involving a child who would otherwise be an Indian child but for the status of the child's tribe. (Welfare and Institutions Code section 306.6.)
 c. requesting leave to participate in the proceedings involving a child who is affiliated with the tribe but does not meet the definition of an Indian child. (Welfare and Institutions Code sections 346 and 676.)

4. The tribe requests that notice of all proceedings be sent to:

Name:

Title:

Address:

City:

State:

Zip Code:

Telephone:

Fax:

Email:

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)