



# Judicial Council of California

Rules Committee

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[rulesmeetings@jud.ca.gov](mailto:rulesmeetings@jud.ca.gov)

## RULES COMMITTEE

### MINUTES OF OPEN VIDEOCONFERENCE MEETING

Thursday, March 13, 2025

12:10 p.m. – 1:10 p.m.

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<b>Rules Committee Members Present:</b>	Hon. Carin T. Fujisaki (Chair), Hon. Joan K. Irion (Vice-chair), Hon. Bunni O. Awoniyi, Ms. Kate Bieker, Hon. Charles S. Crompton, Hon. Ryan Davis, and Mr. Charles Johnson
<b>Rules Committee Members Absent:</b>	Hon. Khymberli S. Apaloo, Hon. Ricardo R. Ocampo, Mr. Craig M. Peters, and Mr. Maxwell Pritt
<b>Rules Committee Staff Present:</b>	Mr. James Barolo, Mr. Eric Long, and Ms. Benita Downs
<b>Advisory Bodies Chair(s) and Staff Present</b>	Eric Divine, Sarah Fleischer-Ihn, Jenny Grantz, Anne Hadreas, Frances Ho, Gabrielle Selden, Jamie Schechter, Tyler Shill, Laura Speed, Corby Sturges, and Jeremy Varon
<b>Other JC Staff Present</b>	Amber Barnett, Laura Brown, Marshall Comia, Jessica Devencenzi, Audrey Fancy, Michael Giden, Donna Ignacio, Stephanie Lacambra, Anna Maves, Kim Saskia, Christy Simons, Marymichael Smrdeli, and Greg Tanaka

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#### OPEN MEETING

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#### Call to Order and Roll Call

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

Approved minutes of the August 6, August 13, August 30, October 4, October 22, December 5, and December 19, 2024, meetings, and the January 8 and January 24, 2025, meetings.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 01–19)

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### EXECUTIVE AND PLANNING COMMITTEE

#### Judicial Council Report—Recommend Council Action

##### Item 01

#### Judicial Branch Education: Center for Judicial Education and Research Advisory Committee Name Change and Other Technical Amendments

The committee reviewed a recommendation from the Executive and Planning Committee that the Judicial Council amend 12 rules of court to change the name of the Center for Judicial Education and Research

Advisory Committee to the Center for Judicial Education and Resources Advisory Committee and make other technical amendments. The revised name adopts the recent name change of the Judicial Council's education office and more accurately reflects the work of the committee.

**Action: The committee unanimously approved the recommendation from the Executive and Planning Committee, which is to go to the Judicial Council for action at the April council meeting.**

## JUDICIAL BRANCH ADMINISTRATION

### Invitation to Comment–Recommend Circulation for Comment

#### Item 02/SP25-01

#### Judicial Branch Administration: Rule and Standard for Use of Generative Artificial Intelligence in Court-Related Work

The committee reviewed a proposal from the Artificial Intelligence Task Force that recommends adopting one rule and one standard to address the use of generative artificial intelligence for court-related work. The task force developed the proposal as part of its charge from the Chief Justice to oversee the development of policy recommendations on the use of artificial intelligence in the judicial branch.

**Action: The committee unanimously approved the proposal for circulation on a special cycle through April 17.**

### Judicial Council Report–Recommend Council Action

#### Item 03 (Jointly by the Court Executive Advisory Committee and the Information Technology Advisory Committee)

#### Judicial Branch Technology: Rules for Adoption of Technology and Data Security Guidelines

The committee reviewed a joint recommendation from the Court Executives Advisory Committee (CEAC) and the Information Technology Advisory Committee (ITAC) that the Judicial Council adopt one rule and amend one rule to create a process for adopting and revising technology and data security guidelines for the courts and the Judicial Council. The proposal originated with the Joint Information Security Governance Subcommittee, which reviews and recommends security-related guidelines, policies, and other proposals for action by ITAC and CEAC.

**Action: The committee unanimously approved the joint recommendation from CEAC and ITAC, which is to go to the Judicial Council for action at the April council meeting.**

## APPELLATE

### Judicial Council Report–Recommend Council Action

#### Item 04 (Jointly with the Civil and Small Claims Advisory Committee)

#### CEQA Actions: New Projects and Fees for Expedited Review

The committee reviewed a joint recommendation from the Appellate Advisory Committee and the Civil and Small Claims Advisory Committee that the Judicial Council amend eight rules of the California Rules of Court governing the expedited resolution of actions and proceedings brought under the California Environmental Quality Act. These amendments would implement recent legislation requiring inclusion of “environmental leadership media campus project” for streamlined review and specify the fees that applicants of this project type must pay to cover the costs of the trial and appellate courts in adjudicating challenges to those projects.

***Action: The committee unanimously approved the joint recommendation from the Appellate Advisory Committee and the Civil and Small Claims Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

## CIVIL AND SMALL CLAIMS

### Judicial Council Report—Recommend Council Action

#### Item 05

#### **Civil Practice and Procedure: Termination of Complex Coordination Proceedings and Actions**

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee that the Judicial Council amend rule 3.545 and adopt rule 3.546 to adjust court procedures for coordinated actions and coordination proceedings. The recommended rule amendment and new rule aim to address concerns that the existing rules on these matters are overly burdensome for courts and do not contain a process to terminate coordination proceedings.

***Action: The committee unanimously approved the recommendation from the Civil and Small Claim Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

## CRIMINAL

### Judicial Council Report—Recommend Council Action

#### Item 06

#### **Criminal Law: Felony Plea Form**

The committee reviewed a recommendation from the Criminal Law Advisory Committee that the Judicial Council revise *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101), to incorporate recent case law and legislation and clarify language about the factual basis for the plea.

***Action: The committee unanimously approved the recommendation from the Criminal Law Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**Item 07**

**Criminal Law: New Postconviction Retail Crime Restraining Order**

The committee reviewed a recommendation from the Criminal Law Advisory Committee that the Judicial Council adopt a new retail crime restraining order for court use, to implement new law (Penal Code section 490.8), which allows a court to prohibit a defendant convicted of specified offenses from entering the premises of a protected retail establishment for up to two years.

***Action: The committee unanimously approved the recommendation from the Criminal Law Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**FAMILY AND JUVENILE**

**Judicial Council Report–Recommend Council Action**

**Item 08**

**Juvenile Law: Restitution Orders**

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee that the Judicial Council revise the restitution order and instruction forms to delete joint and several liability for juvenile co-offenders, address restitution apportionment in juvenile court orders, and clarify the liability of who may be ordered to pay restitution in criminal and juvenile proceedings. In addition, the committee recommended revisions to allow for use of the order when a child under informal supervision has agreed to restitution.

***Action: The committee unanimously approved the recommendation from the Family and Juvenile Law Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**Item 09**

**Family Law: Technical Changes to Forms**

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee that the Judicial Council revise several forms by correcting clerical errors, updating references to state and federal codes, and making other minor changes to align the forms with statewide procedures. The technical changes will improve the accuracy of the forms and avoid causing confusion for court users, clerks, and judicial officers.

***Action: The committee unanimously approved the recommendation from the Family and Juvenile Law Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**Item 09B**

**Family Law: Summary Dissolution Forms**

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee that the Judicial Council revise two family law summary dissolution forms, which are mandated by Family Code section 2400 to reflect any increase in the California Consumer Price Index.

**Action: The committee unanimously approved the recommendation from the Family and Juvenile Law Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.**

**PROTECTIVE ORDERS**

**Judicial Council Report–Recommend Council Action**

**Item 10**

**Protective Orders: New Civil Retail Crime Restraining Order**

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee that the Judicial Council amend three rules of court, adopt six forms for mandatory use, and approve two information sheets in a new forms series to implement recent legislation creating a new restraining order based on two or more alleged acts of retail crime.

**Action: The committee unanimously approved the recommendation from the Family and Juvenile Law Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.**

**PROBATE AND MENTAL HEALTH**

**Judicial Council Report–Recommend Council Action**

**Item 11**

**Rules and Forms: Additional CARE Act Legislation Item 05**

The committee reviewed a recommendation from the Probate and Mental Health Advisory Committee that the Judicial Council amend three rules of court, adopt one form, approving two forms, revising three forms, adopting one standard of judicial administration, and renaming a title in the standards of judicial administration. These recommendations implement recent enacted legislation amending the Community Assistance, Recovery, and Empowerment (CARE) Act in Senate Bills 42 (Stats. 2024, ch.640), 1323 (Stats. 2024, ch. 646), and 1400 (Stats. 2024, ch. 647). The committee also recommended revisions to certain forms in response to feedback from members of the public regarding the forms' readability and ease of use.

**Action: The committee unanimously approved the recommendation from the Probate and Mental Health Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.**

**Item 12****Probate Conservatorship and Guardianship: Notice of Change of Residence and Notice of Death**

The committee reviewed a recommendation from the Probate and Mental Health Advisory Committee that the Judicial Council amend rule 7.1016 to conform to Senate Bill 654 (Stats. 2021, ch. 768, § 2), which amended Family Code section 3042 to place additional conditions on a minor child's participation in court or testimony in proceedings, including probate guardianships of the person, that address child custody or visitation. The committee also recommended amending the rule to conform more closely to statute by limiting its application to specified proceedings and expanding its protections to apply to wards who are parties, as well as to express its requirements more clearly.

***Action: The committee unanimously approved the recommendation from the Probate and Mental Health Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**Item 13****Decedents' Estates: Succession to Property of Small Value**

The committee reviewed a recommendation from the Probate and Mental Health Advisory Committee that the Judicial Council amend two rules and revise six forms to apply the new statutory requirements and update the rules and forms to conform to other amendments to the law, including the statutory authorization of electronic delivery of notices and other papers, subject to consent.

***Action: The committee unanimously approved the recommendation from the Probate and Mental Health Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**TRAFFIC****Judicial Council Report—Recommend Council Action****Item 14****Uniform Bail and Penalty Schedules: Miscellaneous Technical Changes to the 2025 Edition for Traffic, Boating, Forestry, Fish and Game, Public Utilities, Parks and Recreation, Business Licensing**

The committee reviewed a recommendation from the Traffic Advisory Committee that the Judicial Council adopt the Uniform Bail and Penalty Schedules, 2025 Edition (Revised): Traffic, Boating, Forestry, Fish and Game, Public Utilities, Parks and Recreation, Business Licensing to correct errors in the conviction assessment column for 32 offenses and to update the page numbers in the table of contents. These changes are technical, minor, and noncontroversial.

***Action: The committee unanimously approved the recommendation from the Traffic Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**Item 15****Rules and Forms: Miscellaneous Technical Changes to Traffic Form**

The committee reviewed a recommendation from the Traffic Advisory Committee that the Judicial Council revise *Officer's Declaration* (form TR-235) to incorporate a change resulting from legislation and to correct and update grammar and stylistic conventions on the form. These changes are technical, minor, and noncontroversial. The committee recommended making the necessary corrections to conform to statute and to ensure clarity for court users, clerks, and judicial officers.

***Action: The committee unanimously approved the recommendation from the Traffic Advisory Committee, which is to go to the Judicial Council for action at the April council meeting.***

**JUDICIAL COUNCIL STAFF TECHNICAL AMENDMENT****Judicial Council Report—Recommend Council Action****Item 16****Appellate Procedure: Certified Record in Capital Cases**

The committee reviewed a recommendation from Judicial Council staff that the Judicial Council amend the rule of court addressing the record in capital cases to reflect the Legislature's recent amendments to section 1218 to remove the requirement that a court transmit a complete transcript to the Governor in cases resulting in a judgment of death.

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

**Item 17****Protective Orders: Technical Change to Domestic Violence Form**

The committee reviewed a recommendation from Judicial Council staff that the Judicial Council revise one domestic violence restraining order form to correct a technical error and to make other minor corrections. The form's revisions will avoid confusion over the expiration date of the order.

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

**Item 18****Rules and Forms: Miscellaneous Technical Changes**

The committee reviewed a recommendation from Judicial Council staff to correct errors identified in rules and forms resulting from input errors, and minor changes needed to conform to changes in law or previous council actions. These changes are technical in nature and necessary to avoid causing confusion for court users, clerks, and judicial officers.

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

**Item 19/ Circulating Order**

**Civil Practice and Procedure: Adjustments to Dollar Amounts of Exemptions**

The committee reviewed a recommendation from Judicial Council staff that the Judicial Council revise two forms and amend Appendix B to fulfill the statutory mandates that requires the Judicial Council to periodically update certain rules and forms to reflect changes in the California Consumer Price Index.

**Action: The committee unanimously approved the recommendation from Judicial Council staff in the circulating order memorandum, which was circulated to the Judicial Council for action.**

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**I. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**The Next Rules Committee meeting will be held on: April 10, 2025.**

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**ADJOURNMENT**

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There being no further business, the meeting was adjourned at 1:12 p.m.

Approved by the committee on



## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

**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 rules 8.885 and 8.929

*Committee or other entity submitting the proposal:*  
Appellate Advisory Committee

*Staff contact (name, phone and email):* Jeremy Varon, 415-865-7424, [jeremy.varon@jud.ca.gov](mailto:jeremy.varon@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): October 22, 2024

Project description from annual agenda: Consider amending rules 8.885 and 8.929 in light of Code of Civil Procedure section 367.75 and rules 3.672 and 10.635, and to facilitate remote appearances. It is the understanding of the committee that efforts to facilitate remote appearances remain a priority for the judicial branch.

**Out of Cycle/Early Implementation:** *If requesting July 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 was deferred from the 2022-2023 annual agenda pending council rulemaking establishing standards for when a judicial officer may preside over a remote court proceeding other than a courtroom (Code of Civ. Proc., § 367.10). New rule 3.672 regarding such proceedings was adopted by the council effective August 4, 2024.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) March 5, 2025

approved by Office Director (or Designee) (name) Michael Giden  
on (date) March 25, 2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

SPR25-01

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Title	Action Requested
Appellate Procedure: Remote Appearances at Oral Argument in the Appellate Division	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 8.885 and 8.929	January 1, 2026
Proposed by	Contact
Appellate Advisory Committee	Jeremy T. Varon, 415-865-7424
Hon. Allison M. Danner, Chair	<a href="mailto:jeremy.varon@jud.ca.gov">jeremy.varon@jud.ca.gov</a>

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### 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 participation by both parties and appellate division judges. The current rules narrowly provide for videoconferencing at different courts to accommodate appellate division judges who would otherwise 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 participation. 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 current rules, which have not been amended since 2010, 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.

In August 2023, the Judicial Council amended rule 3.672 relating to remote appearances by parties in civil cases subject to Code of Civil Procedure section 367.75. In July 2024, the Judicial Council adopted rule 10.635, which prescribes when a judicial officer of a superior court may use remote technology to effectuate their own participation in a such a proceeding from a location other than a courtroom. These rules, however, do not apply to the appellate division of a superior court.

### **Prior Circulation**

An earlier version of this proposal was previously circulated for public comment in the spring 2023 cycle. At the same time, the Legislature had just passed a bill enacting Code of Civil Procedure section 367.10 requiring the Judicial Council to adopt rules for when a judicial officer may preside over a remote court proceeding from a location other than a courtroom.<sup>1</sup> The bill also amended section 367.75 and added section 367.76 related to remote appearances by parties in certain superior court civil proceedings. Based on these statutory changes, the council was considering rules for both remote appearances by parties in trial court civil proceedings and situations in which a trial court judicial officer may preside remotely in these proceedings (see rules 3.672 and 10.635 noted above). The Appellate Advisory Committee chose to defer action on the proposal at that time but instead revisit it after the council had acted on these other proposals relating to remote proceedings to ensure that any changes made to the appellate rules would not conflict with other rules.

### **The Proposal**

This proposal would replace the current provisions regarding videoconferencing for oral argument in appellate division proceedings with new provisions that more broadly authorize

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<sup>1</sup> Stats.2023, c. 34 (S.B.133), § 6, eff. June 30, 2023.

remote appearances by parties in the appellate division and remote participation in oral argument by appellate division judges. 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 current rules 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. 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 “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 would be required to be filed within 10 days after the court sends notice of oral argument.

Consistent with the new rules on remote appearances by parties in trial court civil proceedings, the proposed amendments to the rules for appellate division proceedings would provide that no party can be mandated to appear remotely. Any local rules would need to include procedures for self-represented litigants to agree to remote appearances and procedures for opting out of remote appearances. The proposed amendments also retain the requirement from the current videoconference rules that at least one of the judges hearing the oral argument must be present in the courtroom for the proceedings.

Provisions regarding fees again parallel those in rule 3.672 relating to remote appearances by parties in trial court proceedings. 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. Additionally, proceedings in the appellate division are limited to oral argument, which does not include factors weighing in favor of in-person proceedings, such as juries, witness testimony, evidentiary exhibits, or court reporters. Remote participation by judges is necessary in counties with insufficient numbers of judges to empanel a full bench for appellate division oral arguments and is practical and efficient even in large counties where appellate division panel judges may be

sitting in multiple and geographically distant court locations. Despite these changes, the proposed rule amendments maintain a requirement for public access to oral argument.

### **Alternatives Considered**

The committee considered simply repealing the outdated videoconferencing provisions in the current rules 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.

In addition, the committee considered amending the rules to include the same or similar provisions to those in rule 10.635 but concluded that the differences between trial and appellate proceedings necessitate different rules. For example, oral arguments do not involve juries, witness testimony, evidentiary exhibits, or court reporters. Further, the procedural needs for appellate division proceedings vary widely from county to county. For these reasons, the committee concluded that increased flexibility for remote appearances by parties and remote participation by judges

### **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?
- Given the difference in the nature of trial-level proceedings in the superior court and oral argument in the appellate division, is it appropriate for the appellate division rules to differ substantively from rule 10.635?
- Is it necessary to require that at least one of the judges hearing the oral argument be present in the courtroom for the proceedings?
- 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 6–14

Rules 8.885 and 8.929 of the California Rules of Court would be amended, effective January 1, 2026, 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 appellate division, any appeal may be  
10 placed on the 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) “Court facility” has the same meaning as that provided in Government**  
28                   **Code section 70301(d).**

29  
30                   **(B) “Party” is as defined in rule 1.6(15), meaning any person appearing in**  
31                   **an action and that person’s counsel.**

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

35  
36                   **(D) “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:**

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(A) It is ordered by the presiding judge of the appellate division or the presiding judge’s designee on application of any party or on the court’s own motion. 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 under (c). The court may not require a party to appear through remote technology; or

(B) A local rule authorizes remote appearances consistent with these rules, so long as the court procedure includes a process for self-represented parties to agree to their remote appearance and for parties to show why remote appearances should not be allowed.

(3) The appellate division must ensure that:

(A) Participants are identified when they speak; and

(B) Only persons who are authorized to participate in the proceedings speak.

(C) The oral argument must be open to the public at the superior court that issued the judgment or order that is being appealed. If provided by local rule or ordered by the presiding judge of the appellate division or the presiding judge’s designee, public access to oral argument may in addition be provided to the public through remote technology or at any of the locations from which a judge of the appellate division is participating in oral argument.

(4) Remote appearance fees

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

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

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

1 (ii) If a party, based on a fee waiver, receives remote appearance  
2 services under this rule without payment of a fee, the vendor or  
3 court that provides the remote appearance services has a lien on  
4 any judgment, including a judgment for costs, that the party may  
5 receive, in the amount of the fee that the party would have paid  
6 for the remote appearance. There is no charge for filing the lien.

7  
8 (5) Location of judicial officer

9  
10 A judicial officer may preside from the following locations:

11  
12 (A) In person from a courtroom;

13  
14 (B) Remotely from within a court facility other than a courtroom; or

15  
16 (C) Remotely from outside a court facility, with the approval of the court's  
17 presiding judge.

18  
19 (c) **Notice of argument**

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

27  
28 ~~(2) — If oral argument will be conducted by videoconference under (b), the clerk~~  
29 ~~must specify, either in the notice required under (1) or in a supplemental~~  
30 ~~notice sent to all parties at least 5 days before the date for oral argument, the~~  
31 ~~location from which each judge of the appellate division panel assigned to the~~  
32 ~~case will participate in oral argument.~~

33  
34 (d)–(e) \* \* \*

35  
36 **Advisory Committee Comment**

37  
38 **Subdivision (a).** \* \* \*

39  
40 **Subdivision (b)(4).** Statutes currently provide that courts are not to charge fees to certain types of  
41 parties, such as governmental entities; representatives of tribes in cases covered by the Indian  
42 Child Welfare Act; and parties in certain types of cases, such as juvenile cases or actions to

1 prevent domestic violence. This rule would preclude courts from charging videoconference fees  
2 to such parties as well.

3  
4  
5 **Rule 8.929. Oral argument**

6  
7 **(a) Calendaring and sessions**

8  
9 Unless otherwise ordered, all appeals in which the last reply brief was filed or the  
10 time for filing this brief expired 45 or more days before the date of a regular  
11 appellate division session must be placed on the calendar for that session by the  
12 appellate division clerk. By order of the presiding judge or the appellate division,  
13 any appeal may be placed on the calendar for oral argument at any session.

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 of~~  
37 ~~the parties must appear at oral argument in person at the superior court~~  
38 ~~that 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~~  
43 ~~presiding judge's designee, oral argument may also be open to the~~

1 public at any of the locations from which a judge of the appellate  
2 division is participating in oral argument.

3  
4 ~~(D) — The appellate division must ensure that:~~

5  
6 ~~(i) — During oral argument, the participants in oral argument are~~  
7 ~~visible and their statements are audible to all other participants,~~  
8 ~~court staff, and any members of the public attending the oral~~  
9 ~~argument;~~

10  
11 ~~(ii) — Participants are identified when they speak; and~~

12  
13 ~~(iii) — Only persons who are authorized to participate in the proceedings~~  
14 ~~speak.~~

15  
16 ~~(E) — A party must not be charged any fee to participate in oral argument by~~  
17 ~~videoconference if the party participates from the superior court that~~  
18 ~~issued the judgment or order that is being appealed or from a location~~  
19 ~~from which a judge of the appellate division panel is participating in~~  
20 ~~oral argument.~~

21  
22 **(b) Remote appearance**

23  
24 **(1) Definitions**

25  
26 (A) “Court facility” has the same meaning as that provided in Government  
27 Code section 70301(d).

28  
29 (B) “Party” is as defined in rule 1.6(15), meaning any person appearing in  
30 an action and that person’s counsel.

31  
32 (C) “Remote appearance” or “appear remotely” means the appearance of a  
33 party at oral argument through the use of remote technology.

34  
35 (D) “Remote technology” means technology that provides for the  
36 transmission of video and audio signals or audio signals alone. This  
37 phrase is meant to be interpreted broadly and includes a computer,  
38 tablet, telephone, cellphone, or other electronic or communications  
39 device.

40  
41 (2) Oral argument may be conducted in whole or in part through the use of  
42 remote technology if:

1 (A) It is ordered by the presiding judge of the appellate division or the  
2 presiding judge's designee on application of any party or on the court's  
3 own motion. An application from a party requesting to appear remotely  
4 at oral argument must be filed within 10 days after the court sends  
5 notice of oral argument under (c). The court may not require a party to  
6 appear through remote technology; or

7  
8 (B) A local rule authorizes remote appearances consistent with these rules,  
9 so long as the court procedure includes a process for self-represented  
10 parties to agree to their remote appearance and for parties to show why  
11 remote appearances should not be allowed.

12  
13 (3) The appellate division must ensure that:

14  
15 (A) Participants are identified when they speak; and

16  
17 (B) Only persons who are authorized to participate in the proceedings  
18 speak.

19  
20 (C) The oral argument must be open to the public at the superior court that  
21 issued the judgment or order that is being appealed. If provided by local  
22 rule or ordered by the presiding judge of the appellate division or the  
23 presiding judge's designee, public access to oral argument may in  
24 addition be provided to the public through remote technology or at any  
25 of the locations from which a judge of the appellate division is  
26 participating in oral argument.

27  
28 (4) Remote appearance fees

29  
30 (A) Parties who, by statute, are not charged filing fees or fees for court  
31 services may not be charged a videoconference fee under Government  
32 Code section 70630 or otherwise.

33  
34 (B) Parties with a fee waiver may not be charged fees for remote  
35 appearances.

36  
37 (i) To obtain remote appearance services without payment of a fee  
38 from a vendor or a court that provides such services, a party must  
39 advise the vendor or the court that they have received a fee  
40 waiver from the court. If a vendor requests, the party must  
41 transmit a copy of the order granting the fee waiver to the vendor.  
42

1 (ii) If a party, based on a fee waiver, receives remote appearance  
2 services under this rule without payment of a fee, the vendor or  
3 court that provides the remote appearance services has a lien on  
4 any judgment, including a judgment for costs, that the party may  
5 receive, in the amount of the fee that the party would have paid  
6 for the remote appearance. There is no charge for filing the lien.

7  
8 (5) Location of judicial officer

9  
10 A judicial officer may preside from the following locations:

11  
12 (A) In person from a courtroom;

13  
14 (B) Remotely from within a court facility other than a courtroom; or

15  
16 (C) Remotely from outside a court facility, with the approval of the court's  
17 presiding judge.

18  
19 (c) **Notice of argument**

20  
21 (1) As soon as all parties' briefs are filed or the time for filing these briefs has  
22 expired, the appellate division clerk must send a notice of the time and place of  
23 oral argument to all parties. The notice must be sent at least 20 days before the date  
24 for oral argument. The presiding judge may shorten the notice period for good  
25 cause; in that event, the clerk must immediately notify the parties by telephone or  
26 other expeditious method.

27  
28 ~~(2) — If oral argument will be conducted by videoconference under (b), the clerk~~  
29 ~~must specify, either in the notice required under (1) or in a supplemental~~  
30 ~~notice sent to all parties at least 5 days before the date for oral argument, the~~  
31 ~~location from which each judge of the appellate division panel assigned to the~~  
32 ~~case will participate in oral argument.~~

33  
34 (d)–(e) \* \* \*

35  
36 **Advisory Committee Comment**

37  
38 **Subdivision (a).** \* \* \*

39  
40 **Subdivision (b)(4).** Statutes currently provide that courts are not to charge fees to certain types of  
41 parties, such as governmental entities; representatives of tribes in cases covered by the Indian  
42 Child Welfare Act; and parties in certain types of cases, such as juvenile cases or actions to

- 1 prevent domestic violence. This rule would preclude courts from charging videoconference fees
- 2 to such parties as well.



## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Appellate Procedure: Extension of Time in Misdemeanor and Infraction Appeals

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Approve form CR-127

*Committee or other entity submitting the proposal:*  
Appellate Advisory Committee

*Staff contact (name, phone and e-mail):* Jeremy Varon, 415-865-7424, [jeremy.varon@jud.ca.gov](mailto:jeremy.varon@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): October 22, 2024

Project description from annual agenda: Consider development of a new form to apply for an extension of time to file a brief in misdemeanor and infraction appeals. This proposal is part of the committee's consideration of the following recommendation of the Appellate Caseload Workgroup referred to the Appellate Advisory Committee by the Executive and Planning Committee:

Consider amending the rules of court to require litigants who request extensions of time without using the council's optional forms to include in their request some or all of the information contained on the request forms, or making the request forms (forms APP-006, APP-106, CR-126, JV-816, and JV-817) mandatory. The workgroup encouraged the council to consider requiring litigants to provide certain information in extension of time requests to enable courts to better evaluate whether the moving party has demonstrated good cause.

**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 was deferred from last year's annual agenda to include infraction appeals in addition to misdemeanor appeals on the new form. The other parts of the recommendation have already been completed.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)  
This report or invitation to comment was
  - reviewed by EGG on (date) February 18, 2025
  - approved by Office Director (or Designee) (name) Michael Giden on (date) March 10, 2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

### SPR25-02

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Title	Action Requested
Appellate Procedure: Extension of Time in Misdemeanor and Infraction Appeals	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve form CR-127	January 1, 2026
Proposed by	Contact
Appellate Advisory Committee Hon. Allison M. Danner, Chair	Jeremy T. Varon, 415-865-7424 <a href="mailto:jeremy.varon@jud.ca.gov">jeremy.varon@jud.ca.gov</a>

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### Executive Summary and Origin

The Appellate Advisory Committee proposes approving a new form for requesting extensions of time to file a brief in misdemeanor and infraction appeals. This proposal originated with a suggestion from the former Chief Justice’s Appellate Caseflow Workgroup and a committee member.

### Background

The Appellate Advisory Committee previously circulated proposed *Application for Extension of Time to File Brief—Misdemeanor Case* (form CR-127) for public comment in spring 2024 as part of a proposal that included the amendment of other related rules and forms.<sup>1</sup>

In that invitation to comment the committee proposed that the Judicial Council’s extension-of-time forms be mandatory. Mandating the use of these forms was intended to help ensure that all extension-of-time requests contain the information the reviewing court needs to determine whether the requested extension is supported by good cause. Such a requirement would also ensure that this information is provided in a consistent, easy-to-read format.

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<sup>1</sup> See SPR24-02, *Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time*, [courts.ca.gov/system/files/itc/spr24-02.pdf](http://courts.ca.gov/system/files/itc/spr24-02.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.*

Comments received on the previously circulated proposal, however, differed on whether the extension-of-time forms should be mandatory. In light of these comments, the committee concluded that keeping these forms optional will help ensure that all parties are able to efficiently access the courts to request an extension of time to file a brief without encountering technology-based problems or inconveniences, and optional forms will help ensure that otherwise valid requests for extensions of time will not be rejected simply because the form was not used. Accordingly, the committee decided not to recommend that the council's extension-of-time forms be made mandatory.

While the other related rules and forms in the proposal were amended by the council and remained optional, the committee chose to reconsider proposed form CR-127. The initial version of proposed form CR-127 was limited to misdemeanor appeals, but a public comment suggested that the form also include infraction appeals. Based on this suggestion, the committee chose to recirculate the form with that addition. Further, in keeping with the council's decision to keep other extension-of-time forms optional, the committee proposes that new form CR-127 also be optional.

### **The Proposal**

Currently, there is no council form by which the parties in a misdemeanor or infraction appeal, which are heard in the appellate division of the superior court, can request an extension of time to file their briefs. *Application for Extension of Time to File Brief—Criminal Case* (form CR-126), while applicable in criminal appeals, is formatted for use in the Court of Appeal. On the other hand, while *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106) is formatted for use in the appellate division, it is applicable only in limited civil appeals. The committee therefore proposes the adoption of a new form, *Application for Extension of Time to File Brief—Misdemeanor or Infraction Case* (form CR-127). This form is substantively similar to form CR-126 but employs the council's plain language form format because there is no right to counsel in misdemeanor or infraction appeals, and many appellants in these matters accordingly are self-represented.

### **Alternatives Considered**

The committee considered not proposing the adoption of a new form for requesting extensions of time to file a brief in misdemeanor and infraction appeals but rejected this option because the proposal would aid appellate efficiency. The committee also considered including sections about the defendant's conviction but decided against this because courts do not use this information in deciding whether or not to grant an extension of time.

### **Fiscal and Operational Impacts**

The committee anticipates minimal fiscal or operational impacts on the courts as a result of the proposed new form. This form could, in fact, improve and make operations more efficient by providing courts with a standardized way of processing a routine request. Implementation by the courts would involve making litigants, court staff, and judicial officers aware of 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?

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 two 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-127, at pages 4–5

**Application for Extension of Time to File Brief—Misdemeanor or Infraction Case**

Clerk stamps date here when form is filed.

**DRAFT  
3/3/2025  
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 **misdemeanor or infraction case**. Note that any rules referenced in this form are from the California Rules of Court.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#)) or *Information on Appeal Procedures for Infractions* (form [CR-141-INFO](#)) to know your rights and responsibilities. You can get form CR-131-INFO and CR-141-INFO at any courthouse or county law library or online at [courts.ca.gov/rules-forms/find-your-court-forms](https://courts.ca.gov/rules-forms/find-your-court-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 Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/court-basics/service](https://selfhelp.courts.ca.gov/court-basics/service).
- 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: \_\_\_\_\_

Mailing address (*if different*): \_\_\_\_\_  
Street City State ZipMailing 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: \_\_\_\_\_

Mailing address (*if different*): \_\_\_\_\_  
Street City State ZipMailing 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): \_\_\_\_\_ for a total extension of (number of days sought): \_\_\_\_\_ days.

4 I have received a default notice under rule 8.882(c) or 8.927(b).  Yes  No

5 The time to file the brief (check all that apply):

- Has not been extended before.
- Has been extended before by the court. The court granted (number of extensions) \_\_\_\_\_ totaling (number of days) \_\_\_\_\_

Did the court mark any previous extension “no further”?  Yes  No

6 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): \_\_\_\_\_

7 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):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write “Attachment 6” for a title. You may use form APP-031A.

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of party or attorney

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

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Rules and Forms: Comprehensive Adjudications of Groundwater Rights

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Amend rule 3.400; adopt rule 10.640

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

*Staff contact (name, phone and email):* Jeremy Varon, 415-865-7424, [jeremy.varon@jud.ca.gov](mailto:jeremy.varon@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): October 22, 2024

Project description from annual agenda: Develop rule and form recommendations as appropriate. Code of Civil Procedure section 838 requires the Chair of the Judicial Council to assign a judge in a comprehensive adjudication of a groundwater basin. Rule amendments to rule 3.400 and form revisions to form CM-010 to implement the statute may be beneficial.

**Out of Cycle/Early Implementation:** *If requesting July 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.)  
Revisions to form CM-010 are included in a separate joint proposal with the Court Executives Advisory Committee.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) March 5, 2025

approved by Office Director (or Designee) (name) Michael Giden  
on (date) March 26, 2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

**SPR25-03**

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Title	Action Requested
Rules and Forms: Comprehensive Adjudications of Groundwater Rights	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 3.400; adopt rule 10.640	January 1, 2026
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	Jeremy T. Varon, 415-865-7424 <a href="mailto:jeremy.varon@jud.ca.gov">jeremy.varon@jud.ca.gov</a>

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending the rule that designates certain case types as provisionally complex to include comprehensive groundwater adjudications, along with adopting a rule setting out the procedure by which the presiding judge of the court of a county overlying the groundwater basin at issue can request that the Chair of the Judicial Council assign a judge to adjudicate the dispute. These changes are to conform the rules to Code of Civil Procedure section 838 (section 838).

### Background

The Legislature passed the Sustainable Groundwater Management Act (SGMA) in 2014, setting forth a framework to protect the state's groundwater resources, the state's largest form of water storage. SGMA adopted the Department of Water Resources' Bulletin 118, which identifies 515 alluvial groundwater basins in California and designates each basin as high, medium, low, or very low priority.<sup>1</sup> For the high and medium priority groundwater basins, SGMA requires local authorities to form groundwater sustainability agencies, which develop and implement groundwater sustainability plans.

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<sup>1</sup> *California's Groundwater* (Bulletin 118), <https://water.ca.gov/programs/groundwater-management/bulletin-118>.

*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.*

Following the passage of SGMA, the Legislature passed Assembly Bill 1390 (Stats. 2015, ch. 672), which set out a framework for the adjudication of disputes related to rights under SGMA. AB 1390 added Code of Civil Procedure section 838, which provides that a judge is disqualified from adjudicating disputes that involve any basin underlying the county of the judge's court. In such situations, section 838 requires the Chairperson of the Judicial Council to assign a judge to preside over the proceeding. Unlike some other statutory schemes,<sup>2</sup> however, AB 1390 did not specify how the court would notify the Chairperson of the disqualification requiring assignment of another judge. This proposal is intended to provide an appropriate process.

## **The Proposal**

This proposal seeks amendments to the California Rules of Court to address procedures for the administration of complaints filed to comprehensively adjudicate groundwater rights under section 838. The proposed amendment to rule 3.400 is intended to address section 838(b), which provides that: "A comprehensive adjudication is presumed to be a complex action under Rule 3.400 of the California Rules of Court." New rule 10.640 is intended to address section 838(a)(1) by providing a process for requesting judicial assignments in comprehensive groundwater adjudications where the court in which the action was filed is disqualified because it overlies at least a portion of the groundwater basin at issue. Amending rule 3.400 and adopting a new rule (10.640) will improve the administration of complaints filed for comprehensive groundwater adjudications under section 838.<sup>3</sup>

### **Rule 3.400 amendment**

Rule 3.400(c) lists types of claims that are considered provisionally complex. The proposed amendment to rule 3.400 adds comprehensive adjudications of groundwater rights as one of the types of claims provisionally designated as complex. The committee decided that the best location in the rule to add this claim type is immediately following "Environmental or toxic tort claims involving many parties" (subdivision (c)(3)) because comprehensive adjudications of groundwater rights are similar to environmental claims involving many parties. In the separate joint proposal to amend *Civil Case Cover Sheet* (form CM-010), a checkbox labeled "Comprehensive groundwater adjudication" is similarly added immediately following the "Environmental/Toxic tort" case type in the Provisionally Complex Civil Litigation category in item 1 on the form.

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<sup>2</sup> For example, Code of Civil Procedure section 404.3 relating to coordination of complex actions, provides that the judge who determines that coordination is appropriate is the individual responsible for reporting that fact to the Chairperson of the Judicial Council.

<sup>3</sup> The Civil and Small Claims Advisory Committee is separately proposing amendments to *Civil Case Cover Sheet* (form CM-010) to reflect the proposed change to rule 3.400 in a joint proposal with the Court Executives Advisory Committee (see SPR25-04, *Rules and Forms: New Case Categories for Civil Case Cover Sheet*, [courts.ca.gov/policy-administration/invitations-comment](https://courts.ca.gov/policy-administration/invitations-comment)).

### **Rule 10.640 adoption**

The proposed rule will establish a process by which the Chair of the Judicial Council is notified of a disqualification in a comprehensive adjudication of groundwater rights. It will provide clear direction to a presiding judge who is made aware that section 838(a)(1) applies to a specific comprehensive groundwater adjudication while allowing each superior court the flexibility to create its own internal process for how the presiding judge is made aware that the court is subject to disqualification.

Because the Chair of the Judicial Council already has an existing process for receiving requests for judicial assignments through the Temporary Assigned Judges Program (TAJP), a portal with which superior courts are already familiar, the proposed rule would require using the same staff and portal for receiving requests for judicial assignments for comprehensive adjudications of groundwater rights. To ensure that TAJF staff receiving the request know how to handle comprehensive adjudications of groundwater rights, the proposed rule requires that the request from the presiding judge “[i]ndicate that the request is for ‘Comprehensive groundwater adjudication assignment pursuant to Code of Civil Procedure section 838(a)(1).’”

### ***Advisory Committee Comment***

Because the proposed rule would be the first rule for comprehensive adjudications of groundwater rights, the committee proposes including clarifications about the administration of this type of adjudication. These clarifications include that the rules for the assignment of judges in Coordination of Complex Actions (title 3, division 4, chapter 7) do not apply to comprehensive adjudications of groundwater rights because section 838(a)(1) requires that such an assignment be made by the Chair of the Judicial Council.

### **Alternatives Considered**

The committee did not consider the alternative of not amending rule 3.400 because the rule would be incomplete if it did not include comprehensive groundwater adjudications, which are deemed provisionally complex under section 838. The committee did consider the alternative of not adopting rule 10.640 but concluded that the new rule would assist courts by specifying who could make a request for a judicial assignment and to whom that request would be submitted. The committee considered placing the rule in Title 3 (Civil Rules), where other rules on complex cases are located, rather than Title 10 (Judicial Administration), but decided that it was directed primarily to judges and not to litigants. Based on this, the committee concluded that the subject of the rule fits more squarely under the umbrella of judicial administration than civil rules.

### **Fiscal and Operational Impacts**

The proposed amendment to rule 3.400 would require minimal additional resources for the courts or the Judicial Council because the revision reflects a statutory requirement that has been in place since 2016. The proposed adoption of rule 10.640 would also require minimal additional resources because the new process uses an existing mechanism and does not necessitate any significant modification to that mechanism.

### **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 Title 10, relating to judicial administration, be the appropriate location for the proposed new rule or would Title 3, where other rules on complex civil case are located, be more appropriate?

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 two 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 3.400 and 10.640, at pages 5–6
2. Link A: Code Civ. Proc., § 838,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CCP&sectionNum=838](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=838)

Rule 3.400 would be amended and rule 10.640 would be adopted, effective January 1, 2026, to read:

**Title 3. Civil Rules**

**Division 4. Parties and Actions**

**Chapter 5. Complex Cases**

**Rule 3.400. Definition**

**(a)–(b) \*\*\***

**(c) Provisional designation**

Except as provided in (d), an action is provisionally a complex case if it involves one or more of the following types of claims:

- (1) Antitrust or trade regulation claims;
- (2) Construction defect claims involving many parties or structures;
- (3) Securities claims or investment losses involving many parties;
- (4) Environmental or toxic tort claims involving many parties;
- (5) Comprehensive adjudications of groundwater rights;
- ~~(5)(6)~~ Claims involving mass torts;
- ~~(6)(7)~~ Claims involving class actions; or
- ~~(7)(8)~~ Insurance coverage claims arising out of any of the claims listed in (c)(1) through (c)(6).

**(d) \*\*\***

1 Title 10. Judicial Administration Rules

2  
3 Division 4. Trial Court Administration

4  
5 Chapter 1. General Rules on Trial Court Management

6  
7 **Rule 10.640. Requesting assignment of judge when a comprehensive groundwater**  
8 **adjudication is filed in a court overlying the groundwater basin at issue**

9  
10 If a comprehensive adjudication of groundwater rights under Code of Civil Procedure section  
11 833 is filed in the superior court of a county that overlies any portion of the groundwater basin at  
12 issue, the presiding judge of that court must:

- 13  
14 (1) Submit a request for judicial assignment to the Temporary Assigned Judges  
15 Program; and  
16  
17 (2) Indicate that the request is for “Comprehensive groundwater adjudication assignment  
18 under Code of Civil Procedure section 838(a)(1).”

19  
20 **Advisory Committee Comment**

21  
22 Under Code of Civil Procedure section 838(a)(1), a judge of a superior court of a county that overlies all  
23 or any portion of the groundwater basin at issue in the comprehensive adjudication is disqualified, and the  
24 Chair of the Judicial Council must assign a judge to preside over the proceedings. In such circumstances,  
25 only a presiding judge may submit a request for assignment of a new judge under section 838(a)(1). If the  
26 complaint is filed in the superior court of a county not overlying any portion of the groundwater basin at  
27 issue, the judges of that court are not disqualified under section 838(a)(1), and a presiding judge has no  
28 basis to request that the Chair of the Judicial Council assign a judge to preside in the action under that  
29 section. The definitions in Code of Civil Procedure section 832 apply to this rule. A comprehensive  
30 adjudication of groundwater rights is presumed to be a “complex case” under rule 3.400 of the California  
31 Rules of Court, but because the underlying statutes differ concerning assignment of judges, the rules for  
32 assignment of judges in Coordination of Complex Actions (title 3, division 4, chapter 7) do not apply to  
33 such adjudications.

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Rules and Forms: New Case Categories for Civil Case Cover Sheet

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Revise Civil Case Cover Sheet (form CM-010)

*Committee or other entity submitting the proposal:*  
Civil and Small Claims Advisory Committee & Court Executives Advisory Committee

*Staff contact (name, phone and email):* Jeremy Varon, 415-865-7424, [jeremy.varon@jud.ca.gov](mailto:jeremy.varon@jud.ca.gov)  
Paarth Malkan, 415-865-7588, [paarth.malkan@jud.ca.gov](mailto:paarth.malkan@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): CEAC annual agenda approved by Executive and Planning Committee on December 5, 2024; CSCAC annual agenda approved by Rules Committee on October 22, 2024  
Project description from annual agenda: Updating the Civil Case Cover Sheet (CM-010) to Reflect JBSIS 4.0 (one-time): To reflect the approved JBSIS 4.0 elements in the Civil Case Cover Sheet, the JBSIS Subcommittee will review and propose a change to the Civil Case Cover Sheet. Form revisions to form CM-010 to implement the groundwater adjudication statute may be beneficial.

**Out of Cycle/Early Implementation:** *If requesting July 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.)  
Amendment to rule 3.400 are included in a separate proposal.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)  
This report or invitation to comment was:  
 reviewed by EGG on (date) March 5, 2025  
 approved by Office Director (or Designee) (name) Leah Rose-Goodwin, Michael Giden on (date) March 25, 2025  
*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

**SPR25-04**

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Title	Action Requested
Rules and Forms: New Case Categories for <i>Civil Case Cover Sheet</i>	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend form CM-010	January 1, 2026
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	Jeremy Varon, 415-865-7424 jeremy.varon@jud.ca.gov
Court Executives Advisory Committee Mr. Darrel E. Parker, Chair	Paarth Malkan, 415-865-7588 paarth.malkan@jud.ca.gov

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee and Court Executives Advisory Committee jointly propose adding new case categories and case types to *Civil Case Cover Sheet* (form CM-010). The addition of the comprehensive groundwater adjudication case type is to be consistent with Code of Civil Procedure section 838(b) and the concurrent amendment to rule 3.400. The addition of the Asbestos and Employment Development Department (EDD) case categories will fulfill new data reporting requirements in an upcoming version of the Judicial Branch Statistical Information System (JBSIS) and eliminate manual data reporting by courts.

### Background

*Civil Case Cover Sheet* (form CM-010) requires parties to select the case type that best describes the instant case. Case types are listed under 12 case categories.<sup>1</sup>

One of these case categories is “Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403).” Code of Civil Procedure section 838 sets out requirements for certain

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<sup>1</sup> For the purposes of this proposal, the categories on *Civil Case Cover Sheet* will be referred to as “case categories,” and the case types with checkboxes within the case categories will be referred to as “case types.”

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actions relating to groundwater rights. Subdivision (b) of that section states: “A comprehensive adjudication is presumed to be a complex action under Rule 3.400 of the California Rules of Court.” However, such comprehensive groundwater adjudications are not currently listed under the provisionally complex civil litigation category on *Civil Case Cover Sheet*.

JBSIS is a system used to collect statistical information for each major case processing area of trial courts. The Court Executives Advisory Committee oversees JBSIS and periodically updates data reporting requirements to conform with changes in the law or to align reporting with workload models based on filings data. In July 2022, the Judicial Council approved the Court Executives Advisory Committee’s proposal<sup>2</sup> to update data reporting standards from JBSIS version 3.0 to the upcoming 4.0. The updates include adding Asbestos and EDD as new case types to the Civil Limited and Civil Unlimited reports.

Currently, *Civil Case Cover Sheet* includes “Asbestos” as a case type under the “Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort” case category, and EDD cases fall under the “Other employment” case type within the “Employment” case category. However, JBSIS does not capture those specific data points because it maps to the case categories from form CM-010, not the case types. Given this limitation, Judicial Council staff manually collects this data annually from courts for use in the Resource Assessment Study and the Judicial Needs Assessment.

## **The Proposal**

The Civil and Small Claims Advisory Committee and Court Executives Advisory Committee propose the addition of two new case categories and three new case types to *Civil Case Cover Sheet* (form CM-010) both to ensure consistent data reporting standards across *Civil Case Cover Sheet* and JBSIS 4.0 and to conform the rule to statute. Additionally, some minor technical changes were made as indicated in highlights on the attachment.

### **Comprehensive groundwater adjudication**

As indicated above, one case category on *Civil Case Cover Sheet* is “Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403).” The case types listed in this case category reflect the types of cases that receive a provisional designation of complex under rule 3.400(c). As also indicated above, Code of Civil Procedure section 838 provides that comprehensive groundwater adjudications are presumed to be complex under rule 3.400.

Accordingly, the Civil and Small Claims Advisory Committee is separately proposing amending rule 3.400(c) to reflect this change in the law by adding comprehensive groundwater adjudication to the list of case types in that rule that are provisionally designated as complex.<sup>3</sup> Consistent with

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<sup>2</sup> Judicial Council of Cal., Advisory Com. Rep., *Judicial Branch: Revisions to the Judicial Branch Statistical Information System (JBSIS)* (June 24, 2022), <https://jcc.legistar.com/View>.

<sup>3</sup> See SPR25-03, *Rules and Forms: Comprehensive Adjudications of Groundwater Rights*, <https://courts.ca.gov/policy-administration/invitations-comment>.

that proposal, the committees propose revising *Civil Case Cover Sheet* to reflect the provisional designation of such cases as complex.

### **Asbestos and Employment Development Department**

The Court Executives Advisory Committee recommends adding Asbestos and EDD as distinct case categories on *Civil Case Cover Sheet*. This will enable JBSIS 4.0 to collect these data points and eliminate the need for additional manual data reporting by court staff.

The addition of these new case categories would also require case-type checkboxes for each case category to maintain consistent formatting within *Civil Case Cover Sheet*. The case type for the EDD case category is “EDD decision review,” and the asbestos case type is “Asbestos.” Although the asbestos case category and case type share the same title, the form already employs this nomenclature for the “Enforcement of Judgment” case category, which shares a title with its case type. Accordingly, the committees propose revising *Civil Case Cover Sheet* to add “Asbestos” and “Employment Development Department (EDD)” as separate case categories, add “Asbestos” and “EDD decision review” as case types under the respective case category, and remove the “Asbestos” case type from the “Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort” case category.

### **Number code corresponding to case type**

Next to each case type on *Civil Case Cover Sheet*, there is a corresponding parenthetical two-digit numerical code from 01 to 46. It appears that these numbers originated from a 1996 version of the form (then titled form 982.2) in which case types were listed in alphabetical order with a preceding number from 01 to 34. In that version of the form, parties were instructed to write the corresponding number in a box at the top of the section instead of checking a box next to the selected case type, as the current form instructs. In subsequent versions of the form, the case types were rearranged by subject matter, but the corresponding number was maintained from the original form. Although JBSIS does not use these numerical codes, some individual courts use them internally.

In 2003, the council adopted a new case type on *Civil Case Cover Sheet* for uninsured motorist cases.<sup>4</sup> This case type was given the next-in-line number, 46.<sup>5</sup> To conform with this practice, the Civil and Small Claims Advisory Committee and the Court Executives Advisory Committee propose that the comprehensive groundwater adjudication case type be assigned number 47, the asbestos case type retain its assigned number 04, and the Employment Development Department case type be assigned number 48.

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<sup>4</sup> Judicial Council of Cal., Advisory Com. Rep., *Civil Case Cover Sheet* (Apr. 2, 2003).

<sup>5</sup> *Ibid.*

## **Alternatives Considered**

Because the additions to *Civil Case Cover Sheet* are required for the form to serve its purpose of accurately reporting case types and to streamline data reporting under the new standard, the committees did not consider the alternative of no form amendment.

## **Fiscal and Operational Impacts**

The committees anticipate that this proposal could require training for court staff and judicial officers, but any such training would already have been required to implement the statutory requirement that comprehensive groundwater adjudications be presumed complex under rule 3.400. The addition of the asbestos and EDD case categories would eliminate the need for manual data reporting by court staff, reducing operational demands.

Additionally, amendment of *Civil Case Cover Sheet* would require coordination between the Judicial Council, the courts, and case management system (CMS) vendors to ensure that the new case categories are correctly mapped in the CMS and the new case categories are configured in Judicial Council data reporting. Any changes required in the CMS for asbestos and EDD data reporting would be integrated into the implementation of JBSIS 4.0. Courts will likely incur costs to incorporate the revised forms into paper or electronic processes.

### **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?
- Does any court or justice partner use the parenthetical number next to each case category?

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 two 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 CM-010, at pages 6–8

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  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b> <b>2025-03-07</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
<b>CIVIL CASE COVER SHEET</b> <input type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$35,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$35,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER:  JUDGE: DEPT.:

*Items 1–6 below must be completed (see instructions on page 2).*

1. Check **one** box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Asbestos</b> <input type="checkbox"/> Asbestos (04) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/Unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) <b>Employment Development Department (EDD)</b> <input type="checkbox"/> EDD decision review (48)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Comprehensive groundwater adjudication (47) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. Is this case complex under rule 3.400 of the California Rules of Court?  Yes  No

If the case is complex, mark the factors requiring exceptional judicial management:

- a.  Large number of separately represented parties
- b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c.  Substantial amount of documentary evidence
- d.  Large number of witnesses
- e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply):

- a.  monetary
- b.  nonmonetary; declaratory or injunctive relief
- c.  punitive

4. Number of causes of action (specify):

5. Is this case a class action suit?  Yes  No

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.



## CASE TYPES AND EXAMPLES

**Auto Tort**

Auto (22)—Personal Injury/Property Damage/  
Wrongful Death  
Uninsured Motorist (46) *(if the case involves  
an uninsured motorist claim subject to  
arbitration, check this item instead of Auto)*

**Asbestos**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death

**Other PI/PD/WD (Personal Injury/****Property Damage/Wrongful Death) Tort**

Product Liability *(not asbestos or toxic/  
environmental)* (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians &  
Surgeons  
Other Professional Health Care  
Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g.,  
assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest)  
*(not civil harassment)* (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice *(not  
medical or legal)*  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract *(not  
unlawful detainer or wrongful eviction)*  
Contract/Warranty Breach—Seller Plaintiff  
*(not fraud or negligence)*  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book  
accounts) (09)  
Collections Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage *(not provisionally  
complex)* (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property *(not eminent  
domain, landlord-tenant, or  
foreclosure)*

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) *(if the case involves illegal drugs,  
check this item; otherwise, report as  
Commercial or Residential)*

**Judicial Review**

Asset Forfeiture (05)  
Petition re Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case  
Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner  
Appeals

**Employment Development Department (EDD)**

EDD Decision Review (48) *(if the case  
involves an Employment Development  
Department decision, check this item  
instead of Wrongful Termination or Other  
Employment)*

**Provisionally Complex Civil Litigation (Cal.****Rules of Court, rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Comprehensive Groundwater Adjudication  
(47)  
Insurance Coverage Claims *(arising from  
provisionally complex case type listed  
above)* (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment *(non-domestic  
relations)*  
Sister-State Judgment  
Administrative Agency Award *(not unpaid  
taxes)*  
Petition/Certification of Entry of Judgment  
on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint *(not specified above)* (42)  
Declaratory Relief Only Injunctive Relief  
Only *(non-harassment)*  
Mechanic's Lien  
Other Commercial Complaint Case *(non-  
tort/non-complex)*  
Other Civil Complaint *(non-tort/non-  
complex)*

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition *(not specified above)* (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Civil Practice and Procedure: Deadlines for Motions to Certify or Decertify a Class

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Amend Cal. Rules of Court, rule 3.764

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

*Staff contact (name, phone and email):* 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): October 22, 2024

Project description from annual agenda: Develop rules recommendations as appropriate. A member of the committee notes that under California Rules of Court, rule 3.764(c) a reply brief on a motion to certify or decertify a class must be served 5 calendar days before the hearing. If such filing occurs before a long weekend due to a court holiday or holidays the court has virtually no time to review the brief before the hearing. The committee should consider changing this deadline, and possible other deadlines, in the rule.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

- reviewed by EGG on (date) February 28, 2025
- approved by Office Director (or Designee) (name) Michael Giden on (date) March 10, 2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

SPR25-05

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Title	Action Requested
Civil Practice and Procedure: Deadlines for Motions to Certify or Decertify a Class	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 3.764	January 1, 2026
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	James Barolo, 415-865-8928 <a href="mailto:james.barolo@jud.ca.gov">james.barolo@jud.ca.gov</a>

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending California Rules of Court, rule 3.764 to lengthen each of the briefing deadlines for motions to certify or decertify a class or to amend or modify an order certifying a class. This proposal aims to address concerns that the deadline for filing a reply provides insufficient time for courts to review the briefing prior to the hearing. These concerns were raised by a superior court judge who regularly hears such motions.

### Background

Rule 3.764(c)(1) governs the timing for service of motions, oppositions, and replies regarding the certification and decertification of a class, as well as any amendment or modification of an existing certification order. The briefing on such issues is typically voluminous—often amounting to hundreds of pages of exhibits including expert reports. The rule currently requires any reply to be served and filed at least five calendar days before the hearing on the motion. The result of this five-day deadline is that courts have very little time to review a reply before the hearing, especially if the reply is filed before a regular weekend or a long weekend that includes a court holiday or holidays. This proposal aims to remedy such situations by expanding the deadlines for all briefs on these motions.

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

## **The Proposal**

This proposal would extend by five calendar days each of rule 3.764(c)(1)'s deadlines for filing motions, oppositions, and replies regarding the certification and decertification of a class.<sup>1</sup> Although the identified concern that this proposal aims to address is limited to replies, the committee proposes adding five days to the deadline for each brief to retain the number of days between the deadlines. Amending only the timing to file a reply but leaving the other deadlines unchanged would reduce the amount of time available for a moving party to prepare and file a reply.<sup>2</sup>

## **Alternatives Considered**

The committee considered the option of taking no action but ultimately determined that the proposal was warranted because of the benefits it would provide to courts and court users. The committee considered several other options to address the concerns identified. One such option was increasing the days prior to the hearing that the reply—but not the other briefs—is due. The committee chose not to recommend such a narrow amendment because it would effectively shorten the time available to prepare and file a reply.

Another option was to change the deadlines in rule 3.764 from calendar days to court days. The committee determined that such amendments would amount to a broader change than necessary. Finally, the committee considered amending the rule to add a different number of court days to each deadline, such as two or seven, but ultimately concluded that five additional court days was an appropriate balance to provide sufficient time for court review without setting the deadlines too far away from the hearing.

## **Fiscal and Operational Impacts**

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the amended rule. The amended rule will impact individuals briefing motions to certify or decertify classes as the deadlines for such briefs will be changed, but any such impacts are likely to be minimal and are outweighed by the positive impact this amendment would have on the courts' ability to review such briefing.

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<sup>1</sup> The deadline for motions would change from 28 calendar days to 33 calendar days before the hearing. The deadline for oppositions would change from 14 calendar days to 19 calendar days before the hearing. The deadline for replies would change from 5 calendar days to 10 calendar days before the hearing.

<sup>2</sup> The proposal also includes minor changes to the rule to promote consistency of style and to remove archaic terminology.

### **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 two 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 3.764, at page 4

Rule 3.764 of the California Rules of Court would be amended, effective January 1, 2026, to read:

1 **Rule 3.764. Motion to certify or decertify a class or amend or modify an order**  
2 **certifying a class**

3  
4 **(a)–(b) \* \* \***

5  
6 **(c) Format and filing of motion**

7  
8 (1) *Time for service of papers*

9  
10 Notice of a motion to certify or decertify a class or to amend or modify a  
11 certification order must be ~~filed and~~ served on all parties to the action and  
12 filed at least ~~28~~ 33 calendar days before the date ~~appointed~~ set for hearing.  
13 Any opposition to the motion must be served and filed at least ~~14~~ 19 calendar  
14 days before the noticed or continued hearing, unless the court for good cause  
15 orders otherwise. Any reply to the opposition must be served and filed at  
16 least ~~5~~ 10 calendar days before the noticed or continued date of the hearing,  
17 unless the court for good cause orders otherwise. The provisions of Code of  
18 Civil Procedure section 1005 otherwise apply.

19  
20 (2)–(4) \* \* \*

21  
22 **(d)–(e) \* \* \***  
23

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Civil Practice and Procedure: Implementation of Assembly Bill 2837

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

Approve forms EJ-135, WG-015/ EJ-137, WG 016/EJ-138; revise forms EJ-130, EJ 157-INFO, EJ-160, MC-012, MC 013 INFO, SER-001A, WG-002, WG 003, WG-004, WG 006, WG 010/EJ 175, WG-022, and WG-030

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

*Staff contact (name, phone and email):* Jenny Grantz, 415-865-4394, jenny.grantz@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): 10/22/2024

Project description from annual agenda: Enforcement of Judgment Forms: Implementation of AB 2837 and AB 1119: Develop forms recommendations as appropriate. AB 2837 expands the types of retirement plans exempt from money judgments and exempts such property to the extent necessary to provide support for the judgment debtor. The bill also revises the enforcement provisions by requiring a judgment creditor to take additional steps to verify a judgment debtor's address and provide notice of enforcement to a judgment debtor. This legislation may require revisions to certain enforcement of judgment forms. At the same time, it may be prudent to create a new form for the judgment creditor declarations required in amended Code of Civil Procedure section 684.130.

The committee will also consider whether changes are needed to forms and rules of court related to debtor's examinations to further implement AB 1119 regarding the judgment debtor's rights when the judgment concerns consumer debt, and whether more education or training is needed in this area.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/6/2025

approved by Office Director (or Designee) (name) Michael Giden  
on (date) 3/18/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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

(11/1/24)



mandates translation: [Click or tap here to enter text.](#)

includes forms that staff will request be translated.

- **Form Descriptions** (for any report 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

### SPR25-06

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Title	Action Requested
Civil Practice and Procedure: Implementation of Assembly Bill 2837	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt forms EJ-135, WG-015/EJ-137, WG-016/EJ-138; revise forms EJ-130, EJ-157-INFO, EJ-160, MC-012, MC-013-INFO, SER-001A, WG-002, WG-003, WG-004, WG-006, WG-010/EJ-175, WG-022, and WG-030	January 1, 2026
	Contact
	Jenny Grantz, 415-865-4394 <a href="mailto:jenny.grantz@jud.ca.gov">jenny.grantz@jud.ca.gov</a>
Proposed by	
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	

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### Executive Summary and Origin

Assembly Bill 2837 (Stats. 2024, ch. 514) made numerous changes to the laws regarding enforcement of judgment, including a new requirement to verify the judgment debtor's address before the sheriff can serve papers related to enforcement of a judgment for personal debt; changes to the start of the earnings withholding period; and new requirements for orders on claims of exemption from enforcement of judgment. The Civil and Small Claims Advisory Committee proposes adopting three forms and revising thirteen forms to implement AB 2837.

### Background

[AB 2837](#), enacted September 24, 2024,<sup>1</sup> made numerous changes to the laws regarding enforcement of judgment. AB 2837 became effective on January 1, 2025. The provisions of AB 2837 that require form revisions are described below.

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<sup>1</sup> See Link A.

Some of AB 2837's provisions apply to the enforcement of any judgment, but others apply only if the judgment is for personal debt. "Personal debt" means "money due or owing or alleged to be due or owing from a natural person arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for the debtor's personal, family, or household purposes" and does not include "debts incurred due to or obtained by tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee."<sup>2</sup>

### **Address verification before service by a levying officer**

AB 2837 provides that if the levying officer is "required by any provision of this title"<sup>3</sup> to serve "any writ, order, notice, or other paper" related to enforcement of a judgment for personal debt, the judgment creditor must provide a declaration stating that the judgment debtor's address has been verified using reasonable diligence within the past 12 months and describing the methods used to complete the verification.<sup>4</sup> Within five business days after delivering the declaration to the levying officer, the judgment creditor must file the signed declaration with the court.<sup>5</sup> If the judgment debtor notifies the court that the verification requirement has not been met, the court must stay the notice of levy or earnings withholding order until the requirement is met.<sup>6</sup> The judgment creditor is not entitled to recover the cost of the verification.<sup>7</sup>

The committee has interpreted "required by any provision of this title" to mean that the address verification requirement applies only to documents the levying officer is statutorily required to serve on the judgment debtor under Code of Civil Procedure sections 680.010 through 724.260. Those documents are writs of execution, writs of possession, and earnings withholding orders.<sup>8</sup>

### **Earnings withholding period**

AB 2837 changed the date on which an employer should begin withholding earnings if served with an earnings withholding order. Withholding should now begin on the 30th day after service

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<sup>2</sup> Code Civ. Proc., § 683.110(d)(2), (3). AB 2837's definition of "personal debt" is the same as the one used in Senate Bill 1200 (Stats. 2022, ch. 833), which affected enforcement of judgments for personal debt and medical debt and which required revision of several forms. Judicial Council of Cal., Advisory Com. Rep., *Civil Practice and Procedure: Form Revisions to Implement Senate Bill 1200* (Aug. 23, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12248158&GUID=10DD7229-59E8-4C5E-89FE-09C9996D358F>. For example, *Judgment* (form JUD-100), *Notice of Entry of Judgment* (form SC-130), and *Notice of Entry of Judgment* (form SC-200) were revised to add items asking how much of the judgment is for personal debt or medical debt.

<sup>3</sup> "This title" means title 9 of part 2 of the Code of Civil Procedure, *i.e.*, Code of Civil Procedure sections 680.010 through 724.260.

<sup>4</sup> Code Civ. Proc., § 684.130(b)(2).

<sup>5</sup> *Id.*, § 684.130(b)(6).

<sup>6</sup> *Id.*, § 684.130(b)(4).

<sup>7</sup> *Id.*, §§ 684.130(b)(5), 685.070(a).

<sup>8</sup> *Id.*, §§ 700.010(a) (writs of execution), 715.020(a) (writs of possession), 706.101(a) (earnings withholding orders). Existing law requires service of earnings withholding orders on the employer only, but AB 2837 adds a requirement to serve the order on the judgment debtor as well. (*Id.*, § 706.021.)

of the earnings withholding order, rather than the 10th day after service.<sup>9</sup> Or, if a claim of exemption is filed with the levying officer and the employer is given actual notice of the claim before the close of business on the 29th day after service of the earnings withholding order on the judgment debtor, the withholding period commences on the 45th day after service of the earnings withholding order on the judgment debtor.<sup>10</sup>

### **Stays pending determination of claims of exemption**

In personal debt cases, AB 2837 requires the court to stay a levy or garnishment upon request of the judgment debtor if the judgment creditor has opposed the judgment debtor's claim of exemption and the hearing on the judgment creditor's motion is set more than 30 days after the notice of motion is filed.<sup>11</sup> If the judgment debtor files an application for a stay, the court must stay the levy or garnishment until the hearing on the judgment creditor's motion occurs.<sup>12</sup>

### **Exemptions for deposit accounts**

Existing law provides that a certain amount of money in a judgment debtor's deposit account is exempt from enforcement of judgment without making a claim of exemption.<sup>13</sup> This exemption applies per debtor, not per account, and if the judgment debtor has multiple accounts at the same financial institution, the law creates a procedure for the judgment creditor or judgment debtor to ask the court to determine how and to which account the exemption should be applied.<sup>14</sup>

AB 2837 requires financial institutions to protect money in multiple accounts in certain circumstances instead of protecting only one account.<sup>15</sup> Specifically, if the judgment debtor's accounts cumulatively contain an amount less than or equal to the exemption amount specified in Code of Civil Procedure section 704.220(a), the financial institution must protect the full amount in all the accounts. If there is no single account containing the full exemption amount but the accounts cumulatively contain more than that amount, then the financial institution must protect an aggregate amount equal to the full exemption amount.

### **Requirements for orders on claims of exemption**

AB 2837 provides that when ruling on a judgment creditor's motion opposing the judgment debtor's claim of exemption, the court must make findings on the judgment debtor's financial statement in support of the claim of exemption if the judgment debtor asserts that money in their

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<sup>9</sup> *Id.*, § 706.022(a).

<sup>10</sup> *Ibid.*

<sup>11</sup> *Id.*, §§ 703.570(a), 706.105(e).

<sup>12</sup> *Ibid.*

<sup>13</sup> *Id.*, § 704.220.

<sup>14</sup> *Id.*, § 704.220(e).

<sup>15</sup> *Id.*, § 704.220(e)(4), (5).

deposit account is exempt under Code of Civil Procedure section 704.225 because it is necessary for support of the judgment debtor and their spouse and dependents.<sup>16</sup>

AB 2837 also provides that when ruling on a judgment creditor's motion opposing the judgment debtor's claim of exemption from a levy in a personal debt case, the court must order the levying officer, judgment creditor, or anyone else holding the property to return to the judgment debtor any property (1) that was exempt without the need for a claim and that was levied upon within the 12 months preceding the date of the order on the claim of exemption, or (2) that the judgment debtor has demonstrated would have been exempt by claim of exemption and that was levied upon within the six months preceding the date of the order on the claim of exemption.<sup>17</sup> Similar requirements apply to orders on claims of exemption from an earnings withholding order.<sup>18</sup>

## The Proposal

To implement AB 2837, the Civil and Small Claims Advisory Committee proposes adopting three forms and revising 13 forms.

### Previously approved revisions to wage garnishment forms

Effective February 22, 2025, the Judicial Council approved revisions to the following forms to reflect the new start of the withholding period for an earnings withholding order and to make technical corrections:

- *Earnings Withholding Order* (form WG-002);
- *Earnings Withholding Order for Support* (form WG-004);
- *Earnings Withholding Order for Taxes* (form WG-022); and
- *Earnings Withholding Order for Elder or Dependent Adult Financial Abuse* (form WG-030).<sup>19</sup>

The council determined that prompt revision was warranted to ensure the forms did not incorrectly state the law. The council therefore approved the forms before the revisions could be

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<sup>16</sup> *Id.*, § 703.580(c).

<sup>17</sup> *Id.*, § 703.580(d).

<sup>18</sup> *Id.*, § 706.105(g).

<sup>19</sup> Judicial Council of Cal., Staff Rep., *Rules and Forms: Calculation of Earnings Withholding Period* (Jan. 23, 2025), <https://jcc.legistar.com/View.ashx?M=F&ID=13703452&GUID=5CE276B4-D5EA-48AC-B824-41F57E479E19>. Effective February 22, 2025, the council also approved a revision to *Special Instructions for Writs and Levies—Attachment* (form SER-001A) to add item 5, which explains AB 2837's address verification requirement. However, that revision is superseded by the revisions to form SER-001A in this proposal, which would be effective January 1, 2026. Unlike the proposed January 2026 revision, the February 2025 revision did not mention *Declaration of Address Verification* (form EJ-135) because that form did not exist in February 2025.

circulated for public comment. The committee now seeks comment on these revisions to these four forms and will recommend further revisions if necessary, effective January 1, 2026.

Additionally, the committee would like to improve the clarity and readability of forms WG-002, WG-004, WG-022, and WG-030 and asks for suggestions on how to revise specific items in those forms to use plain language.

### **Address verification before service by a levying officer**

The committee proposes creating three forms and revising five forms to implement AB 2837's address verification requirement.

The committee proposes creating *Declaration of Address Verification* (form EJ-135) for the judgment creditor to provide to the levying officer and file with the court. The committee considered adding the declaration to an existing form but determined that it could not do so because the judgment creditor is required to file the verification with the court within five business days after delivering it to the levying officer, and there are no existing enforcement of judgment forms that are filed within that time period.

To aid judgment debtors in determining whether they can seek a stay until the address verification requirement is met, the committee proposes revising *Writ of Execution* (form EJ-130) to add a "personal debt" checkbox to item 22 on page 2 to require the judgment creditor to confirm whether the judgment is for personal debt. The committee also proposes adding a notice to the judgment debtor on page 3 informing them that they can move to stay a levy or garnishment if the address verification requirement is not met.<sup>20</sup> The committee considered revising form EJ-130 to add a checkbox asking the judgment creditor to confirm that the address verification requirement has been met, but decided against it because the verification process requires the judgment creditor to take multiple steps after form EJ-130 is issued, and the checkbox would have to ask about future events (e.g., "I will provide *Declaration of Address Verification* to the levying officer . . .").

The committee proposes revising *Special Instructions for Writs and Levies—Attachment* (form SER-001A) by adding item 5 on page 3 to explain the address verification requirement and instruct the judgment creditor to attach form *Declaration of Address Verification* to form SER-001A. Form SER-001A is an attachment to *Request to Sheriff to Serve Court Papers* (form SER-001) and is used to provide statutorily mandated instructions to the sheriff or marshal whenever they are asked to serve documents, including *Writ of Execution* (form EJ-130).<sup>21</sup>

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<sup>20</sup> The committee also proposes renumbering item 24's subitems, adding "form CP10.5" in item 25a(1), and changing "CCP" to "Code of Civil Procedure" throughout the form where space permits.

<sup>21</sup> Forms SER-001 and SER-001A are not used for service of earnings withholding orders (forms WG-002, WG-004, WG-022, and WG-030). However, *Writ of Execution* (form EJ-130) must be issued before an earnings withholding order can be issued, so a judgment creditor serving an earnings withholding order will likely have already completed form SER-001A and learned of the address verification requirement.

The committee considered including a checkbox with this item to confirm that the address verification requirement has been met, but was concerned that doing so might be confusing. Item 5 would not be applicable to many people using form SER-001A, and the committee generally tries to avoid including checkboxes that do not apply to everyone completing the form because form users often assume they have to check every box on a form. However, the committee is also concerned that if item 5 does not include a checkbox, some people will skip over the item without reading it. The committee asks for specific comments on whether a checkbox should be added to item 5 on form SER-001A. And, in addition to the proposed revisions to implement AB 2837, the committee proposes revising item 4b to address writs of attachment.

The committee proposes revising *Employee Instructions* (form WG-003) to add information about the judgment debtor's right to seek a stay if the address verification is not completed.

The committee proposes creating *Application to Stay Levy or Garnishment* (form WG-015/EJ-137) and *Order on Application to Stay Levy or Garnishment* (form WG-016/EJ-138) to allow the judgment debtor to seek a stay of a levy or garnishment if the verification requirement is not met. These forms will also be used to handle applications and orders for stays pending a hearing on the judgment debtor's claim of exemption, as described in the next section.

To implement the statutory provision prohibiting judgment creditors from recovering costs for address verification, the committee proposes revising the "Costs After Judgment" section on page 1 of *Information Sheet for Calculating Interest and Amount Owed on a Judgment* (form MC-013-INFO) to include a citation to Code of Civil Procedure section 684.130(b)(5), and revising the "Requesting Costs and Interest" section to explain that postjudgment costs can only be recovered if explicitly listed on form MC-012 or if statutorily authorized.

The committee proposes revising the heading of item 1 on *Memorandum of Costs After Judgment, Acknowledgement of Credit, and Declaration of Accrued Interest* (form MC-012) to refer readers to form MC-013-INFO for information on which postjudgment costs are recoverable. In addition to the AB 2837 revisions, the committee proposes revising form MC-012 to make item 3 less confusing, put the Notice to Judgment Debtor in plain language (except for the second sentence of the notice, which is statutorily mandated), and remove the proof of service page to align with current guidelines for drafting Judicial Council forms.

### **Stays pending determination of claims of exemption**

The committee proposes creating *Application to Stay Levy or Garnishment* (form WG-015/EJ-137) and *Order on Application to Stay Levy or Garnishment* (form WG-016/EJ-138) to allow the judgment debtor in personal debt cases to seek a stay of a levy or garnishment if the hearing on the judgment creditor's motion opposing their claim of exemption cannot be held within 30 days of notice of the motion. These forms will also be used to handle stays pending verification of the judgment debtor's address, as described in the previous section.

The committee proposes revising *Notice of Hearing on Claim of Exemption* (form WG-010/EJ-175) to add a notice to the judgment debtor about their right to seek a stay. In addition to the

AB 2837 revisions, the committee proposes removing the proof of service page from form WG-010/EJ-175 to align with current guidelines for drafting Judicial Council forms.

### **Exemptions for deposit accounts**

The committee proposes revising *Instructions for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157-INFO) to implement AB 2837's changes to the process for applying the automatic deposit account exemption. Form EJ-157-INFO explains the exemption, how it is applied, and how the judgment creditor or judgment debtor can ask the court for an order applying the exemption to a specific account. The committee proposes revising item 2 on form EJ-157-INFO to refer to "accounts" instead of "account," and to include Code of Civil Procedure sections 704.220(e)(4) and (5) in the citation at the end of item 2. The committee also proposes revising the form to use plain language where possible. The committee asks for suggestions on how to revise specific items in form EJ-157-INFO to use plain language, as well as any other suggestions to improve the form's clarity and readability.

The committee considered revising *Ex Parte Application for Order on Deposit Amount Exemption* (form EJ-157) and *Order on Application for Designation of Deposit Account Exemption* (form EJ-159) but determined that revisions were unnecessary because AB 2837 only changes what financial institutions must do when a customer's accounts have been levied, and does not change the process for asking for and ordering the exemption to be applied to a specific deposit account. Additionally, item 5 on form EJ-157 and item 9 on form EJ-159 can be used to spread the exemption across multiple deposit accounts if necessary.

### **Requirements for orders on claims of exemption**

To implement AB 2837's requirements for what must be contained in an order on a claim of exemption, the committee proposes revising *Claim of Exemption* (form EJ-160) and *Claim of Exemption* (form WG-006) to include items identifying any property or wages that are exempt without making a claim of exemption. These revisions will aid courts in determining whether it is necessary to order the return of such property or wages.

In addition to the AB 2837 revisions, the committee proposes revising form WG-006 to add item 3.a, which asks whether the judgment debtor makes less than the statutory minimum required for withholding.<sup>22</sup> Judgment debtors might not know this statutory provision exists or that they do not need to file *Financial Statement* (form EJ-165) if they claim they are statutorily exempt from withholding. The committee also proposes revising the instructions and several other items on forms EJ-160 and WG-006 to improve their readability and clarity.

### **Alternatives Considered**

The committee did not consider the alternative of taking no action because new and revised forms are needed to comply with AB 2837. As discussed in the explanation of the proposal, the

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<sup>22</sup> Code Civ. Proc., § 706.050. An employee's earnings cannot be withheld unless their disposable earnings each pay period exceed a multiple of the current California minimum wage. The multiplier varies depending on the employee's pay period.



committee considered several alternatives when drafting the proposed forms and concluded that the current proposal best satisfies the statutory mandate. To the extent the proposed revisions were not required by the terms of AB 2837, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

## **Fiscal and Operational Impacts**

The statutory changes will require training of court staff and judicial officers. The new and revised forms are intended to facilitate courts' and parties' implementation of the changes in statute and will require education and possibly some changes to computerized case management 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?
- Should a checkbox be added to item 5 on form SER-001A?
- Please provide suggestions, if you have any, for revising specific items in forms EJ-157-INFO, WG-002, WG-004, WG-022, or WG-030 to use plain language, or any suggestions to improve the forms' clarity and readability.

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 two 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-130, EJ-135, EJ-157-INFO, EJ-160, MC-012, MC-013-INFO, SER-001A, WG-002, WG-003, WG-004, WG-006, WG-010/EJ-175, WG-015/EJ-137, WG-016/EJ-138, WG-022, and WG-030, at pages 9–38
2. Link A: Assem. Bill 2837, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB2837](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2837)



Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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21.  Additional judgment debtor(s) (name, type of legal entity if not a natural person, and last known address):


22. The judgment is for (check one):

- a.  wages owed.
- b.  child support or spousal support.
- c.  personal debt, as defined in Code of Civil Procedure section 683.110(d).
- d.  other.

23.  Notice of sale has been requested by (name and address):


24.  Joint debtor was declared bound by the judgment (Code Civ. Proc., §§ 989-994)

<ul style="list-style-type: none"> <li>a. on (date):</li> <li>b. name, type of legal entity if not a natural person, and last known address of joint debtor:</li> </ul>	<ul style="list-style-type: none"> <li>c. on (date):</li> <li>d. name, type of legal entity if not a natural person, and last known address of joint debtor:</li> </ul>
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e.  Additional costs against certain joint debtors are itemized:  below  on Attachment 24c.

25.  (Writ of Possession or Writ of Sale) **Judgment** was entered for the following:

- a.  Possession of real property: The complaint was filed on (date):  
(Check (1) or (2). Check (3) if applicable. Complete (4) if (2) or (3) have been checked.)
  - (1)  The *Prejudgment Claim of Right to Possession* (form CP10.5) was served in compliance with Code of Civil Procedure section 415.46. The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
  - (2)  The *Prejudgment Claim of Right to Possession* was NOT served in compliance with Code of Civil Procedure section 415.46.
  - (3)  The unlawful detainer resulted from a foreclosure sale of a rental housing unit. (An occupant not named in the judgment may file a *Claim of Right to Possession* at any time up to and including the time the levying officer returns to effect eviction, regardless of whether a *Prejudgment Claim of Right to Possession* was served.) (See Code Civ. Proc., §§ 415.46 and 1174.3(a)(2).)
  - (4) If the unlawful detainer resulted from a foreclosure (item 25a(3)), or if the *Prejudgment Claim of Right to Possession* was not served in compliance with Code of Civil Procedure section 415.46 (item 25a(2)), answer the following:
    - (a) The daily rental value on the date the complaint was filed was \$
    - (b) The court will hear objections to enforcement of the judgment under Code of Civil Procedure section 1174.3 on the following dates (specify):

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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- 25. b.  Possession of personal property.  
        If delivery cannot be had, then for the value (*itemize in 25e*) specified in the judgment or supplemental order.
- c.  Sale of personal property.
- d.  Sale of real property.
- e. The property is described    below    on Attachment 25e.

**NOTICE TO PERSON SERVED**

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will demand that you turn over the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with **Code of Civil Procedure section 1174** unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

EXCEPTION IF RENTAL HOUSING UNIT WAS FORECLOSED. If the residential property that you are renting was sold in a foreclosure, you have additional time before you must vacate the premises. If you have a lease for a fixed term, such as for a year, you may remain in the property until the term is up. If you have a periodic lease or tenancy, such as from month-to-month, you may remain in the property for 90 days after receiving a notice to quit. A blank form *Claim of Right to Possession and Notice of Hearing* (form CP10) accompanies this writ. You may claim your right to remain on the property by filling it out and giving it to the sheriff or levying officer.

EXCEPTION IF YOU WERE NOT SERVED WITH A FORM CALLED PREJUDGMENT CLAIM OF RIGHT TO POSSESSION. If you were not named in the judgment for possession and you occupied the premises on the date on which the unlawful detainer case was filed, you may object to the enforcement of the judgment against you. You must complete the form *Claim of Right to Possession and Notice of Hearing* (form CP10) and give it to the sheriff or levying officer. A blank form accompanies this writ. You have this right whether or not the property you are renting was sold in a foreclosure.

JUDGMENTS FOR PERSONAL DEBT. If you are the judgment debtor identified in item 4 on this form, and if item 22 on this form says the judgment is for personal debt, the judgment creditor is required to verify your address before asking the levying officer to serve this *Writ of Execution*. The judgment creditor must give the levying officer a completed copy of *Declaration of Address Verification* (form EJ-135) and must file completed form EJ-135 with the court within five days of giving a copy of the form to the levying officer. If the judgment creditor doesn't take these steps, you can ask the court to stay any wage garnishment order, bank account levy, or other levy related to this *Writ of Execution*. You can use *Application for Stay of Levy or Garnishment* (form WG-015/EJ-137) to ask the court to stay the levy or garnishment until the address verification has been completed.

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

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>03/18/2024</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<b>DECLARATION OF ADDRESS VERIFICATION</b> <b>(Enforcement of Judgment)</b>	CASE NUMBER:

Instructions to the judgment creditor for completing this form:

- If you are enforcing a judgment for personal debt, you are required to verify the judgment debtor's address no later than 12 months before you give the levying officer any papers to serve on the judgment debtor. (Code Civ. Proc., § 684.130.)
- You must notify the levying officer and the court that you have completed the address verification by completing this form, giving a copy to the levying officer, and filing the completed form with the court within 5 days of giving a copy to the levying officer.

1. I am (*specify*):  attorney for  original judgment creditor  assignee of record
2. I am asking the levying officer to serve the judgment debtor with (*check all that apply*):
  - a.  *Writ of Execution* (form EJ-130).
  - b.  *Notice of Levy* (form EJ-150).
  - c.  *Earnings Withholding Order* (form WG-002).
  - d.  other document (*specify*):
3. The papers described in item 2 are being used to enforce a judgment for personal debt, meaning money due or owing because of a transaction for money, property, insurance, or services used primarily for the debtor's personal, family, or household purposes. The judgment does not include rental debt or debts incurred due to, or obtained by, tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee. (Code Civ. Proc., § 683.110.)
4. Within the last 12 months, I verified the judgment debtor's address, or someone verified the judgment debtor's address on my behalf, by (*check one*):
  - a.  receiving correspondence from the judgment debtor on (*date*): \_\_\_\_\_ that included a return address or other comparable verification of the judgment debtor's address.
  - b.  sending a letter to the judgment debtor's address on (*date*): \_\_\_\_\_ using certified mail, or through some other method of transmission through the United States Postal Service that provides a return receipt, and received a return receipt signed by the judgment debtor.
  - c.  using a commercial address verification service, including skip-tracing, or using a public records database. I then sent a letter to the verified address via first-class mail on (*date*): \_\_\_\_\_ and the letter was not returned to sender.
  - d.  using the following method (*describe the method and the date it was completed*): \_\_\_\_\_

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)

**For your protection and privacy, please press the Clear This Form button after you have printed the form.**

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**INSTRUCTIONS FOR EX PARTE APPLICATION  
FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION**

1. **Applicable Law.** Code of Civil Procedure section 704.220 requires financial institutions to apply an automatic exemption when served a *Notice of Levy* (form EJ-150) on a judgment debtor's deposit account if the judgment being enforced by the *Notice of Levy* is not based on wages owed or child or spousal support. The exemption amount is stated on *Current Dollar Amounts of Exemptions from Enforcement of Judgments* (form EJ-156) and is applied to one of the judgment debtor's accounts, if possible, or to multiple accounts if necessary. (Code Civ. Proc., § 704.220(e)(2), (4), (5).) The exemption is automatically applied and the judgment debtor does not need to do anything to have the exempted amount protected.
2. **Multiple Accounts.**
  - If the judgment debtor has multiple deposit accounts at a single bank, either the judgment debtor or judgment creditor can apply for a court order deciding how to apply the exemption to those accounts. The bank must automatically protect the exempted amount, but without a court order it will choose the accounts to which the exemption applies. (Code Civ. Proc., § 704.220(e)(2), (4), (5).)
  - If the judgment debtor has multiple deposit accounts at multiple financial institutions, the judgment creditor is required to apply for a court order deciding how to apply the exemption to those accounts. The judgment debtor can also make an application. (Code Civ. Proc., § 704.220(e)(3).)
3. **A judgment debtor or judgment creditor who wants to apply for an order deciding how to apply the exemption to the judgment debtor's accounts should do so as soon as they receive a notice of a levy or memorandum of garnishment, because the financial institution is required to send funds to the levying officer quickly.**
4. **Rules for Applying for a Court Order.** The application must be filed in the court where the judgment was issued. The applicant must check with that court for local rules and timing about when and where they have to appear at court to have the court consider the application. The applicant must follow the rules for ex parte applications described in California Rules of Court, rules 3.1203–3.1207. The requirements include:
 

**Notice of the application.** The other party in the case usually must be given notice of the application. Notice can be given in person or by phone, fax, or overnight mail, or by email if email notice is already allowed in the case. The party must be informed by 10:00 a.m. the day before the application is scheduled to be considered by the court, unless there is a good reason that the notice was not or could not be given. How the notice was given, or why it was not, must be described in *Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-158).

**Service of papers.** Copies of the application and all related papers must be given to the other party as soon as reasonable and before the court appearance, if possible. How this was done or why it was not must also be described in form EJ-158.

**Appearance at court.** The applicant must be available at the time the court is considering the application, either in person at the courthouse or by telephone. If by phone, the applicant must inform the court and the other parties in advance, and must comply with California Rules of Court, rule 3.670(d), which requires the application papers to be filed by 10:00 a.m. two court days before the time the court is scheduled to consider the application.
5. **Forms to Complete.** Before the time the court is scheduled to consider the application, the applicant must complete and file the following forms with the court:
  - *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157);
  - *Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-158); and
  - *Order on Application for Designation of Deposit Account Exemption* (form EJ-159) (complete caption and item 1 only).

**When completing form EJ-157:**

- The information in the application must be given under penalty of perjury.
- If the applicant has good cause for why the court should act immediately, with no further hearing or briefing, the "Without Hearing" box under the title of form EJ-157 should be checked and item 6b should be completed to explain why. Otherwise, the "Hearing on shortened time" box under the title and the box for item 6a should be checked.
- Copies of the *Writ of Execution* (form EJ-130) and any *Notice of Levy* (EJ-150) that have been issued to a financial institution must be attached to the application form.
- Item 5 must include the specific account or accounts to which the court is being asked to apply the exemption. If the judgment debtor is asking for the exemption to be split among multiple accounts, the total amount split between those accounts cannot be more than the total amount of the exemption. (See form EJ-156 for the amount.)

**INSTRUCTIONS FOR EX PARTE APPLICATION  
FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION**

6. **Filing With the Court.** The completed forms should be filed with the court clerk. There will be a filing fee unless the party is eligible for a fee waiver. (If a party cannot afford the fee and has not already received a fee waiver, the party may file a *Request to Waive Court Fees* (form FW-001) with the other forms.) Take extra copies of all the forms to the court so the clerk can give back a stamped copy.
7. **What to Do With the Order.** The court may rule on the application immediately if a delay could result in loss to a deposit account subject to exemption or enforcement, or may order that a hearing be held to consider the application and any opposition.
- Once an order is issued by the court on form EJ-159, the applicant should serve the order on all other parties in the case as soon as possible. If the order sets a hearing date, **the order** must be served by the date in item 4b on the order.
  - If the order sets a hearing date, the applicant should appear at the hearing either in person or by phone (if by phone, notice must be given in advance to the court and other side).
  - If the order **decides which deposit account or accounts the exemption applies** to, without any further hearing, the applicant should serve the order on the financial institution and levying officer as well as the other parties. Once an order has been issued by the court, the applicant should serve the order on all other parties in the case as soon as possible.

**INSTRUCTIONS FOR EX PARTE APPLICATION  
FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION  
(Enforcement of Judgment)**

**[NOT FOR WAGE GARNISHMENT]  
RETURN TO LEVYING OFFICER. DO NOT FILE WITH COURT**

**EJ-160**

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR LEVYING OFFICER USE ONLY (Levying Officer Name and Address)</b>  <b>DRAFT 03/07/2025 NOT APPROVED BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER FILE NUMBER: _____
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	LEVYING OFFICER FILE NUMBER: _____
<b>CLAIM OF EXEMPTION (Enforcement of Judgment)</b>	<b>FOR COURT USE ONLY</b>
Instructions for completing this form: <ul style="list-style-type: none"> <li>• Read <i>Exemptions from the Enforcement of Judgments</i> (form EJ-155) and <i>Current Dollar Amounts of Exemptions from Enforcement of Judgments</i> (form EJ-156) to help you figure out whether your property is exempt.</li> <li>• If you check the box for item 4, <b>you must attach</b> a completed <i>Financial Statement</i> (form EJ-165) to this <i>Claim of Exemption</i>. You can get a copy of form EJ-165 for free by asking the levying officer or going to <a href="https://courts.ca.gov/rules-forms/find-your-court-forms">courts.ca.gov/rules-forms/find-your-court-forms</a> or your court's self-help center.</li> <li>• You must give the levying officer this original completed form and one copy of the completed form. You should save at least one copy of the form for your records.  <b>Do not file this form with the court.</b></li> </ul>	CASE NUMBER: _____

1. My name is:
2. Papers should be sent to:
  - me.
  - my attorney (I have filed with the court and served on the judgment creditor a request to have papers sent to my attorney and my attorney has consented in writing to receive these papers.)
  - at  the address shown above  another address (specify):
3.  I am not the judgment debtor named in the notice of levy. The name and last known address of the judgment debtor is (specify):
4.  Some or all of my property is exempt because it is needed to support me and my spouse and dependents. A completed *Financial Statement* (form EJ-165) is attached to this claim.
5. Some or all of my property is exempt without making a claim of exemption. That property is (describe; if more space is needed, check here  and attach a page labeled Attachment 5):



SHORT TITLE:	LEVYING OFFICER FILE NO.	COURT CASE NO.
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6. The property I claim to be exempt is (describe; if more space is needed, check here  and attach a page labeled Attachment 6):

7. My property is exempt under the following laws (specify code and section, for example "Code of Civil Procedure section 703.140(b)"; if more space is needed, check here  and attach a page labeled Attachment 7):

8. The facts supporting my claim of exemption are (describe; if more space is needed, check here  and attach a page labeled Attachment 8):

9.  The property I claim to be exempt is (if more space is needed to complete any of the lettered subdivisions below, check here  and attach a page labeled Attachment 9, and label the information on the attachment with the relevant subdivision letter):

a.  a motor vehicle, the proceeds of an execution sale of a motor vehicle, or the proceeds of insurance or other indemnification for the loss, damage, or destruction of a motor vehicle. I own other property of the same type, either alone or with other people, and that property is (describe):

b.  tools, implements, materials, uniforms, furnishings, books, equipment, a commercial motor vehicle, a vessel, or other personal property used in the trade, business, or profession of the judgment debtor or spouse. I own other property of the same type, either alone or with other people, and that property is (describe):

c.  the loan value of unmatured life insurance policies (including endowment and annuity policies) or benefits from matured life insurance policies (including endowment and annuity policies). My spouse or I own, either alone or with other people, other property of the same type, and that property is (describe):

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)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

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ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>03/18/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>MEMORANDUM OF COSTS AFTER JUDGMENT, ACKNOWLEDGMENT OF CREDIT, AND DECLARATION OF ACCRUED INTEREST</b>	CASE NUMBER:

1.  **Postjudgment costs** *(Read form MC-013-INFO for information on which costs are recoverable.)*

a. I claim the following costs after judgment incurred within the last two years *(indicate if there are multiple items in any category):*

	<u>Dates Incurred</u>	<u>Amount</u>
(1) Preparing and issuing abstract of judgment	_____	\$ _____
(2) Recording and indexing abstract of judgment	_____	\$ _____
(3) Filing notice of judgment lien on personal property	_____	\$ _____
(4) Issuing writ of execution, to extent not satisfied by Code Civ. Proc., § 685.050 <i>(specify county):</i>	_____	\$ _____
(5) Levying officers fees, to extent not satisfied by Code Civ. Proc., § 685.050 or wage garnishment	_____	\$ _____
(6) Approved fee on application for order for appearance of judgment debtor, or other approved costs under Code Civ. Proc., § 708.110 et seq.	_____	\$ _____
(7) Attorney fees, if allowed by Code Civ. Proc., § 685.040	_____	\$ _____
(8) Other: _____ <i>(Statute authorizing cost):</i>	_____	\$ _____
(9) Total of claimed costs for current memorandum of costs <i>(add (1)–(8))</i>	_____	\$ _____
b. All previously allowed postjudgment costs		\$ _____
c. <b>Total</b> of all postjudgment costs <i>(add a and b)</i>		\$ _____

2.  **Credits to interest and principal**

a. I acknowledge total payments to date in the amount of: \$ \_\_\_\_\_ (including returns on levy process and direct payments). The payments received are applied first to the amount of accrued interest, and then to the judgment principal (including postjudgment costs allowed) as follows: credit to accrued interest: \$ \_\_\_\_\_; credit to judgment principal \$ \_\_\_\_\_.

b. **Principal remaining due.** The amount of judgment principal remaining due is \$ \_\_\_\_\_. *(See Code Civ. Proc., § 680.300)*

3.  **Accrued interest remaining due.** Accrued interest remains due in the amount of \$ \_\_\_\_\_. This amount was calculated by applying interest accruing at the legal rate of \_\_\_\_\_ % on the unpaid principal amount of \$ \_\_\_\_\_ and accruing at the legal rate of \_\_\_\_\_ % on the unpaid principal amount of \$ \_\_\_\_\_ *(see form MC-013-INFO)* from the date of entry or renewal and on balances from the date of any partial satisfactions (or other credits reducing the principal).

4. I am the:  judgment creditor  agent for the judgment creditor  attorney for the judgment creditor.  
 I have knowledge of the facts concerning the costs claimed above. To the best of my knowledge and belief, the costs claimed are correct, reasonable, and necessary, and have not been satisfied.  
 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)

**NOTICE TO THE JUDGMENT DEBTOR**

If this memorandum of costs is filed at the same time as an application for a writ of execution, the writ of execution can include any statutory costs that have not already been allowed by the court and that do not exceed a combined total of \$100. The fees sought under this memorandum may be disallowed by the court upon a motion to tax filed by the debtor, notwithstanding the fees having been included in the writ of execution. (Code Civ. Proc., § 685.070(e).) A motion to tax the costs claimed in this memorandum must be filed no later than 10 days after service of this memorandum. (Code Civ. Proc., § 685.070(c).)

Page 1 of 1

**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 684.130(b)(5), 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 the unpaid principal of a judgment at the following legal rates:

- The rate of interest is 10% per year unless one of the following lower interest rates applies.
- 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 on a claim related to either 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.

For judgments renewed after January 1, 2023, the 5% interest rate applies only to unpaid principal remaining after renewal. Note, for judgments that otherwise meet the above requirements and are renewed after January 1, 2023, the interest rate will change from 10% to 5% for any remaining unpaid principal if the unpaid principal has fallen 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 total renewed amount 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 *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. The judgment creditor can only recover postjudgment costs in the categories listed in item 1a(1)–(8) on form MC-012. Recovery of costs listed in item 1a(8) on form MC-012 must be authorized by statute.

**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 judgment 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)  $\times$  (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)  $\times$  (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). $\$0.69$ per day $\times$ 100 days = \$69 interest owed on the date of payment	The daily interest is \$1.37 (see above). $\$1.37$ per day $\times$ 100 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
$\$5,000$ judgment + \$69 interest = \$5,069	$\$5,000$ judgment amount + \$137 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 $\times$ 200 days = \$138 interest owed on the date of payment	The daily interest is \$1.37 (see above). \$1.37 per day $\times$ 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.  That leaves a balance of \$862 (\$1,000 - \$138 = \$862) to be credited toward the \$5,000 principal.	The judgment debtor paid \$1,000, which first must be used to credit the \$274 of accrued interest.  That leaves a balance of \$726 (\$1,000 - \$274 = \$726) to be credited toward 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) $\times$ 5% = \$206.90 interest per year \$206.90/365 days = \$0.57 interest earned per day	\$4,274 (new principal) $\times$ 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
<b>Amount of accrued interest over 100 days:</b> 100 days $\times$ \$0.57 daily interest = \$57 total interest	<b>Amount of accrued interest over 100 days:</b> 100 days $\times$ \$1.17 daily interest = \$117 total interest
<b>\$500 payment credited to interest first:</b> \$500 payment - \$57 interest = \$443 remaining	<b>\$500 payment credited to interest first:</b> \$500 payment - \$117 interest = \$383 remaining
<b>Remainder credited to principal:</b> \$4,138 principal - \$443 remaining = \$3,695 new principal	<b>Remainder credited to principal:</b> \$4,274 principal - \$383 remaining = \$3,891 new principal
<b>Calculate new daily interest:</b> \$3,695 $\times$ 5% = \$184.75/365 = \$0.51 interest per day	<b>Calculate new daily interest:</b> \$3,891 $\times$ 10% = \$389.10/365 = \$1.07 interest per day

Sheriff File Number (for sheriff to complete, if needed):

Fill in case number:

Court Case Number:

**DRAFT  
03/18/2025  
NOT APPROVED  
BY COUNCIL**

**Instructions**

Generally, you **will not** need to complete this form if you are asking the sheriff to serve a complaint (unless with a writ of attachment) or a restraining order.

- Complete this form if you want the sheriff or marshal to enforce a writ. You must complete this form and form SER-001, *Request for Sheriff to Serve Court Paper*, and turn both forms in to the sheriff or marshal.
- You must include any writ and related order you want the sheriff to enforce.

This form is attached to form SER-001, *Request for Sheriff to Serve Court Papers*.

**All information is required unless it is listed as optional or does not apply to your case.**  
For more information about what may be required in your case, go to [selfhelp.courts.ca.gov/sheriff-serves](http://selfhelp.courts.ca.gov/sheriff-serves).

**1 Additional Information About You (Person Requesting Service)**

Are you a judgment creditor (person awarded money or property by the court)?

- Yes
- No (*complete the section below*):

(a) What is your role in the case?: \_\_\_\_\_

(b) Is there a judgment creditor in your case?

- No
- Yes (*list the names of all judgment creditors*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2 Additional Information About Person or Entity You Want Served**

The person or entity you want served (listed in item 3 of form SER-001):  
(*check one*)

- Owes you money in this case (judgment debtor).
- Is not a party in this case but has the property.
- Is a person who lives on the property.
- Other (*explain*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



4 b. Is the property in the judgment debtor’s name, or in the defendant’s name if the writ described in 3 is a writ of attachment?

Yes

No (list the names of owners and explain their interest in the property, including any leasehold interest):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Note: You may also need to have the people listed above served with your court papers. Check the Code of Civil Procedure for service requirements or talk with a lawyer. Your local court self-help center provides help for free and may be able to help you. To find your local self-help center, go to [www.selfhelp.courts.ca.gov/find](http://www.selfhelp.courts.ca.gov/find).)

c. Are you asking the sheriff to levy on property that is a dwelling (a place someone can live in)?

No

Yes (complete the section below):

The dwelling is (check one):

Real property (examples: house, condo, other building attached to land)

Personal property (examples: houseboat, RV)

5 Enforcement of a Judgment for Personal Debt

If you are the judgment creditor and you are asking the sheriff to serve a writ, levy, or other document related to enforcement of a judgment for personal debt (as defined in Code of Civil Procedure section 683.110(d)), you must verify the judgment debtor’s address before the sheriff can serve your papers. Complete Declaration of Address Verification (form EJ-135) and attach it to this form.

6 Special Instructions for Sheriff

In some situations, you will have to give detailed instructions on how you want the sheriff to enforce the order. Use the space below to list any instructions. Some examples of when instructions may be needed include:

- Instructions to serve the summons and complaint with a writ of attachment, if not previously served (see Code of Civil Procedure section 488.020(c)).
- Instructions that the levying officer must place a keeper in charge of the property (see Code of Civil Procedure sections 700.070 and 700.080).
- Instructions to seize personal property from a private place (see Code of Civil Procedure section 699.030).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space to list instructions. Use a separate piece of paper and write “SER-001A, Special Instructions for Sheriff” at the top. Turn it in with this form.

**CONFIDENTIAL**

**This is not a court form. Do not file with the court.**



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	LEVYING OFFICER (name and address):  <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">03/18/2025</h3> <h2 style="margin: 0;">NOT APPROVED</h2> <h2 style="margin: 0;">BY COUNCIL</h2>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY: ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<b>EARNINGS WITHHOLDING ORDER</b> <b>(Wage Garnishment)</b>	LEVYING OFFICER FILE NO.: COURT CASE NO.:
<b>EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.</b>	

**EMPLOYER: Enter the following date to assist your record keeping.**  
*Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):*

**TO THE EMPLOYER REGARDING YOUR EMPLOYEE:**

Name and address of employer

Name and address of employee

Social Security No.  on form WG-035  unknown

1. A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (*see instructions on page 2 of this form*). Pay the withheld sums to the **levying officer** (name and address above).

If the employee works for you now, you must **give the employee a copy of this order and *Employee Instructions* (form WG-003)** within 10 days after receiving this order.

**Complete both copies of *Employer's Return* (form WG-005) and mail them to the levying officer** within 15 days after receiving this order, whether or not the employee works for you.

2. The total amount due is: \$

Count **30** calendar days from the date when you received this order. If your employee's pay period ends before the **30th** day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that **30th** day. If you receive notice that the employee has filed a claim of exemption, read the **Instructions to Employer on page 2 of this form** for more information about calculating the start of the withholding period.

Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.

3. The judgment was entered in the court on (date):

The judgment creditor (if different from the plaintiff) is (name):

4. The Instructions to Employer on **page 2 of this form** tell you how much of the employee's earnings to withhold each payday and answer other questions you may have.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)



\_\_\_\_\_  
 (SIGNATURE)  
 LEVYING OFFICER  REGISTERED PROCESS SERVER

# INSTRUCTIONS TO EMPLOYER ON EARNINGS WITHHOLDING ORDERS

WG-002

The instructions in paragraph 1 on page 1 of this form describe your initial duties to provide information to your employee and the levying officer. Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the withholding period.

The withholding period is the period covered by *Earnings Withholding Order* (this order). The withholding period begins 30 calendar days after you receive the order and continues until you have withheld the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice). However, if the employee files a claim of exemption and notifies you of the filing no later than 29 days after you receive *Earnings Withholding Order*, then the withholding period begins 45 days after the date the employee was served with *Earnings Withholding Order*.

The withholding period may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *Employer's Return* (form WG-005) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

*Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one *Earnings Withholding Order* during a withholding period, review form WG-005 for instructions.

If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the Earnings Withholding Order to the levying officer with a statement of the reason it is being returned.**

## WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.

## WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, 706.050, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based. Inquiries about the federal law will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

## COMPUTATION INSTRUCTIONS

California law provides how much earnings to withhold, if any, for different amounts of disposable earnings and different pay periods, and takes into consideration different minimum wage amounts. The method of calculation is at Code of Civil Procedure section 706.050 and is described in the column to the right. You may also look on the California Courts Self-Help website for assistance in determining the maximum withholding amounts for different amounts of disposable income, for different pay periods, and with different minimum wage amounts. The information is at [selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers](https://selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers).

**THESE COMPUTATION INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.**

State law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

(A) To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), first compute the employee's *disposable earnings*.

Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings because they are not paid by the employer.

*Disposable earnings* are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

(B) After the employee's disposable earnings are known, to determine what amount should be withheld, you may look to the statute, follow the directions below in (C), or seek assistance on the California Courts Self-Help website at [selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers](https://selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers). Note that you also need to know the amount of the minimum wage in the location where the employee works.

(C) Calculate the maximum amount that may be withheld from the employee's disposable earnings, which is the *lesser* of the following two amounts:

- 20 percent of disposable earnings for that week; or
- 40 percent of the amount by which the employee's disposable earnings that week exceed the applicable minimum wage. If there is a local minimum wage in effect in the location where the employee works that exceeds the state minimum wage at the time the earnings are payable, the local minimum wage is the applicable minimum wage.

To calculate the correct amount, follow the steps below:

Step 1: Determine the applicable minimum wage per pay period.

- For a daily or weekly pay period, multiply the applicable hourly minimum wage by 48.
- For a biweekly pay period, multiply the applicable hourly minimum wage by 96.
- For a semimonthly pay period, multiply the applicable hourly minimum wage by 104.
- For a monthly pay period, multiply the applicable hourly minimum wage by 208.

Step 2: Subtract the amount from Step 1 from the employee's disposable earnings during that pay period.

Step 3: If the amount from Step 2 is less than zero, do not withhold any money from the employee's earnings.

Step 4: If the amount from Step 2 is greater than zero, multiply that amount by 0.40.

Step 5: If the amount from Step 4 is lower than 20 percent of the employee's disposable earnings, withhold this amount. If it is greater than 20 percent of the employee's disposable earnings, withhold 20 percent of the disposable earnings.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

## IMPORTANT WARNINGS

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.

**IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!**

## EMPLOYEE INSTRUCTIONS

### -NOTICE-

#### IMPORTANT LEGAL NOTICE TO EMPLOYEE ABOUT EARNINGS WITHHOLDING ORDERS (Wage Garnishment)

The **Earnings Withholding Order** requires your employer to pay part of your earnings to the sheriff or other levying officer. The levying officer will pay the money to a creditor who has a court judgment against you. The information below may help you protect the money you earn.

### -NOTICIA-

#### NOTICIA LEGAL IMPORTANTE RESPECTO A LAS ÓRDENES DE RETENCIÓN DE SUELDO

La **Orden de Retención de Sueldo** requiere que su empleador pague una parte de su sueldo a un oficial de embargo. El oficial le pagará el dinero retenido a su acreedor que ha conseguido una decisión judicial en contra de usted. Pida usted que un amigo o su abogado le lea este papel oficial. Esta información le puede ayudar a proteger su sueldo.

### CAN YOU BE FIRED BECAUSE OF THIS?

**NO.** You cannot be fired unless your earnings have been withheld before for a different court judgment. If this is the first judgment for which your wages will be withheld and your employer fires you because of this, the California Labor Commissioner, listed in the phone book of larger cities, can help you get your job back.

### HOW MUCH OF YOUR PAY WILL BE WITHHELD?

The Earnings Withholding Order (abbreviated in this notice as **EWO**) that applies to you contains Employer Instructions. These explain how much of your earnings can be withheld. Generally, the amount is about 20% of your take home pay until the amount due has been withheld. The levying officer will notify the employee of an additional assessment charged for paying out money collected under this order and that amount will also be withheld.

If you have trouble figuring this out, ask your employer for help.

### IS THERE ANYTHING YOU CAN DO?

**YES.** There are several possibilities.

1. See an attorney. If you do not know an attorney, check with the lawyer referral service or the legal aid office in your county (both are listed in the yellow pages under "Attorneys"). An attorney may be able to help you make an agreement with your creditor, or may be able to help you stop your earnings from being withheld. You may wish to consider bankruptcy or asking the bankruptcy court to help you pay your creditors. These possibilities may stop your wages from being withheld. An attorney can help you decide what is best for you. Take your **EWO** to the attorney to help you get the best advice and the fastest help.
2. Try to work out an agreement yourself with your creditor. Call the creditor or the creditor's attorney, listed on the **EWO**. If you make an agreement, the withholding of your wages will stop or be changed to a smaller amount you agree on. (See *item 4 on page 2 of this form for another way to make an offer to your creditor.*)
3. You can ask for an EXEMPTION. An exemption will protect more, or maybe even all of your earnings. You can get an exemption if you need your earnings to support yourself or your family, **but you cannot get an exemption if:**
  - a. You use some of your earnings for luxuries and they aren't really necessary for support; **OR**
  - b. You owe money to an attorney because of a court order in a family case; **OR**
  - c. You owe the debt for past due child support or spousal support (alimony); **OR**
  - d. You owe the debt to a former employee for wages.

### HOW DO YOU ASK FOR AN EXEMPTION?

See the other side of this form for instructions about claiming an exemption.

### IS THE EWO RELATED TO PERSONAL DEBT?

If the EWO is being used to enforce a judgment for personal debt, the judgment creditor is required to verify your address before asking the levying officer to serve the EWO. The judgment creditor must give the levying officer a completed copy of *Declaration of Address Verification* (form EJ-135) and must file a completed form EJ-135 with the court within five days of giving a copy of the form to the levying officer. If the judgment creditor doesn't take these steps, you can ask the court to stay (pause) the wage garnishment order until the address verification is complete. You can use *Application for Stay of Levy or Garnishment* (form WG-015/EJ-137) to ask the court for a stay.

## HOW DO YOU ASK FOR AN EXEMPTION?

WG-003

1. Call or write the levying officer for three copies each of *Claim of Exemption* (form WG-006) and *Financial Statement* (form WG-007). Or go to [courts.ca.gov/rules-forms/find-your-court-forms](https://courts.ca.gov/rules-forms/find-your-court-forms) to download copies of the forms. These forms are free.
  2. Fill out both forms. If an item on the form has a box  in front of it, only check the box if the item applies to your case.
  3. It is **your** job to prove with the *Financial Statement* form that your earnings are needed for support. Write down the details about your needs. For example, if your child has special medical expenses, tell which child, what illnesses, who the doctor is, how often the doctor must be visited, the cost per visit, and the costs of medicines. These details should be listed in item 6 on *Financial Statement*. If you need more space, write "See attachment 6" in item 6 and attach a separate piece of paper labeled "Attachment 6" where you can explain your expenses in detail.
  4. You can use *Claim of Exemption* (form WG-006) to make an offer to the judgment creditor to have a specified amount withheld each pay period. Complete item 3 on the form to indicate the amount you agree to have withheld **each pay day during the withholding period**. (Be sure it's less than the amount to be withheld otherwise.) If your creditor accepts your offer, he will not oppose your claim of exemption. (See item (1) in the "ONE OF TWO THINGS WILL HAPPEN" section below.)
  5. Sign *Claim of Exemption* and *Financial Statement*. Be sure *Claim of Exemption* shows the address where you receive mail.
  6. Mail or deliver two copies of each of the two forms to the levying officer. Keep one copy for yourself in case there is a court hearing. Do not use *Claim of Exemption* (form WG-006) or *Financial Statement* (form WG-007) to seek a modification of child support or alimony payments. These payments can be modified only by the family law court that ordered them.
- FILE YOUR CLAIM OF EXEMPTION AS SOON AS POSSIBLE FOR THE MOST PROTECTION.

### ONE OF TWO THINGS WILL HAPPEN AFTER YOU ASK FOR AN EXEMPTION

- (1) The judgment creditor will not oppose (object to) your claim of exemption. If this happens, after 10 days the levying officer will tell your employer to stop withholding or withhold less from your earnings. The part (or all) of your earnings needed for support will be paid to you or paid as you direct. And you will get back earnings the levying officer or your employer were holding when you asked for the exemption.
- OR—
- (2) The creditor will oppose (object to) your claim of exemption. If this happens, you will receive *Notice of Opposition to Claim of Exemption* (form WG-009) and *Notice of Hearing on Claim of Exemption* (form WG-010), where the creditor explains why your exemption should not be allowed. A box in the middle of form WG-010 tells you the time and place of the court hearing, which will be about 10 days after the creditor files form WG-010 with the court. Be sure to go to the hearing if you can.

If the judgment creditor has checked the box in item 3 on *Notice of Hearing on Claim of Exemption*, the creditor will not be in court. You do not have to go to the hearing if you are willing to have the court make its decision based on your *Financial Statement* and the creditor's *Notice of Opposition to Claim of Exemption*.

If you go to the hearing, take any bills, paycheck stubs, canceled checks, or other evidence (including witnesses) that will help you prove your *Claim of Exemption* and *Financial Statement* are correct and your earnings are needed to support you or your family. And bring any evidence that *Notice of Opposition to Claim of Exemption* is wrong. For example, if the notice says the judgment was for wages for a past employee, you might be able to give evidence that the person was not an employee or the debt was not for wages. If the judge at the hearing agrees with you, your employer will be ordered to stop withholding your earnings or withhold less money. The judge can even order that the **EWO** end before the hearing (so you would get some earnings back).

If the judge does not agree with you, the withholding will continue unless you **appeal** to a higher court. The rules for appeals are complex so you should see an attorney if you want to appeal.

If you have one court hearing, you should not file another *Claim of Exemption* about the same **EWO** unless your finances have gotten worse in an important way.

If your **EWO** is changed or ended, the levying officer must sign the notice to your employer of the change. The levying officer may give you permission to deliver it to the employer, or it can be mailed.

### WHAT HAPPENS TO YOUR EARNINGS IF YOU FILE A CLAIM OF EXEMPTION?

Your employer must continue to hold back part of your earnings for the **EWO** until he receives a notice signed by the levying officer to change the order or end it early. The levying officer will keep your withheld earnings until your *Claim of Exemption* is denied or takes effect. At that time your earnings will be paid according to the law that applies to your case.

### REGARDING CHILD SUPPORT

If you are obligated to make child support payments, the local child support agency may help you to have an Order Assigning Salary or Wages entered. This order has the top priority claim on your earnings. When it is in effect, little or no money may be available to be withheld for an **EWO**. And, if the local child support agency is involved in collecting this support from you, it may agree to accept less money if this special order is entered.

### WHAT IF YOU STILL HAVE QUESTIONS?

If you cannot see an attorney, or don't want to see an attorney, you might be able to answer some of your questions by reading the law in a law library. Ask the law librarian to help you find sections 706.050 and 706.105 of the California Code of Civil Procedure. Other sections of the code, beginning with section 706.010 may also answer some of your questions.

Also, the office of the Wage and Hour Division of the U.S. Department of Labor may be able to answer some of your questions. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.:  STATE:                      ZIP CODE: FAX NO.:	LEVYING OFFICER (name and address):  <p style="text-align: center;"><b>DRAFT</b>  <b>03/18/2025</b>  <b>NOT APPROVED</b>  <b>BY COUNCIL</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		COURT CASE NUMBER:
<b>EARNINGS WITHHOLDING ORDER FOR SUPPORT</b> <b>(Wage Garnishment)</b>		LEVYING OFFICER FILE NUMBER:

**EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER.                      EMPLEADO: GUARDE ESTE PAPEL OFICIAL.**

**EMPLOYER: Enter the following date to assist your record keeping.**  
*Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):*

**TO THE EMPLOYER REGARDING YOUR EMPLOYEE:**

Name and address of employee	Name and address of employee
Social Security No. <input type="checkbox"/> on form WG-035 <input type="checkbox"/> unknown	

- A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (see instructions on page 2 of this form). Pay the withheld sums to the **levying officer** (name and address above).  
 If the employee works for you now, you must **give the employee a copy of this order and Employee Instructions (form WG-003)** within 10 days after receiving this order.  
**Complete both copies of Employer's Return (form WG-005) and mail them to the levying officer** within 15 days after receiving this order, whether or not the employee works for you.
- The total amount due is: \$  
 Count **30** calendar days from the date when you received this order. If your employee's pay period ends before the **30th** day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that **30th** day. If you receive notice that the employee has filed a claim of exemption, read the Employer's Instructions on page 2 of this form for more information about calculating the start of the withholding period.  
 Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.
- The judgment was entered in the court shown above. The judgment creditor is (name):
- The **Employer's Instructions on page 2 of this form** tell you how much of the employee's earnings to withhold each payday **and contain special rules that apply to Earnings Withholding Order for Support (form WG-004)**. Follow those instructions unless you receive a court order or order from the levying officer giving you other instructions.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE)
 

LEVYING OFFICER     REGISTERED PROCESS SERVER

**EMPLOYER'S INSTRUCTIONS  
(EARNINGS WITHHOLDING ORDERS FOR SUPPORT)**

The instructions apply only to *Earnings Withholding Orders for Support* (this order). Applicable instructions appear on other types of Earnings Withholding Orders.

The instructions in paragraph 1 on page 2 of this form describe your initial duties to provide information to your employee and the levying officer.

Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the *withholding period*.

The usual *withholding period* begins 30 calendar days after you receive the *Earnings Withholding Order for Support*. However, if the employee files a claim of exemption and notifies you of the filing no later than 29 days after you receive *Earnings Withholding Order for Support*, then the withholding period begins 45 days after the date the employee was served with *Earnings Withholding Order for Support*.

The *withholding period* for this order continues until one of two things happens:

- (1) the total amount specified in the Order, plus any amounts listed in a notice from the levying officer, has been withheld, or
- (2) you receive a court order or notice signed by the levying officer specifying a termination date.

You are entitled to rely on and should obey all written notices signed by the levying officer.

*Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one Earnings Withholding Order during a withholding period, review *Employer's Return* for instructions.

Your duty to withhold does not end merely because the employee no longer works for you. Withholding for *Earnings Withholding Order for Support* does not automatically terminate until one year after the employment of the employee by the employer ends.

**WHAT TO DO WITH THE MONEY**

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

*Be sure to mark each check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account*

**WHAT IF YOU STILL HAVE QUESTIONS?**

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based.

Inquiries about the federal law will be answered by mail, telephone or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

**COMPUTATION INSTRUCTIONS**

State and federal law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay. To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), compute the employee's *disposable* earnings.

(A) Earnings include any money, (whether called wages, salary, commissions, bonuses or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earning since they are not paid by the employer.

(B) *Disposable earnings* are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employees' retirement systems. Disposable earnings will change when the required deductions change.

After the employee's disposable earnings are known, WITHHOLD FIFTY (50) PERCENT of the *disposable earnings* for the Withholding Order for Support. For example, if the employee has monthly disposable earnings of \$1,432, the sum of \$716 would be withheld to pay to the levying officer on account of this order.

Occasionally, the employee's earnings will also be subject to a Wage and Earnings Assignment Order, an order available for child support or spousal support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order. For example, if the employee is subject to a Wage and Earnings Assignment Order and the employer is required to withhold \$300 per month to pay on that order, when the employer receives this Earnings Withholding Order for Support, the employer should deduct the \$300 for the Wage and Earnings Assignment Order from the \$716 and pay the balance to the levying officer each month for this order.

**IMPORTANT WARNINGS**

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF EARNINGS WITHHOLDING ORDERS FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to judgment (no matter how many debts are represented in that judgment) the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN EARNINGS WITHHOLDING ORDER BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE EARNINGS WITHHOLDING ORDER TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the laws that apply to this case.

**IF YOU VIOLATE ANY OF THESE LAWS, YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!**

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR LEVYING OFFICER USE ONLY (Levy Officer Name and Address)  <b>DRAFT</b> <b>03/18/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER FILE NUMBER: _____
<b>CLAIM OF EXEMPTION</b> <b>(Wage Garnishment)</b>	FOR COURT USE ONLY
Instructions for completing this form: <ul style="list-style-type: none"> <li>• Read <i>Employee Instructions</i> (form WG-003) before completing this form.</li> <li>• If you check the box for item 3b or 3c, <b>you must attach</b> a properly completed <i>Financial Statement</i> (form EJ-165) to this <i>Claim of Exemption</i>. You can get a copy of form EJ-165 for free by asking the levying officer or going to <a href="https://courts.ca.gov/rules-forms/find-your-court-forms">courts.ca.gov/rules-forms/find-your-court-forms</a> or your court's self-help center.</li> <li>• If you check the box for item 3a, you <b>do not</b> need to complete form EJ-165.</li> <li>• You must give the levying officer this completed original form and one copy of the completed form. You should save at least one copy of the form for your records.</li> <li>• <b>Do not file this form with the court.</b></li> </ul>	CASE NUMBER: _____
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	

1. My name is:

2. Please send all papers to

me

my attorney

at  the address shown above  another address (specify):

3. I am making this claim of exemption because (check a, b, or c):

a.  My earnings are below the legal minimum amount for an earnings withholding order.

(Your earnings cannot be withheld unless you earn more than a minimum amount set by law (Code Civ. Proc., § 706.050). You earn less than the legal minimum amount if, after mandatory deductions:

- If you are paid at least once a week: You earn less than 48 times the California minimum hourly wage each week.
- If you are paid once every two weeks: You earn less than 96 times the California minimum hourly wage each pay period.
- If you are paid twice a month: You earn less than 104 times the California minimum hourly wage each pay period.
- If you are paid once a month: You earn less than 208 times the California minimum hourly wage each pay period.)

b.  I need all my earnings to support myself or my family. A completed *Financial Statement* (form EJ-165) is attached to this claim.

c.  I need \$ \_\_\_\_\_ each pay period to support myself or my family. A completed *Financial Statement* (form EJ-165) is attached to this claim.

SHORT TITLE:	LEVYING OFFICER FILE NO.	COURT CASE NO.
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4. I am willing for the following amount to be withheld from my earnings **each pay period** during the withholding period. I understand that **this amount will be withheld each pay period** if the judgment creditor accepts this offer by not opposing my *Claim of Exemption (check one)*:

- a.  None
- b.  Withhold \$ \_\_\_\_\_ each pay period.

5. I am paid (*check one*)

- daily       every two weeks       monthly
- weekly       twice a month       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)



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <b>DRAFT</b> <b>03/07/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<b>NOTICE ON HEARING OF CLAIM OF EXEMPTION</b> <b>(Wage Garnishment - Enforcement of Judgment)</b>	LEVYING OFFICER FILE NO: COURT CASE NO:

1. TO:

Name and address of levying officer  <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> Claimant, if other than judgment debtor (name and address): <input type="text"/> <input type="text"/>	Name and address of judgment debtor  <input type="text"/> <input type="text"/> <input type="text"/> <input type="checkbox"/> Judgment debtor's attorney (name and address): <input type="text"/> <input type="text"/>
--	---

2. A hearing to determine the claim of exemption of

judgment debtor  
 other claimant  
 will be held as follows:

Name and address of court if different from above:

<b>Hearing Date</b>	→	Date:	Time:
		Dept.:	Room:

3.  The judgment creditor will not appear at the hearing and submits the issue on the papers filed with the court.

*If you do not attend the hearing, the court may determine your claim based on the Claim of Exemption, Financial Statement (when one is required), Notice of Opposition to Claim of Exemption, and other evidence that may be presented.*

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF JUDGMENT CREDITOR OR ATTORNEY)

**NOTICE TO THE JUDGMENT DEBTOR**

If the *Claim of Exemption* is for a levy or garnishment that is being used to enforce a judgment for personal debt, and if the hearing on *Claim of Exemption* is scheduled to occur more than 30 days after this *Notice of Hearing on Claim of Exemption* is filed, you can ask the court to stay the levy or garnishment until the hearing occurs. You can do so by filing *Application to Stay Levy or Garnishment* (form WG-015/EJ-137). (Code Civ. Proc., §§ 703.570(a), 706.105(e).)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <b>DRAFT</b> <b>03/18/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	LEVYING OFFICER (name and address):
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	LEVYING OFFICER FILE NO.:
<b>APPLICATION TO STAY LEVY OR GARNISHMENT</b> <b>(Enforcement of Judgment—Wage Garnishment)</b>	COURT CASE NO.:

1. Judgment debtor (name): asks the court to stay (pause) a wage garnishment, bank account levy, or other levy.
  
2. The judgment debtor received (check all that apply; to list more documents, check here  and attach a page labeled Attachment 2):
  - a.  Notice of Levy (form EJ-150) issued on (date):
  - b.  Earnings Withholding Order (form WG-002) issued on (date):
  
3. The levy or garnishment is for a judgment for personal debt.  
*(Personal debt means money due or owing because of a transaction for money, property, insurance, or services used primarily for the debtor's personal, family, or household purposes. Personal debt does not include rental debt or debts incurred due to, or obtained by, tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee. (Code Civ. Proc., § 683.110.))*
  
4. The judgment debtor asks the court to (check one):
  - a.  Stay the levy or garnishment until the judgment creditor files *Declaration of Address Verification*. The judgment creditor asked the levying officer to serve the judgment debtor with the papers listed in item 1 and did not (check all that apply):
    - give the levying officer a completed *Declaration of Address Verification* (form EJ-135).
    - file the completed *Declaration of Address Verification* (form EJ-135) with the court within five days of giving a copy of the declaration to the levying officer.
  - b.  Stay the levy or garnishment until after the hearing scheduled by *Notice of Hearing on Claim of Exemption* (form WG-010/EJ-175). The hearing is scheduled to take place more than 30 days after form WG-010/EJ-175 was filed:
    - (1) *Notice of Hearing on Claim of Exemption* was filed on (date):
    - (2) The hearing on the claim of exemption is scheduled for (date):

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)

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ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY  <b>DRAFT</b> <b>03/07/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER (name and address): _____
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	LEVYING OFFICER FILE NO.: _____
<b>ORDER ON APPLICATION TO STAY LEVY OR GARNISHMENT</b> <b>(Enforcement of Judgment—Wage Garnishment)</b>	COURT CASE NO.: _____

1. Judgment debtor (name): \_\_\_\_\_  
 asked the court for an order staying the levy or garnishment described in (specify name and date of order and to whom it was issued): \_\_\_\_\_

2. The court, having reviewed the application, makes the following ruling:

- a.  The application for a stay is denied because (check all that apply)
- (1)  The application was incomplete.
  - (2)  The application did not meet the requirements to stay a levy or garnishment under Code of Civil Procedure section 684.130(b).
  - (3)  The application did not meet the requirements to stay a levy or garnishment under Code of Civil Procedure sections 703.570(a) and 706.105(e).
  - (4)  Other (specify): \_\_\_\_\_
- b.  The application for a stay is granted and the levy or garnishment identified in item 1 is stayed until (check one):
- (1)  The judgment creditor files *Declaration of Address Verification* (form EJ-135). (Code Civ. Proc., § 684.130(b)(4).)
  - (2)  The conclusion of the hearing on the judgment creditor's motion opposing the judgment debtor's claim of exemption. (Code Civ. Proc., §§ 703.570(a), 706.105(e).)

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER

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ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR STATE TAX AGENCY: _____	FOR COURT USE ONLY  <b>DRAFT</b> <b>12/17/2024</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
NAME OF COURT: _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
APPLICATION OF <i>(Name)</i> : _____  <div style="text-align: right;">TAXPAYER / RESPONDENT</div>	
<b>EARNINGS WITHHOLDING ORDER FOR TAXES</b>	CASE NUMBER: _____
NAME OF STATE TAX AGENCY: _____	TAX AGENCY NUMBER: _____

1. The State's *Application for Earnings Withholding Order for Taxes* came on for hearing on  
 (date): \_\_\_\_\_ in  Dept.: \_\_\_\_\_  Div.: \_\_\_\_\_  Room:  
 before (name of judicial officer): \_\_\_\_\_
2. a.  Attorney for state tax agency present in court (*attorney name*):  
 b.  Taxpayer present in court.  
 c.  Attorney for taxpayer present in court (*attorney name*):
3. The court has considered  the taxpayer's *Claim of Exemption and Financial Declaration* (form WG-026)  
 the evidence presented  the parties' stipulation.
4. **THE COURT FINDS**
  - a. The taxpayer (employee) is entitled to a monthly exemption of: \$ \_\_\_\_\_
  - b. The taxpayer is employed by (name and address of employer): \_\_\_\_\_
  - c.  \$ \_\_\_\_\_ has been withheld from the employee's earnings under a *Temporary Earnings Withholding Order for Taxes*.
5. **THE COURT ORDERS the employer to**
  - a. withhold and pay to the state tax agency: \$ \_\_\_\_\_ from the employee's disposable earnings each month.
  - b. pay to the employee any disposable earnings above that amount, not to exceed: \$ \_\_\_\_\_ per month.
  - c. WITHHOLD AND PAY TO THE STATE TAX AGENCY ANY DISPOSABLE EARNINGS ABOVE THOSE SET FORTH IN ITEMS 4a AND 4b.
  - d. begin withholding with the first pay period that ends on or after the 30th day after this order is served.
  - e. continue withholding until the tax liability has been satisfied unless an order with higher priority is received.
  - f. send all sums withheld to the state tax agency within 10 days after the last paycheck of each month.
  - g.  other (specify): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

(Instructions to employer on page 2 of this form)

APPLICATION OF (Name):  <p style="text-align: center;">TAXPAYER / RESPONDENT</p>	CASE NUMBER:
--	--------------

**INSTRUCTIONS TO EMPLOYER**

A. When remitting withheld sums to the state tax agency, include the employee's name and social security number, and the tax agency number.

**B. PRIORITY OF EARNINGS WITHHOLDING ORDERS**

- First:** Order Assigning Salary or Wages
- Second:** Earnings Withholding Order for Support
- Third:** Earnings Withholding Order for Taxes
- Fourth:** Earnings Withholding Order

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ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	LEVYING OFFICER (name and address):  <b>DRAFT</b> <b>03/18/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	CASE NUMBER:
<b>EARNINGS WITHHOLDING ORDER FOR          ELDER OR DEPENDENT ADULT FINANCIAL ABUSE          (Wage Garnishment)</b>	LEVYING OFFICER FILE NUMBER:
<b>EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.</b>	
<b>EMPLOYER: Enter the following date to assist your record keeping.</b> <i>Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):</i>	

**TO THE EMPLOYER REGARDING YOUR EMPLOYEE:**

Name and address of employer <input style="width:90%; height: 20px; border: 1px solid black;" type="text"/>  <input style="width:90%; height: 20px; border: 1px solid black;" type="text"/>	Name and address of employee <input style="width:90%; height: 20px; border: 1px solid black;" type="text"/>  <input style="width:90%; height: 20px; border: 1px solid black;" type="text"/>
Social Security No. <input type="checkbox"/> on form WG-035 <input type="checkbox"/> unknown	

1. A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (see instructions on page 2 of this form).  
 Pay the withheld sums to the **levying officer** (name and address above). If the employee works for you now, you must **give the employee a copy of this order and Employee Instructions (form WG-003)** within 10 days after receiving this order.  
**Complete both copies of Employer's Return (form WG-005) and mail them to the levying officer** within 15 days after receiving this order, whether or not the employee works for you.
  
2. a. The total amount due is: \$  
 b. The amount arising from an elder or dependent financial abuse claim is: \$  
 Count **30** calendar days from the date when you received this order. If your employee's pay period ends before the **30th** day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that **30th** day. **If you receive notice that the employee has filed a claim of exemption, read the Instructions to Employer on page 2 of this form for more information about calculating the start of the withholding period.**  
 Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.
  
3. The judgment was entered in the court on (date):  
 The judgment creditor (if different from the plaintiff) is (name):
  
4. The Instructions to Employer on **page 2 of this form** tell you how much of the employee's earnings to withhold each payday. Follow those instructions unless you receive a court order or order from the levying officer giving you other instructions.

Date: \_\_\_\_\_

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE)
	<input type="checkbox"/> LEVYING OFFICER <input type="checkbox"/> REGISTERED PROCESS SERVER

## INSTRUCTIONS TO EMPLOYER ON EARNINGS WITHHOLDING ORDERS

WG-030

The instructions in paragraph 1 on page 1 of this form describe your initial duties to provide information to your employee and the levying officer. Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the withholding period.

The withholding period is the period covered by *Earnings Withholding Order* (this order). The withholding period begins 30 calendar days after you receive the order and continues until you have withheld the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice). However, if the employee files a claim of exemption and notifies you of the filing no later than 29 days after you receive *Earnings Withholding Order*, then the withholding period begins 45 days after the date the employee was served with *Earnings Withholding Order*.

The withholding period may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *Employer's Return* (form WG-005) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

*Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one *Earnings Withholding Order* during a withholding period, review form WG-005 for instructions.

If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the *Earnings Withholding Order* to the levying officer with a statement of the reason it is being returned.**

### WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.

### WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, 706.050, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based. Inquiries about the federal law will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

### COMPUTATION INSTRUCTIONS

California law provides how much earnings to withhold, if any, for different amounts of disposable earnings and different pay periods, and takes into consideration different minimum wage amounts. The method of calculation is at Code of Civil Procedure section 706.050 and is described in the column to the right. You may also look on the California Courts Self-Help website for assistance in determining the maximum withholding amounts for different amounts of disposable income, for different pay periods, and with different minimum wage amounts. The information is at [selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers](https://selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers).

**THESE COMPUTATION INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.**

State law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

(A) To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), first compute the employee's *disposable earnings*.

Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings because they are not paid by the employer.

*Disposable earnings* are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

(B) After the employee's disposable earnings are known, to determine what amount should be withheld, you may look to the statute, follow the directions below in (C), or seek assistance on the California Courts Self-Help website at [selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers](https://selfhelp.courts.ca.gov/guide-earnings-withholding-orders-employers). Note that you also need to know the amount of the minimum wage in the location where the employee works.

(C) Calculate the maximum amount that may be withheld from the employee's disposable earnings, which is the *lesser* of the following two amounts:

- 20 percent of disposable earnings for that week; or
- 40 percent of the amount by which the employee's disposable earnings that week exceed the applicable minimum wage. If there is a local minimum wage in effect in the location where the employee works that exceeds the state minimum wage at the time the earnings are payable, the local minimum wage is the applicable minimum wage.

To calculate the correct amount, follow the steps below:

Step 1: Determine the applicable minimum wage per pay period.

- For a daily or weekly pay period, multiply the applicable hourly minimum wage by 48.
- For a biweekly pay period, multiply the applicable hourly minimum wage by 96.
- For a semimonthly pay period, multiply the applicable hourly minimum wage by 104.
- For a monthly pay period, multiply the applicable hourly minimum wage by 208.

Step 2: Subtract the amount from Step 1 from the employee's disposable earnings during that pay period.

Step 3: If the amount from Step 2 is less than zero, do not withhold any money from the employee's earnings.

Step 4: If the amount from Step 2 is greater than zero, multiply that amount by 0.40.

Step 5: If the amount from Step 4 is lower than 20 percent of the employee's disposable earnings, withhold this amount. If it is greater than 20 percent of the employee's disposable earnings, withhold 20 percent of the disposable earnings.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

### IMPORTANT WARNINGS

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.

**IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!**

## EARNINGS WITHHOLDING ORDER FOR ELDER OR DEPENDENT ADULT FINANCIAL ABUSE (Wage Garnishment)

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

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

**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 Reflect the Repeal of COVID 19 Legislation

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

Revise forms SC-100, SC-103, SC-104B, SUM-130, UD-100, UD-105; revoke forms PLD-C-500, PLD-C-505, PLD-C-520, SC 500, SC-500-INFO, SC-500A, UD-101, UD-104, UD-104(A), UD-125

*Committee or other entity submitting the proposal:*

Civil and Small Claims Advisory Committee

*Staff contact (name, phone and email):* Jenny Grantz, 415-865-4394, [jenny.grantz@jud.ca.gov](mailto:jenny.grantz@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): 10/22/2024

Project description from annual agenda: Develop form recommendations as appropriate. Code of Civil Procedure sections 116.223 and 1179.01 through 1179.15 are repealed as of September 30, 2024, or October 1, 2025, by their own terms. Those sections permit recovery of COVID-19 rental debt in small claims courts, require a cover sheet for unlawful detainer filings, and provide other procedures for unlawful detainer filings during a specified period. The council adopted several forms, including forms SC-500 and UD-101 to implement those sections when they were enacted. Because the forms' statutory authorization sunsets, they should be revoked and any forms referring to the forms, including plaintiff's claim form for small claims and the unlawful detainer answer form, need to be revised. The committee will also consider revising the unlawful detainer complaint and answer forms to use plain language. and whether other revisions should be made in response to AB 2347, which extends the time in which a defendant must file a response from 5 to 10 days after the complaint is served.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/7/2025

approved by Office Director (or Designee) (name) Michael Giden  
on (date) 3/24/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

### SPR25-07

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Title	Action Requested
Civil Practice and Procedure: Form Revisions to Reflect the Repeal of COVID-19 Legislation	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms SC-100, SC-103, SC-104B, SUM-130, UD-100, UD-105; revoke forms PLD-C-500, PLD-C-505, PLD-C-520, SC-500, SC-500-INFO, SC-500A, UD-101, UD-104, UD-104(A), UD-125	January 1, 2026
	Contact
	Jenny Grantz, 415-865-4394 <a href="mailto:jenny.grantz@jud.ca.gov">jenny.grantz@jud.ca.gov</a>
Proposed by	
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	

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### Executive Summary and Origin

Assembly Bill 2347 (Stats. 2024, ch. 512) changed the deadline to respond to a summons in unlawful detainer proceedings and other summary proceedings for obtaining possession of real property. Additionally, several statutes implemented to address the COVID-19 pandemic are being repealed. The Civil and Small Claims Advisory Committee proposes revising five forms and revoking 10 forms to implement these changes in law, as well as revising one unlawful detainer form to refer to the federal CARES Act.

### Background

#### AB 2347

Effective January 1, 2025, AB 2347 changed the deadline to respond to a summons in unlawful detainer proceedings and other summary proceedings for obtaining possession of real property.<sup>1</sup> The law previously provided that a defendant who received a summons for unlawful detainer,

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<sup>1</sup> See Link A.

forcible detainer, or forcible entry had to file a response within five court days of service of the summons, or within 10 court days if service was completed by mail or in person through the California Secretary of State’s Safe at Home address confidentiality program.

AB 2347 changed these deadlines and defendants must now respond within 10 court days of service of the summons, or within 15 court days if service is completed through the Safe at Home program.<sup>2</sup>

### **Repeal of COVID-19 legislation**

In 2020 and 2021, the Judicial Council adopted and revised numerous forms to implement Code of Civil Procedure section 116.223 and sections 1179.01 through 1179.15, which permitted recovery of COVID-19 rental debt in small claims court, required a cover sheet for unlawful detainer filings, and created other procedures for unlawful detainer filings during a specified period. Those statutes are repealed as of September 30, 2024, or October 1, 2025, by their own terms.

### **Federal CARES Act**

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provides that for “covered properties,” a 30-day notice to vacate must be provided to the tenant before a landlord can file an eviction lawsuit based on nonpayment of rent.<sup>3</sup> The act defines a “covered property” as any property that (1) participates in a covered housing program, as defined in 34 U.S.C. § 12491(a); (2) participates in the rural housing voucher program under 42 U.S.C. § 1490r; or (3) has a federally backed mortgage loan or federally backed multifamily mortgage loan. Although the CARES Act was enacted to address the COVID-19 pandemic, the 30-day notice provision of the act continues indefinitely.

### **The Proposal**

#### **Previously approved revisions to form SUM-130 to implement AB 2347**

On December 24, 2024, the Judicial Council approved revisions to *Summons—Eviction* (form SUM-130) to reflect the new deadlines for responding to a summons for unlawful detainer, forcible detainer, or forcible entry.<sup>4</sup> These revisions became effective on January 1, 2025, the date AB 2347 took effect.

The council determined that prompt revision was warranted to ensure the form did not incorrectly state the law. The council therefore approved the form before the revisions could be circulated for public comment. The committee now seeks comment on these revisions to form SUM-130 and will recommend further revisions if necessary, effective January 1, 2026.

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<sup>2</sup> Code Civ. Proc., § 1167.

<sup>3</sup> 15 U.S.C. § 9058(c).

<sup>4</sup> Judicial Council of Cal., Staff Rep., *Unlawful Detainer: Deadline to Respond to Summons* (Dec. 19, 2024), <https://jcc.legistar.com/View.ashx?M=A&ID=1264335&GUID=E6AA9A2C-F163-4D75-88F3-E33A4E2A3E45>.

## Form revisions to reflect the repeal of COVID-19 legislation

The committee proposes revising four forms<sup>5</sup> to remove references to the repealed COVID-19 legislation or to other forms implementing that legislation:<sup>6</sup>

1. *Plaintiff's Claim and Order to Go to Small Claims Court* (form SC-100). The committee proposes deleting:
  - The instruction box on page 1 regarding COVID-19 rental debt;
  - The reference in item 3 to form SC-500, which the committee proposes revoking; and
  - The references at the bottom of pages 5 and 6 to “action[s] to recover COVID-19 rental debt.”
2. *Fictitious Business Name* (form SC-103). The committee proposes deleting the “Form SC-500” checkbox on page 1 because the committee proposes revoking form SC-500.
3. *What Is “Proof of Service”?* (form SC-104B). The committee proposes deleting references to form SC-500 because the committee proposes revoking that form. These references are in the “What is ‘service’?”, “When do the court forms have to be served?”, and “What if I can’t get the court papers served before the trial?” sections.
4. *Answer—Unlawful Detainer* (form UD-105). The committee proposes deleting:<sup>7</sup>
  - The references to form UD-101 in items 2a and 2b because the committee proposes revoking that form;
  - All of item 2b(2) because it concerns form UD-101, which the committee proposes revoking;
  - The reference in item 3n to Code of Civil Procedure section 1179.01; and
  - All of item 3p, which concerns Code of Civil Procedure section 1179.04.5.

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<sup>5</sup> One other form included items related to the repealed COVID-19 legislation, but that form was already revised to remove those items. Judicial Council of Cal., Advisory Com. Rep., *Unlawful Detainer: Form Revisions Under Code of Civil Procedure, Sections 1179.10 and 1179.11* (June 30, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=11032982&GUID=65DEE8DB-3D3B-4CBD-8A47-08607BF95789> (revising *Verification By Landlord Regarding Rental Assistance—Unlawful Detainer* (form UD-120)).

<sup>6</sup> The committee also proposes correcting URLs on forms SC-100, SC-103, SC-104B, and UD-105.

<sup>7</sup> Item 3m on form UD-105 concerns COVID-19 rental assistance under the federal Emergency Rental Assistance Program (<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program>). That program is still ongoing, and item 3m does not need to be revised.

The committee proposes revoking 10 forms that were created to implement the repealed COVID-19 legislation:

1. *Complaint—Recovery of COVID-19 Rental Debt* (form PLD-C-500);
2. *Answer—Recovery of COVID-19 Rental Debt* (form PLD-C-505);
3. *Verification by Plaintiff Regarding Rental Assistance—Recovery of COVID-19 Rental Debt* (form PLD-C-520);
4. *Plaintiff’s Claim and Order to Go to Small Claims Court (COVID-19 Rental Debt)* (form SC-500);
5. *COVID-19 Rental Debt in Small Claims Court* (SC-500-INFO);
6. *Other Plaintiffs or Defendants (COVID-19 Rental Debt)* (form SC-500A);
7. *Plaintiff’s Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101)<sup>8</sup>;
8. *Cover Sheet for Declaration of COVID-19–Related Financial Distress* (form UD-104);
9. *Attachment—Declaration of COVID-19–Related Financial Distress* (form UD-104(A)); and
10. *Application to Prevent Forfeiture Due to COVID-19 Rental Debt* (form UD-125).

#### **Revisions to form UD-100 related to the federal CARES Act**

The committee proposes revising *Complaint—Unlawful Detainer* (form UD-100) to add a checkbox to item 9a for “30-day notice to quit under the federal CARES Act (15 U.S.C. § 9058(c)).” Item 9a asks the plaintiff to identify the notices to pay rent or quit that have been served on the defendant.

The committee makes this proposal in response to several public comments on a recent proposal to revise unlawful detainer forms.<sup>9</sup> Those commenters noted that although item 3o on *Answer—Unlawful Detainer* (form UD-105) asks whether the property is covered by the federal CARES Act, tenants are unlikely to know this information because CARES Act coverage depends on whether the property owner participates in certain programs or has a federally backed mortgage.

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<sup>8</sup> Although the title of form UD-101 does not include “COVID-19,” this form was created to implement Code of Civil Procedure section 1179.01.5(c), which will be repealed on October 1, 2025. Judicial Council of Cal., Advisory Com. Rep., *Unlawful Detainers: Forms to Implement Assembly Bill 3088* (Sept. 30, 2020), <https://jcc.legistar.com/View.ashx?M=A&ID=807953&GUID=7047037D-7F4C-4ED2-B640-AF38367CC2F8>.

<sup>9</sup> Judicial Council of Cal., Advisory Com. Rep., *Unlawful Detainer: Forms to Reflect Existing Law and Implement Senate Bill 1017 and Assembly Bill 1726* (July 14, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12246586&GUID=F320E952-292B-412D-9A58-4B4BDF9AEC0A>.

The commenters therefore recommended revising *Plaintiff's Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) to add a verification that either the property is not covered by the federal CARES Act or the landlord complied with the act's 30-day notice requirement.<sup>10</sup> However, the committee could not revise form UD-101 at that time because the suggested revision was beyond the scope of the previous proposal. Additionally, as explained elsewhere in this proposal, the committee proposes revoking form UD-101 because its implementing legislation has been revoked.

The committee considered adding a new item on form UD-100 to ask whether the property is covered by the CARES Act. However, the committee was concerned that adding this item would conflict with Code of Civil Procedure section 1166, which lists the items that must be included in an unlawful detainer complaint. Section 1166 does not require the complaint to include information that would determine whether the federal CARES Act applies.

The committee believes revising item 9a to add a checkbox for “30-day notice to quit under the federal CARES Act (15 U.S.C. § 9058(c))” is more appropriate and would comply with Code of Civil Procedure section 1166. Section 1166(a)(5) requires the complaint to “[s]tate specifically the method used to serve the defendant with the notice or notices of termination upon which the complaint is based.” A CARES Act notice could be a notice upon which the complaint is based.

The committee recognizes that such a checkbox would not always help defendants complete item 3o on form UD-105, but it could help in some cases by confirming whether the plaintiff believes the property is covered and provided the required notice.

### **Future plain language revisions to UD forms**

The committee is planning to develop a future proposal to revise *Complaint—Unlawful Detainer* (form UD-100) and *Answer—Unlawful Detainer* (form UD-105) to use plain language. The committee asks for suggestions on how to revise specific items in those forms to use plain language, as well as any other suggestions to improve the forms' clarity and readability.

### **Alternatives Considered**

The committee did not consider the alternative of taking no action because revisions are needed to ensure the forms comply with AB 2347 and reflect the repeal of Code of Civil Procedure sections 116.223 and 1179.01 through 1179.15. To the extent the proposed revisions were not required by the statutory terms, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users. As discussed in the explanation of the proposal, the committee considered alternatives when drafting the proposed forms and concluded that the current proposal best satisfies the statutory mandate and complies with law.

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<sup>10</sup> *Id.* at pp. 6–7.

## Fiscal and Operational Impacts

The statutory changes will require education of court staff and judicial officers. The revised forms are intended to facilitate courts' and parties' implementation of the changes in statute and will require education and possibly some changes to computerized case management systems. Because the revisions are required to ensure the forms reflect current law, these operational impacts cannot be avoided.

### 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?
- Please provide suggestions, if you have any, for revising specific items in *Complaint—Unlawful Detainer* (form UD-100) and *Answer—Unlawful Detainer* (form UD-105) to use plain language, or any suggestions to improve the forms' clarity and readability.

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 two 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 PLD-C-500, PLD-C-505, PLD-C-520, SC-100, SC-103, SC-104B, SC-500, SC-500-INFO, SC-500A, SUM-130, UD-100, UD-101, UD-104, UD-104(A), UD-105, UD-125, at pages 7–51
2. Link A: Assembly Bill 2347,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB2347](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2347)

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):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>COMPLAINT—RECOVERY OF COVID-19 RENTAL DEBT</b> <input type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Number):	
<b>Jurisdiction (check all that apply):</b> <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE (does not exceed \$35,000) Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$35,000)	
CASE NUMBER:	

**ACTION FOR RECOVERY OF COVID-19 RENTAL DEBT  
 AS DEFINED UNDER CODE OF CIVIL PROCEDURE SECTION 1179.02  
 Access to the records in this case is limited under Code of Civil Procedure section 1161.2.5.**

*If plaintiff cannot afford to pay filing fees, plaintiff may ask the court to waive the fees by completing form FW-001, Request to Waive Court Fees, and filing it with the court.*

*This form may not be used for actions to recover commercial rental debt.*

**Notice to defendant:** Defendant must use form PLD-C-505, Answer—Recovery of COVID-19 Rental Debt, to answer this complaint.

1. **Plaintiff** (name or names):

brings this complaint for recovery of COVID-19 rental debt against **defendant** (name or names):

**INTRODUCTORY ALLEGATIONS**

2. a. Each plaintiff named above is a competent adult

- except** plaintiff (name):
- (1)  a corporation qualified to do business in California
  - (2)  an unincorporated entity (describe):
  - (3)  other (specify):

b.  Plaintiff (name):  
 has complied with the fictitious business name laws and is doing business under the fictitious name (specify):

c.  Information about additional plaintiffs who are not competent adults is shown in Attachment 2.



PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. This court is the proper court because
- a.  a defendant lives here now.
  - b.  a defendant entered into the rental agreement or lease here.
  - c.  the property that is the subject matter of the rental agreement or lease is here.
  - d.  Other (specify):
4.  Plaintiff has been assigned the rights to the COVID-19 rental debt that is set out in item 6 of this complaint, by (name of assignor): \_\_\_\_\_ on (date of assignment): \_\_\_\_\_

**ALLEGATIONS ABOUT COVID-19 RENTAL DEBT**

5. a. Defendant (name each): \_\_\_\_\_  
 agreed to pay rent for the premises at (address): \_\_\_\_\_  
 during part or all of the period between March 1, 2020, and September 30, 2021.
- b. The rent was in the amount of: \$ \_\_\_\_\_ payable  monthly  Other (specify): \_\_\_\_\_
- c.  Defendant (name each): \_\_\_\_\_  
 agreed to pay other amounts as part of the rental agreement or lease, for (describe service paid for): \_\_\_\_\_  
 in the amount of: \$ \_\_\_\_\_ payable  monthly  Other (specify): \_\_\_\_\_
- d.  Copies of all relevant rental agreements or leases for the tenancy described in item 5a are attached, numbered as Attachment 5.
6. The plaintiff claims defendant or defendants owe: \$ \_\_\_\_\_ for unpaid rent or other financial obligations of the tenancy that came due between March 1, 2020, and September 30, 2021. (Complete items a and b.)
- a. Rent due. (List all rent plaintiff claims defendant or defendants owe that came due during the period from March 1, 2020, to September 30, 2021. For each month you claim rent is due, include each amount due and the date it came due. If there is not enough space below, check the box below, use form MC-025, and title it Attachment 6(a).)  
 Other allegations are on form MC-025.
- b. Other amounts of COVID-19 rental debt due. (List all unpaid financial obligations under the lease or rental agreement (other than rent) that plaintiff claims defendant owes and that came due during the period from March 1, 2020, to September 30, 2021. For each month you claim other financial obligations are due, include each amount, the date it came due, and what it was for (for example, parking fees or utilities included as part of the rental agreement). If there is not enough space below, check the box below, use form MC-025, and title it Attachment 6(b).)  
 Other allegations are on form MC-025.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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**ALLEGATIONS ABOUT RENTAL ASSISTANCE**

7. a. Plaintiff made a good-faith effort to help defendant obtain rental assistance before filing this case, as required under Code of Civil Procedure section 871.10(a), by *(check all that apply)*
- (1)  investigating whether governmental rental assistance is available to the defendant.
  - (2)  seeking governmental rental assistance for the defendant.
  - (3)  cooperating with the defendant's efforts to obtain rental assistance from any governmental entity or other third party.
- b.  Documentation of the efforts described in item 7a is attached as required by statute and marked as Attachment 7.
- c.  Plaintiff does not have documentation of the efforts described in item 7a, but made the following efforts *(describe)*:

8. Plaintiff states that the following are true:
- (Note: The statements in items 8a and b must be verified under penalty of perjury before a judgment for plaintiff can be entered by the court. [See Health & Saf. Code, § 50897.3(e).] If plaintiff later requests a default judgment, plaintiff must file Verification by Plaintiff Regarding Rental Assistance—Recovery of COVID-19 Rental Debt (form PLD-C-520) with that request.)*
- a.  The landlord has not received rental assistance or other financial compensation from any other source corresponding to any of the amount claimed in item 6.
  - b.  The landlord does not have any application pending for rental assistance or other financial compensation from any other source corresponding to any of the amount claimed in item 6.
  - c.  *(Complete if plaintiff is not the landlord.)*  
 The landlord is *(name)*: \_\_\_\_\_ and plaintiff can make the statements above on the following basis *(describe the basis for plaintiff making the statements in items 8a and b)*: \_\_\_\_\_

Proposed to Revoke

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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**OTHER ALLEGATIONS**

9.  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 9, and letter each allegation in order.)  Other allegations are on form MC-025.

10.  The following items in this complaint are alleged on information and belief (list item numbers):

11. This pleading, including attachments and exhibits, consists of the following number of pages: \_\_\_\_\_.

**DEMAND FOR JUDGMENT**

12. **Plaintiff** requests judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a.  damages of: \$
- b.  interest on damages
  - (1)  according to proof.
  - (2)  at the date of (specify): \_\_\_\_\_ per year from (date): \_\_\_\_\_
- c.  attorneys' fees, to the extent permitted under Code of Civil Procedure section 871.11,
  - (1)  of: \$
  - (2)  according to proof.
- d.  Other (specify): \_\_\_\_\_

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

**VERIFICATION**  
(Optional, but see item 8)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except as to those matters listed in item 10 as alleged on information and belief, and as to those matters, I believe them to be true.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(TITLE--provide if signing on behalf of corporation or other business entity)

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):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>ANSWER—RECOVERY OF COVID-19 RENTAL DEBT</b>	
<input type="checkbox"/> <b>TO COMPLAINT OF (name):</b>	CASE NUMBER:

**ACTION FOR RECOVERY OF COVID-19 RENTAL DEBT**  
**AS DEFINED UNDER CODE OF CIVIL PROCEDURE SECTION 1179.02**  
**Access to the records in this case is limited under Code of Civil Procedure section 1161.2.5.**

*This form must be used to answer Complaint—Recovery of COVID-19 Rental Debt (form PLD-C-500) within 30 calendar days after defendant is served with the complaint. Alternatively, defendant may file a demurrer, motion to strike, or motion to quash within that same time period if any of those responses are appropriate. A cross-complaint may be made on a separate pleading form (Judicial Council forms that have form numbers preceded by PLD) or individually prepared on pleading paper. Defendant may want to consult with an attorney.*

*If defendant cannot afford to pay filing fees to answer, defendant may ask the court to waive the fees by completing Request to Waive Court Fees (form FW-001), and filing it with the court.*

1. **Defendant (name or names):**

answers the complaint as follows:

**DENIALS (Complete item 2 or item 3, not both.)**

2. **General Denial (Read the instructions below before checking this item.)**

Defendant generally denies each statement in the complaint.

(This item can be checked only if **either** of the following applies:

- The complaint is **not** verified. (The complaint is verified if the Verification at the bottom of page 4 of form PLD-C-500 is signed or if a Verification is attached to the form.); **or**
- The amount demanded in the complaint is \$35,000 or less (a limited civil case) AND the debt has not been assigned to someone other than the landlord. (If item 4 on form PLD-C-500 has been checked, this General Denial **cannot** be checked.)

*If this General Denial is checked, go on to item 4.*

*If this General Denial is not checked, defendant may make the Specific Denials in item 3.)*

3. **Specific Denials of Allegations in Complaint**

Defendant may complete this item if Defendant did not check the general denial box, above. Defendant should complete each section in item 3 below if defendant either

- disagrees that one or more statements in the corresponding section of the complaint is true or correct (list those statements by item number or letter in subpart (1) for each section); or
- does not have enough information or belief to state whether one or more of the statements in the corresponding section of the complaint are true or false (list those statements by item number or letter in subpart (2) for each section).

*If defendant agrees with all of the statements in a section of the complaint, do not check any boxes for that section in item 3 below.*

*This will be an admission that all the statements in that section of the complaint are true.*

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. a. **Introductory Allegations** (items 2-4 on form PLD-C-500)

(1)  Defendant denies the following statements in the section of the complaint titled **Introductory Allegations** (write the item number of any items in that section of form PLD-C-500 that defendant disagrees with, or explain why defendant disagrees):

(2)  Defendant has no information or belief as to whether the following items in the section titled **Introductory Allegations** are true, so denies them (write the item number of any items in that section of form PLD-C-500 that defendant denies on this basis):

b. **Allegations About COVID-19 Rental Debt** (items 5 and 6 on form PLD-C-500)

(1)  Defendant denies the following statements in the section of the complaint titled **Allegations About COVID-19 Rental Debt** (write the item number of any items in that section of form PLD-C-500 that defendant disagrees with, or explain why defendant disagrees):

(2)  Defendant has no information or belief as to whether the following items in the section titled **Allegations About COVID-19 Rental Debt** are true, so denies them (write the item number of any items in that section of form PLD-C-500 that defendant denies on this basis):

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3. c. **Allegations About Rental Assistance** (items 7 and 8 on form PLD-C-500)

- (1)  Defendant denies the following statements in the section of the complaint titled **Allegations About Rental Assistance** (write the item number of any items in that section of form PLD-C-500 that defendant disagrees with, or explain why defendant disagrees):
  
- (2)  Defendant has no information or belief as to whether the following items in the section titled **Allegations About Rental Assistance** are true, so denies them (write the item number of any items in that section of form PLD-C-500 that defendant denies on this basis):

d. **Other Allegations** (item 9 on form PLD-C-500 and any statements in Attachment 9 to the form)

- (1)  Defendant denies the following statements in the section of the complaint titled **Other Allegations** or in **Attachment 9** to the complaint (write the item number or letter of any items in that section of form PLD-C-500 or in Attachment 9 that defendant disagrees with, or explain why defendant disagrees. If more room is needed, use form MC-025.)
  - Response is provided on form MC-025, titled as Attachment 3d.
  
- (2)  Defendant has no information or belief as to whether the following items in the section titled **Other Allegations** or in **Attachment 9** are true, so denies them (write the item number or letter of any items in that section of form PLD-C-500 that defendant denies on this basis):

e. **Demand for Judgment** (item 12 on form PLD-C-500)

- (1)  Defendant denies the following statements in the section of the complaint titled **Demand for Judgment** (write the item number or letter of any items in that section of form PLD-C-500 that defendant disagrees with, or explain why defendant disagrees):
  
- (2)  Defendant has no information or belief as to whether the following items in the section titled **Demand for Judgment** are true, so denies them (write the item number or letter of any items that defendant denies on this basis):

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**4. Defenses and Objections**

*(Check all that apply. NOTE: For each box checked, defendant must state any additional facts needed to support it in item 4m or, if more room is needed, on form MC-025. The parties may disagree about the amount of rent that is owed for various reasons. Read more about these reasons in the California Department of Real Estate's guide at <https://landlordtenant.dre.ca.gov/resources/guidebook/index.html> in the "Living in the Rental Unit" and "Dealing with Problems" sections.)*

- a.  Defendant delivered to the landlord one or more declarations of COVID-19–related financial distress and *(check any that apply)*
  - (1)  the amount demanded includes late fees on rent or other financial obligations due between March 1, 2020, and September 30, 2021 (Civ. Code, § 1942.9);
  - (2)  the amount demanded includes fees for services and the fees that were increased between March 1, 2020, and September 30, 2021, or had not been charged before (Civ. Code, § 1942.9).
  
- b.  Defendant has completed an application for government rental assistance for part or all of the amount demanded, which is still pending, and *(check one)*
  - (1)  a copy of the notification from the government rental assistance program that a completed application was submitted is attached, marked as Attachment 4h.
  - (2)  defendant does not have a copy of a notification, but the application was completed with the following government rental assistance program:  
*(name of program):*  
*(date completed):*  
*(application number):*
  
- c.  The landlord refused to obtain rental assistance from the governmental rental assistance program that applied to the housing for which rent or other financial obligations is demanded, even though tenant met all eligibility requirements. (Code Civ. Proc., § 871.10(b).)
  
- d.  Plaintiff was assigned debt in violation of Civil Code section 1788.66 because defendant's household income is at or below 80 percent of the area median income for the 2020 or 2021 calendar year.
  
- e.  The amount of attorneys' fees requested by plaintiff is more than permitted by law for cases for recovery of COVID-19 rental debt. (Code Civ. Proc., § 871.11.)
  
- f.  The amount demanded includes amounts that a third party offered to pay, but which the landlord did not accept. (Civ. Code, § 1947.3; Gov. Code, § 12955.)
  
- g.  Defendant vacated the premises and does not owe rent after *(date)*:
  
- h.  The amount demanded should be reduced because the landlord breached the warranty to provide habitable premises.
  
- i.  The amount demanded includes amounts that the defendant spent to make needed repairs and properly deducted from the rent, but for which the landlord did not give proper credit.
  
- j.  The amount demanded includes the security deposit that the landlord improperly withheld after the lease or rental agreement was terminated.
  
- k.  The amount demanded is in violation of law because the landlord improperly raised the rent in violation of state law or a local rent control ordinance. *(If a local ordinance, provide name of locality and ordinance number):*
  
- l.  Other defenses or objections. *(Describe briefly, and state facts to support them either here or in item m. Include any additional reasons why any claims raised in item 9 or Attachment 9 to form PLD-C-500 should be denied. If more space is needed, check box below and use form MC-025.)*  
 Other defenses and objections are provided on form MC-025, titled as Attachment 4l.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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4. m.  Additional Facts. *(Provide facts supporting each item checked as needed, either below or, if more space is needed, check box below and use form MC-025.)*  
 Facts are provided on form MC-025, titled as Attachment 4m.

Propose to Revoke

5.  **Other statements** *(specify below or, if more room is needed, check box below and use form MC-025):*  
 Other statements are on form MC-025, titled as Attachment 5.



PLAINTIFF: DEFENDANT:	CASE NUMBER:
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6. This pleading, including attachments and exhibits, consists of the following number of pages: \_\_\_\_\_

**Demand for Judgment**

7. Defendant requests

- a. that plaintiff take nothing.
- b.  for costs of suit.
- c.  attorney's fees, to the extent permitted under Code of Civil Procedure section 871.11,
  - (1)  of: \$
  - (2)  according to proof.
- d.  Other (specify):

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless defendant's attorney signs.)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

**VERIFICATION**

*Required only if complaint is verified.  
An attorney should use a different verification form if verifying the pleading.*

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)

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

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):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
<b>VERIFICATION BY PLAINTIFF REGARDING RENTAL ASSISTANCE—RECOVERY OF COVID-19 RENTAL DEBT</b>	CASE NUMBER:

*This form must be filed by the plaintiff with any request for default judgment in any legal action to recover rent or other financial obligations under a lease or rental agreement that accrued between April 1, 2020, and September 30, 2021. (See Health & Saf. Code, § 50897.3(e).) It may also be used at other times as appropriate or when requested by a judicial officer.*

1. Plaintiff (name):  
 is (check one)
  - a.  landlord for the tenancy for which the rent or other financial obligations are owed.
  - b.  assignee or representative of the landlord for the tenancy for which the rent or other financial obligations are owed. (If checked, complete the items below.)
    - (1) Name of landlord:
    - (2) Plaintiff's relationship to landlord (describe):
  
2. Plaintiff states that the following are true:
  - a.  The landlord has not received rental assistance or other financial compensation from any other source corresponding to the amount claimed.
  - b.  The landlord does not have any pending application for rental assistance or other financial compensation from any other source corresponding to the amount claimed.
  - c. (Complete if plaintiff is not the landlord.)  
 Plaintiff can make the statements above on the following basis (describe the basis for plaintiff making the statements in a and b under penalty of perjury):

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)

\_\_\_\_\_  
 (TITLE—Provide if signing on behalf of corporation or other business entity)

*Clerk stamps date here when form is filed.*

**DRAFT**

**03/18/2025**

**Not approved by the Judicial Council**

**Notice to the person being sued:**

- You are the defendant if your name is listed in ② on page 2 of this form or on form SC-100A. The person suing you is the plaintiff, listed in ① on page 2.
- You and the plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case. If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

**Aviso al Demandado:**

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario, o en el formulario SC-100A. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso. Si pierde el caso, la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**Order to Go to Court**

**The people in ① and ② must attend court:** *(Clerk fills out section below.)*

<b>Trial Date</b>	Date	Time	Department	Name and address of court, if different from above
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
Date: _____		Clerk, by _____, Deputy		

**Instructions for the person suing:**

- You are the plaintiff. The person you are suing is the defendant.
- **Before** you fill out this form, read form [SC-100-INFO](#), *Information for the Plaintiff*, to know your rights. You can get form SC-100-INFO at any courthouse or county law library, or go to [courts.ca.gov/rules-forms/find-your-court-forms](https://courts.ca.gov/rules-forms/find-your-court-forms).
- **Fill out pages 2, 3, and 4 of this form.** Make copies of all the pages of this form and any attachments—one for each party named in this case and an extra copy for yourself. Take or mail the original and the copies to the court clerk’s office and pay the filing fee. The clerk will write the date of your trial in the box above. Your court may allow electronic filing. Check your local court website for information: [courts.ca.gov/find-my-court.htm](https://courts.ca.gov/find-my-court.htm).
- You must have someone at least 18—not you or anyone else listed in this case—give each defendant a court-stamped copy of all pages of this form and any pages this form tells you to attach. There are special rules for “serving,” or delivering, this form to public entities, associations, and some businesses. See forms [SC-104](#), [SC-104B](#), and [SC-104C](#).
- **Go to court on your trial date listed above.** Bring witnesses, receipts, and any evidence you need to prove your case.



Plaintiff (list names):

Case Number:

**1 The plaintiff (the person, business, or public entity that is suing) is:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Email address (if available): \_\_\_\_\_

**If more than one plaintiff, list next plaintiff here:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Email address (if available): \_\_\_\_\_

- Check here if more than two plaintiffs and attach form [SC-100A](#).
- Check here if either plaintiff listed above is doing business under a fictitious name and attach form [SC-103](#).
- Check here if any plaintiff is a “licensee” or “deferred deposit originator” (payday lender) under Financial Code sections 23000 et seq.

**2 The defendant (the person, business, or public entity being sued) is:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

**If the defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process here:**

Name: \_\_\_\_\_ Job title, if known: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

- Check here if your case is against more than one defendant and attach form [SC-100A](#).
- Check here if any defendant is on active military duty and write defendant’s name here:

**3 The plaintiff claims the defendant owes \$ \_\_\_\_\_ . (Explain below and on next page.)**

a. Why does the defendant owe the plaintiff money?

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Plaintiff (list names):

Case Number: \_\_\_\_\_

- 3 b. When did this happen? (Date): \_\_\_\_\_  
 If no specific date, give the time period: Date started: \_\_\_\_\_ Through: \_\_\_\_\_
- c. How did you calculate the money owed to you? (Do not include court costs or fees for service.)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Check here if you need more space. Attach one sheet of paper or form [MC-031](#) and write "SC-100, Item 3" at the top.

- 4 **You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. If your claim is for possession of property, you must ask the defendant to give you the property. Have you done this?**
- Yes     No    If no, explain why not:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- 5 **Why are you filing your claim at this courthouse?**  
**This courthouse covers the area (check the one that applies):**
- a.  (1) Where the defendant lives or does business.      (4) Where a contract (written or spoken) was made, signed, performed, or broken by the defendant *or* where the defendant lived or did business when the defendant made the contract.
- (2) Where the plaintiff's property was damaged.
- (3) Where the plaintiff was injured.
- b.  Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim, is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)
- c.  Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civ. Code, § 1812.10.)
- d.  Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civ. Code, § 2984.4.)
- e.  Other (specify): \_\_\_\_\_

6 **List the zip code of the place checked in 5 above (if you know):** \_\_\_\_\_

7 **Is your claim about an attorney-client fee dispute?**  Yes     No  
*If yes, and if you have had arbitration, fill out form SC-101, attach it to this form, and check here:*

8 **Are you suing a public entity?**  Yes     No  
*If yes, you must file a written claim with the entity first.*  A claim was filed on (date): \_\_\_\_\_  
*If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.*



Plaintiff (list names):

Case Number: \_\_\_\_\_

**9 Have you filed more than 12 other small claims within the last 12 months in California?**  
 Yes  No *If yes, the filing fee for this case will be higher.*

**10 Is your claim for more than \$2,500?**  Yes  No  
*If you answer yes, you also confirm that you have not filed, and you understand that you may not file, more than two small claims cases for more than \$2,500 in California during this calendar year.*

**11 I understand that by filing a claim in small claims court, I have no right to appeal this claim.**

I declare under penalty of perjury under the laws of the State of California that the information above and on any attachments to this form is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff types or prints name here*

▶ \_\_\_\_\_  
*Plaintiff signs here*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Second plaintiff types or prints name here*

▶ \_\_\_\_\_  
*Second plaintiff signs here*



**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 trial. For these and other accommodations, contact the clerk’s office for form [MC-410](#), *Disability Accommodation Request*. (Civ. Code, § 54.8.)



**"Small claims court"** is a special court where claims for \$12,500 or less are decided. Individuals, including "natural persons" and sole proprietors, may claim up to \$12,500. Corporations, partnerships, public entities, and other businesses are limited to claims of \$6,250. (See below for exceptions.\*) The process is quick and cheap. The rules are simple and informal. You are the *defendant*—the person being sued. The person who is suing you is the *plaintiff*.

**Do I need a lawyer?** You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

**How do I get ready for court?** You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that support your case. And read "How to prepare for your trial (court date)" at [selfhelp.courts.ca.gov/small-claims/trial](http://selfhelp.courts.ca.gov/small-claims/trial).

**What if I need an accommodation?** If you have a disability or are hearing impaired, fill out form [MC-410, Disability Accommodation Request](#). Give the form to your court clerk or the ADA/Access Coordinator.

**What if I don't speak English well?** Ask the court clerk as soon as possible for a court-provided interpreter. You may use form [INT-300, Request for Interpreter \(Civil\)](#) or a local court form to request an interpreter. If a court interpreter is unavailable for your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form [INT-140](#).)

**Where can I get the court forms I need?** Go to any courthouse or your county law library, or print forms at [selfhelp.courts.ca.gov/small-claims-forms](http://selfhelp.courts.ca.gov/small-claims-forms).

**What happens at the trial?** The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

**What if I lose the case?** If you lose, you may appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file form [SC-140, Notice of Appeal](#). You must file within 30 days after the clerk hands or mails you the judge's decision (judgment) on form [SC-200](#) or form [SC-130, Notice of Entry of Judgment](#).
- If you were *not* at the trial, fill out and file form [SC-135, Notice of Motion to Vacate Judgment and Declaration](#), to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File form [SC-140](#).

For more information on appeals, see [selfhelp.courts.ca.gov/small-claims/after-trial/small-claims-appeals](http://selfhelp.courts.ca.gov/small-claims/after-trial/small-claims-appeals).

**Do I have options?** Yes. If you are being sued you can:

- **Settle your case before the trial.** If you and the plaintiff agree on how to settle the case before the trial, the plaintiff must file form [CIV-110, Request for Dismissal](#) or a written and signed settlement agreement with the clerk. Ask the Small Claims Advisor for help.

- **Prove this is the wrong court.** Send a letter to the court *before* your trial explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done so.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To have the court order a witness to go to the trial, fill out form [SC-107, Small Claims Subpoena and Declaration](#), and have it served on the witness.
- **Sue the person who is suing you.** If you have a claim against the plaintiff, and the claim is appropriate for small claims court as described on this form, you may file *Defendant's Claim* (form [SC-120](#)) and bring the claim in this action. If your claim is for *more* than allowed in small claims court, you may still file it in small claims court if you give up the amount over the small claims value amount, or you may file a claim for the full value of the claim in the appropriate court. If your claim is for more than allowed in small claims court *and* relates to the same contract, transaction, matter, or event that is the subject of the plaintiff's claim, you may file your claim in the appropriate court and file a motion to transfer the plaintiff's claim to that court to resolve both matters together. You can see a description of the amounts allowed in the paragraph above, titled "**Small Claims Court.**"
- **Agree with the plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the plaintiff what he or she is asking for plus court costs. If this happens, the plaintiff can legally take your money, wages, and property to pay the judgment.

**What if I need more time?**

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial), *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county).

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out form [SC-150](#) (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



**Need help?**

Your county's Small Claims Advisor can help for free.

Or go to [selfhelp.courts.ca.gov/small-claims-advisor](http://selfhelp.courts.ca.gov/small-claims-advisor)

\* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)



La “Corte de reclamos menores” es una corte especial donde se deciden casos por \$12,500 o menos. Los individuos, o sea las “personas físicas” y los propietarios por cuenta propia, pueden reclamar hasta \$12,500. Las corporaciones, asociaciones, entidades públicas y otras empresas solo pueden reclamar hasta \$6,250. (Vea abajo para las excepciones.\*) El proceso es rápido y económico. Las reglas son sencillas e informales. Usted es el Demandado—la persona que se está demandando. La persona que lo está demandando es el Demandante.

**¿Necesito un abogado?** Puede hablar con un abogado antes o después del caso. Pero no puede tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

**¿Cómo me preparo para ir a la corte?** No tiene que presentar ningún documento antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos y pruebas que apoyan su caso. Y lea “Cómo prepararse para su juicio” en [selfhelp.courts.ca.gov/es/reclamos-menores/juicio](http://selfhelp.courts.ca.gov/es/reclamos-menores/juicio).

**¿Qué hago si necesito una modificación?** Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario [MC-410, Solicitud de modificaciones para discapacidad](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/MC-410). Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

**¿Qué pasa si no hablo bien inglés?** Solicite un intérprete al secretario de la corte lo más pronto posible. Puede usar el formulario [INT-300](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/INT-300) o un formulario de su corte local. Si no está disponible un intérprete de la corte para su juicio, es posible que se tenga que cambiar la fecha de su juicio. No puede llevar su propio intérprete para el juicio a menos que el intérprete haya sido aprobado por la corte como un intérprete certificado, registrado, o provisionalmente calificado. (Vea la regla 2.893 de las Reglas de la Corte de California, y el formulario [INT-140](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/INT-140).)

**¿Dónde puedo obtener los formularios de la corte que necesito?** Vaya a cualquier edificio de la corte, la biblioteca legal de su condado, o imprima los formularios en [selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores).

**¿Qué pasa en el juicio?** El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

**¿Qué pasa si pierdo el caso?** Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario [SC-140, Aviso de apelación](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-140) (Notice of Appeal). Tiene que presentarlo dentro de 30 días después de que el secretario le entregue o envíe la decisión (fallo) del juez en el formulario [SC-200](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-200) o [SC-130, Aviso de publicación del fallo](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-130) (Notice of Entry of Judgment).
- Si no estuvo en el juicio, llene y presente el formulario [SC-135, Aviso de petición para anular el fallo y Declaración](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-135) para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario [SC-140](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-140).

Para obtener más información sobre las apelaciones, vea [selfhelp.courts.ca.gov/es/reclamos-menores/después-del-juicio/apelaciones-de-reclamos-menores](http://selfhelp.courts.ca.gov/es/reclamos-menores/después-del-juicio/apelaciones-de-reclamos-menores).

**¿Tengo otras opciones?** Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en cómo resolver el caso antes del juicio, el Demandante tiene que presentar el formulario [CIV-110 Solicitud de desestimación](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/CIV-110) (Request for Dismissal) o un acuerdo de resolución escrito y firmado al secretario de la corte. Pídale al Asesor de Reclamos Menores que lo ayude.

- **Probar que es la corte equivocada.** Envíe una carta a la corte antes del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Si desea que la corte emita una orden de comparecencia para que los testigos vayan al juicio, llene el formulario [SC-107, Citatorio de reclamos menores](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-107) (Small Claims Subpoena) y entrégueselo legalmente al testigo.
- **Demandar a la persona que lo demandó.** Si tiene un reclamo contra el Demandante, y el reclamo se puede presentar en la corte de reclamos menores, tal como se describe en este formulario, puede presentar el formulario [SC-120, Reclamo del demandado](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-120) (Defendant's Claim) y presentarlo en este mismo caso. Si su reclamo excede el límite permitido en la corte de reclamos menores, puede igualmente presentarlo en la corte de reclamos menores si está dispuesto a limitar su reclamo al máximo permitido, o puede presentar un reclamo por el monto total en la corte apropiada. Si su reclamo excede el límite permitido en la corte de reclamos menores y está relacionado con el mismo contrato, transacción, asunto o acontecimiento que el reclamo del Demandante, puede presentar su reclamo en la corte apropiada y presentar una moción para transferir el reclamo del Demandante a dicha corte, para poder resolver los dos reclamos juntos. Puede ver una descripción de los montos permitidos en el párrafo anterior titulado “Corte de reclamos menores”.
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos a plazos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

**¿Qué hago si necesito más tiempo?** Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio), o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario [SC-150](http://selfhelp.courts.ca.gov/es/formularios-de-reclamos-menores/SC-150) (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.

**¿Necesita ayuda?** El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

O visite [selfhelp.courts.ca.gov/es/asesor-de-reclamos-menores](http://selfhelp.courts.ca.gov/es/asesor-de-reclamos-menores).

\* **Excepciones:** Existen diferentes límites en un reclamo contra un garante. (Vea el Código de Procedimiento Civil, sección 116.220 (c).)



This form is attached to:  Form SC-100  Form SC-120

**1 If you want to file a small claim and you are doing business under a fictitious name (“doing business as,” or “dba”) give the following information. (Nonprofits and exempt real estate investment trusts do not have to file this form.)**

Business name of the person suing: \_\_\_\_\_

Business address (not a U.S. Postal Service P.O. Box): \_\_\_\_\_

Mailing address (if different): \_\_\_\_\_

**2 The business listed in 1 does business as (check ONLY one):**

- an individual
- an association
- a partnership
- a corporation
- a limited liability company
- other (specify): \_\_\_\_\_

**DRAFT  
03/18/2025  
Not approved by  
the Judicial Council**

*You must follow the laws for fictitious business names. If you have not followed these laws, including filing a fictitious business name statement in your county and publishing this information in a local newspaper, the court can dismiss your case.*

**3 Name of county where you filed your Fictitious Business Name Statement (dba):** \_\_\_\_\_

**4 Your Fictitious Business Name Statement number:** \_\_\_\_\_

**5 Date your Fictitious Business Name Statement expires:** \_\_\_\_\_

**6 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct. Only the owner, president, chief executive officer (CEO), or other qualified officer can sign this form.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name and title*

\_\_\_\_\_  
*Sign your name*



**Need help?**

Your county’s Small Claims Advisor can help for free.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Or go to [selfhelp.courts.ca.gov/small-claims-advisor](http://selfhelp.courts.ca.gov/small-claims-advisor)

**What is “service”?**

“Service” or “serving” is when someone—*not you or anyone else listed in this case*—gives a copy of your court papers to the person, business, or public entity you are suing. Service lets the other party know:

- What you are asking for;
- When and where the trial will be; *and*
- What the party can choose to do.

There are strict rules for serving court papers. This form explains how to serve these forms:

- Form [SC-100](#), *Plaintiff’s Claim*
- Form [SC-120](#), *Defendant’s Claim*

**How is service done?**

This form tells you how to serve by *personal* service or *substituted* service.

*Personal* service means someone gives the papers directly to the person being sued or to the agent authorized to accept service (business or public entity).

*Substituted* service means someone gives the papers to an adult where the person lives, works, or receives mail (including a private post office box, but not a U.S. Postal Service P.O. Box).

**What if the court papers do not get served?**

The judge cannot hear your case unless the court papers were served correctly.

**Can the court serve the papers for me?**

Yes. You can pay the court to mail your claim to the person you are suing. But if the person you are suing or the person’s agent for service doesn’t sign the U.S. Postal Service mail receipt with his or her complete name, or if someone else signs the receipt, you will have to serve again using personal or substituted service.

**Who can serve?**

You can ask a friend, a process server, or the sheriff. The server must be at least 18 and not listed in the case.

A “process server” is someone you pay to deliver court forms. Look in the *Yellow Pages* under “Process Serving.” The sheriff (or marshal if your county has one) can also deliver court forms. Ask the court clerk how to contact the sheriff. Or look in the county section of your phone book under “Sheriff.” You must pay the server, unless you qualify for a fee waiver.

**How is *personal* service done?**

Ask someone who is at least 18 and not listed in this case to personally “serve” (give) a copy of your court papers to the person or the agent authorized to accept court papers for the person, business, or public entity listed on form [SC-104](#).

Give the server a separate *Proof of Service* form for each person, business, or public entity you are suing. And tell the server to:

- Walk up to the person to be served.
- Say, “These are court papers.”
- Give the person copies of all papers checked on form SC-104, *Proof of Service*. If the person won’t take the papers, just leave them near the person. It doesn’t matter if the person tears them up.
- Fill out and sign page 2 of form SC-104, *Proof of Service*.

**How is *substituted* service done?**

If you don’t want to use personal service or can’t find the person to be served, ask someone who is at least 18 and not listed in this case to serve the court papers.

Give the server a separate *Proof of Service* form for each person, business, or public entity you are suing. Tell the server to give the papers to:

- A competent adult (at least 18) at the home of and living with the person to be served *or*
- An adult who seems to be in charge where the person to be served usually works *or*
- An adult who seems to be in charge where the person receives mail (including a private mailbox, but **not** a U.S. Postal Service P.O. Box). *Note:* This is only for cases where the physical address of the person to be served is not known.

Then do the following:

- Write down that person’s name and say, “Please give these court papers to [*name of person to be served*].” If the person does not want to give his or her name, describe the person you served.
- Give that person copies of all papers checked on form SC-104, *Proof of Service*. If the person won’t take the papers, just leave them near the person.
- Mail another copy of the papers (by first-class mail) to the person being sued at the same address where you left the papers.
- Fill out and sign page 2 of form SC-104, *Proof of Service*.

**What does the server do with the original Proof of Service form?**

If a process server or sheriff served the papers, he or she can file form SC-104, *Proof of Service*, with the clerk. If the server used a different *Proof of Service* form, ask him or her to list each paper served on the form. Also make sure that the registered server will file the original directly with the court and will mail you a copy of the filed form. Take it with you when you go to court.

If a friend served the papers, tell him or her to give the completed form back to you. Keep a copy for your records and take the copy with you when you go to court.

You need to file the original completed *Proof of Service* form **5 days before** your trial.

**When do the court forms have to be served?**

- **If you are serving form SC-100, Plaintiff’s Claim,** look at the trial date on page 1. Then, look at a calendar.

For *personal* service, subtract 15 days from the trial date (or 20 days if the person, business, or public entity is located outside the county). That’s the deadline for serving your small claims forms. But you can serve the forms before the deadline.

The people in ① and ② must go to court

<b>Trial Date</b>	→ Date	Time
	1. _____	_____

For *substituted* service, subtract 25 days from the date the server mailed a copy of the court papers served (or 30 days if the person, business, or public entity is located outside the county). That’s the deadline for serving your small claims forms. But you can serve the forms before the deadline.

If the person, business, or public entity to be served is outside California or if you are serving a different form, ask the Small Claims Advisor for more information.

- **If you are serving form SC-120, Defendant’s Claim,** look at the trial date on page 1. Then look at a calendar.

For *personal* or *substituted* service, subtract 5 days from the trial date. That’s the deadline for serving your small claims forms if you were served at least 11 days before the trial. If you were served 10 days or less before the trial date, you must serve at least 1 day before the trial. But you can serve the forms before the deadline.

**What if I can’t get the court papers served before the trial?**

If you were not able to serve your claim (form SC-100 or SC-120) before the deadline for service, talk to your Small Claims Clerk. Each county has its own rules.

If you already served your claim on some parties but not everyone you are suing, you may need to fill out and file form SC-150, *Request to Postpone Trial*, at least 10 days before the trial date (or explain why you couldn’t meet the 10-day deadline). Then give or mail a copy of this form to all other plaintiffs and defendants listed on your court papers.

The court may postpone your trial for 15 days or more.

**Who do I have to serve?**

If you are suing a person (or people)—not a business or public entity—serve each person you are suing. For example, if you were in a car accident and you are suing the owner and the driver of the car, you must list the names of the owner *and* the driver on your claim and serve both people.

Examples:

If the owner and driver are the same person:  
*Lee Smith, owner and driver*

If the owner and driver are not the same person:  
*Lee Smith, driver*  
*Bob Smith, owner*

If you are suing a business, an association, or a public entity, read form [SC-104C](#), *How to Serve a Business*.



**Need help?**

Your county’s Small Claims Advisor can help for free.

Or go to [selfhelp.courts.ca.gov/small-claims-advisor](http://selfhelp.courts.ca.gov/small-claims-advisor)

# SC-500

## Plaintiff's Claim and ORDER to Go to Small Claims Court (COVID-19 Rental Debt)

Clerk stamps date here when form is filed.

**THIS IS AN ACTION TO RECOVER COVID-19 RENTAL DEBT AS DEFINED UNDER CODE OF CIVIL PROCEDURE, § 1179.02. ACCESS TO RECORDS IN THIS CASE IS LIMITED UNDER CODE OF CIVIL PROCEDURE, § 1161.2.5.**

### Notice to the person being sued:

- You are the defendant if your name is listed in ② of this form or on form [SC-500A](#). The person suing you is the plaintiff, listed in ①.
- You and the plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case. If you lose, the court can order that your wages, money, or property be taken to pay this claim. (**Note: This small claims case cannot result in your eviction.**) Bring witnesses, receipts, and any other evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights, and read [SC-500-INFO, COVID-19 Rental Debt in Small Claims Court](#) for more information, at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

Fill in court name and street address:  
**Superior Court of California, County of**

### Aviso al Demandado:

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario, o en el formulario SC-500A. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso. Si pierde el caso, la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo. (**Nota: Este caso de reclamos menores no puede resultar en un desalojo.**) Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos, y lea [SC-500-INFO, La deuda de alquiler del COVID-19 en la corte de reclamos menores](#) para más información, en [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

Court fills in case number when form is filed.  
**Case Number:**  
**Case Name:**

## Order to Go to Court

The people in ① and ② must go to court: (Clerk fills out section below.)

Trial Date	Date	Time	Department	Name and address of court, if different from above
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
Date:		Clerk, by _____, Deputy		

### Instructions for the person suing:

- You are the plaintiff. The person you are suing is the defendant.
- Before** you fill out this form, read forms [SC-500-INFO](#) and [SC-100-INFO](#) to know your rights. Get the forms at any courthouse or county law library, or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- Fill out pages 2, 3, and 4 of this form. Make copies of all the pages of this form and any attachments—one for each party named in this case and an extra copy for yourself. Take or mail the original and the copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above. Your court may allow electronic filing. Check your local court website for information: [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).
- You must have someone at least 18—not you or anyone else listed in this case—give each defendant a court-stamped copy of all pages of this form and any pages this form tells you to attach. See forms [SC-104](#) and [SC-104B](#).
- Go to court on your trial date listed above.** Bring witnesses, receipts, and any evidence you need to prove your case.



Plaintiff (list names):

Case Number:

**1 The plaintiff (the person, business, or public entity that is suing) is:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Email address (if available): \_\_\_\_\_

**If more than one plaintiff, list next plaintiff here:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Email address (if available): \_\_\_\_\_

Check here if more than two plaintiffs and attach form [SC-500A](#).

Check here if either plaintiff listed above is doing business under a fictitious name and attach form [SC-103](#).

**2 The defendant (the person being sued) is:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

**If more than one defendant, list next defendant here:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Check here if more than two defendants and attach form [SC-500A](#).

Check here if any defendant is on active military duty and write defendant's name here:



Plaintiff (list names):

Case Number:

3 The plaintiff claims the defendant owes \$ \_\_\_\_\_ for COVID-19 rental debt (unpaid rent or other financial obligations of a tenant that came due in the period from March 1, 2020, to September 30, 2021). (Code Civ. Proc., § 1179.02.) (Explain amount below.)

a. Rent. List all rent you claim defendant owes that came due in the period from March 1, 2020, to September 30, 2021. For each month you claim rent is due, include each amount due and the date it came due.

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

b. Other amounts of COVID-19 rental debt. List all unpaid financial obligations under the lease or rental agreement (other than rent) that you claim defendant owes and that came due during the period in (a) above. For each month you claim other financial obligations are due, include each amount, the date it came due, and what it was for (for example, parking fees or utilities included as part of the rental agreement).

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Check here if you need more space. Attach one sheet of paper or form MC-031, and write "SC-500, Item 3" at the top.

4 Amounts paid or offsets.

List any amounts you received from defendant, rental assistance programs, and other third parties that you have already credited, and any other amounts you have offset or credited, for rent or other financial obligations due between March 1, 2020, and September 30, 2021, that you are not claiming in item 3 above. Include each amount, when it was paid or credited, and what it was for.

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Check here if you need more space. Attach one sheet of paper or form MC-031, and write "SC-500, Item 4" at the top.

5 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this?

Yes No If no, explain why not:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_



Plaintiff (list names):

Case Number: \_\_\_\_\_

**6 Why are you filing your claim at this courthouse?**

**This courthouse covers the area (check one that applies):**

- a.  Where the defendant lives or does business.
- b.  Where the rental agreement, lease, or contract (written or spoken) was made, signed, performed, or broken by the defendant *or* where the defendant lived or did business when the defendant made the contract.
- c.  Other (specify):

**7 List the zip code of the place checked in 6 above (if you know it):** \_\_\_\_\_

**8 Have you filed more than 12 other small claims within the last 12 months in California?**

Yes  No *If yes, the filing fee for this case will be higher.*

**9 Plaintiff must make a good-faith effort to help defendant obtain rental assistance before filing this case. Check all that apply below. You must also attach documentation of those efforts or, if you do not have documentation, describe your effort below.**

Plaintiff made a good-faith effort to help defendant obtain rental assistance before filing this case, as required under Code of Civil Procedure section 871.10(a), by:

- a.  Investigating whether governmental rental assistance is available to the tenant;
  - b.  Seeking governmental rental assistance for the tenant; or
  - c.  Cooperating with the tenant's efforts to obtain rental assistance from any governmental entity or other third party.
- Check here if documentation is attached. If not attached, describe your efforts below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10  I understand that the court cannot issue a judgment for me if I have received rental assistance for the amounts I am claiming from defendant. (Both statements must be true.)**

- a. I have not received rental assistance or other financial compensation from any other source corresponding to any of the amount claimed in item 3 above; and
- b. I do not have any application pending for rental assistance or other financial compensation from any other source corresponding to any of the amount claimed in item 3 above.

**11 I understand that by filing a claim in small claims court, I have no right to appeal this claim.**

I declare under penalty of perjury under the laws of the State of California that the information above and on any attachments to this form is true and correct.

Date: \_\_\_\_\_ *Plaintiff types or prints name here*      *Plaintiff signs here*

Date: \_\_\_\_\_ *Second plaintiff types or prints name here*      *Second plaintiff signs here*



**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 trial. For these and other accommodations, contact the clerk's office for [Disability Accommodation Request](#) (form MC-410). (Civ. Code, § 54.8.)



**"Small claims court"** is a special court where generally only claims for \$12,500 or less are decided. This limitation has been lifted for cases for recovery of COVID-19 rental debt.\* The process is quick and cheap. The rules are simple and informal. You are the *defendant*—the person being sued. The person who is suing you is the *plaintiff*.

**Do I need a lawyer?** You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

**How do I get ready for court?** Read form [SC-500-INFO, COVID-19 Rental Debt in Small Claims Court](#). You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that support your case. And read "Be Prepared for Your Trial" at [www.courts.ca.gov/smallclaims/prepare](http://www.courts.ca.gov/smallclaims/prepare).

**Where can I get the court forms I need?** Go to any courthouse or your county law library, or get forms at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**What if I need an accommodation?** If you have a disability or are hearing impaired, fill out form [MC-410, Disability Accommodation Request](#). Give the form to your court clerk or the ADA/Access Coordinator.

**What if I don't speak English well?** Ask the court clerk as soon as possible for a court-provided interpreter. You may use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form to request an interpreter. If a court interpreter is unavailable for your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form [INT-140](#).)

**What happens at the trial?** The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

**What if I lose the case?** If you lose, you may appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file form [SC-140, Notice of Appeal](#). You must file within 30 days after the clerk hands or mails you the judge's decision (judgment) on form [SC-200](#) or form [SC-130, Notice of Entry of Judgment](#).
- If you were *not* at the trial, fill out and file form [SC-135, Notice of Motion to Vacate Judgment and Declaration](#), to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File form [SC-140](#).

For more information on appeals, see [www.courts.ca.gov/smallclaims/appeals](http://www.courts.ca.gov/smallclaims/appeals).

**Do I have options?** Yes. If you are being sued, you can:

- **Settle your case before the trial.** If you and the plaintiff agree on how to settle the case before the trial, the plaintiff must file form [CIV-110, Request for Dismissal](#) or a written and signed settlement agreement with the clerk. Ask the Small Claims Advisor for help.

\*Limits do not apply in an action to recover COVID-19 rental debt, which is unpaid rent or other financial obligations of a tenant that are due between March 1, 2020, and Sept. 30, 2021. (See Code Civ. Proc., §§ 116.223 & 1179.02.) Read [SC-500-INFO, COVID-19 Rental Debt in Small Claims Court](#).

- **Prove this is the wrong court.** Send a letter to the court *before* your trial explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done so.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To have the court order a witness to go to the trial, fill out form [SC-107, Small Claims Subpoena and Declaration](#) and have it served on the witness.
- **Sue the person who is suing you.** If you have a claim against the plaintiff, and the claim is for \$12,500 or less, you may file *Defendant's Claim and ORDER to Go to Small Claims Court* (form [SC-120](#)) and bring the claim in this action. If your claim is for *more* than allowed in small claims court, you may still file it in small claims court if you give up the amount over the small claims value amount, or you may file a claim for the full value of the claim in the appropriate court. If your claim is for more than allowed in small claims court *and* relates to the same contract, transaction, matter, or event that is the subject of the plaintiff's claim, you may file your claim in the appropriate court and file a motion to transfer the plaintiff's claim to that court to resolve both matters together. You can see a description of the amounts allowed in the paragraph above, titled "**Small Claims Court**."
- **Agree with the plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the plaintiff what he or she is asking for plus court costs. If this happens, the plaintiff can legally take your money, wages, and property to pay the judgment. (But not your rental unit; this is not an eviction case.)

**What if I need more time?**

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial), or
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county).

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out form [SC-150](#) (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



**Need help?**

Your county's Small Claims Advisor can help for free.

Or go to [www.courts.ca.gov/smallclaims/advisor](http://www.courts.ca.gov/smallclaims/advisor).





La “Corte de reclamos menores” es una corte especial donde generalmente se deciden casos por \$12,500 o menos. Se suspendió este límite para acciones para reclamar una deuda de alquiler del COVID-19.\* El proceso es rápido y económico. Las reglas son sencillas e informales. Usted es el Demandado—la persona que se está demandando. La persona que lo está demandando es el Demandante.

**¿Necesito un abogado?** Puede hablar con un abogado antes o después del caso. Pero no puede tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

**¿Cómo me preparo para ir a la corte?** Lea el formulario SC-500-INFO, *La deuda de alquiler del COVID-19 en la corte de reclamos menores*. No tiene que presentar ningún documento antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio los testigos, recibos y pruebas que apoyan su caso. Y lea “Esté preparado para su juicio” en [www.courts.ca.gov/reclamosmenores/preparesse](http://www.courts.ca.gov/reclamosmenores/preparesse).

**¿Dónde puedo obtener los formularios de la corte que necesito?** Vaya a cualquier edificio de la corte, la biblioteca legal de su condado, o imprima los formularios en [www.courts.ca.gov/smallclaims/forms](http://www.courts.ca.gov/smallclaims/forms) (página está en inglés).

**¿Qué hago si necesito una modificación?** Si tiene una discapacidad o tiene impedimentos de audición, puede llenar el formulario MC-410, *Solicitud de modificaciones para discapacidad*. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

**¿Qué pasa si no hablo bien inglés?** Solicite un intérprete al secretario de la corte lo más pronto posible. Puede usar el formulario INT-300 o un formulario de su corte local. Si no está disponible un intérprete de la corte para su juicio, es posible que se tenga que cambiar la fecha de su juicio. No puede llevar su propio intérprete para el juicio a menos que el intérprete haya sido aprobado por la corte como un intérprete certificado, registrado, o provisionalmente calificado. (Vea la regla 2.893 de las Reglas de la Corte de California, y el formulario INT-140.)

**¿Qué pasa en el juicio?** El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

**¿Qué pasa si pierdo el caso?** Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación* (Notice of Appeal). Tiene que presentarlo dentro de 30 días después de que el secretario le entregue o envíe la decisión (fallo) del juez en el formulario SC-200 o SC-130, *Aviso de publicación del fallo* (Notice of Entry of Judgment).
- Si no estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración* para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea [www.courts.ca.gov/reclamosmenores/apelaciones](http://www.courts.ca.gov/reclamosmenores/apelaciones).

**¿Tengo otras opciones?** Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en cómo resolver el caso antes del juicio, el Demandante tiene que presentar el formulario CIV-110 *Solicitud de desestimación* (Request for Dismissal) o un acuerdo de resolución escrito y firmado al secretario de la corte. Pídale al Asesor de Reclamos Menores que lo ayude.

\*Los límites no se aplican a las acciones para reclamar una deuda de alquiler del COVID-19, que se define como alquiler u otras obligaciones financieras impagas de un inquilino que vencieron entre el 1 de marzo de 2020 y el 30 de septiembre de 2021. (Vea el Código de Procedimiento Civil, secciones 116.223 y 1179.02.) Lea el formulario SC-500-INFO, *La deuda de alquiler del COVID-19 en la corte de reclamos menores*.

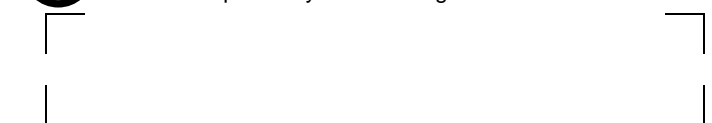
- **Probar que es la corte equivocada.** Envíe una carta a la corte antes del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Si desea que la corte emita una orden de comparecencia para que los testigos vayan al juicio, llene el formulario SC-107, *Citatorio de reclamos menores* (Small Claims Subpoena) y entrégueselo legalmente al testigo.
- **Demandar a la persona que lo demandó.** Si tiene un reclamo contra el Demandante, y el reclamo se puede presentar en la corte de reclamos menores, tal como se describe en este formulario, puede presentar el formulario SC-120, *Reclamo del demandado* (Defendant's Claim) y presentarlo en este mismo caso. Si su reclamo excede el límite permitido en la corte de reclamos menores, puede igualmente presentarlo en la corte de reclamos menores si está dispuesto a limitar su reclamo al máximo permitido, o puede presentar un reclamo por el monto total en la corte apropiada. Si su reclamo excede el límite permitido en la corte de reclamos menores y está relacionado con el mismo contrato, transacción, asunto o acontecimiento que el reclamo del Demandante, puede presentar su reclamo en la corte apropiada y presentar una moción para transferir el reclamo del Demandante a dicha corte, para poder resolver los dos reclamos juntos. Puede ver una descripción de los montos permitidos en el párrafo anterior titulado “Corte de reclamos menores”.
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos a plazos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo. (Pero no su hogar alquilado; esto no es un caso de desalojo.)

**¿Qué hago si necesito más tiempo?** Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio), o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (o 20 días si vive fuera del condado).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-150 (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.

**¿Necesita ayuda?** El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.



O visite [www.courts.ca.gov/reclamosmenores/asesores](http://www.courts.ca.gov/reclamosmenores/asesores).

This form is attached to form [SC-500](#), item 1 or 2.

**1 If more than two plaintiffs (person, business, or entity suing), list their information below:**

Other plaintiff's name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
*Street City State Zip*

Mailing address (if different): \_\_\_\_\_  
*Street City State Zip*

Email address (if available): \_\_\_\_\_

Is this plaintiff doing business under a fictitious name?  Yes  No If yes, attach form [SC-103](#).

Other plaintiff's name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
*Street City State Zip*

Mailing address (if different): \_\_\_\_\_  
*Street City State Zip*

Email address (if available): \_\_\_\_\_

Is this plaintiff doing business under a fictitious name?  Yes  No If yes, attach form [SC-103](#).

Check here if more than four plaintiffs and fill out and attach another form [SC-500A](#).

**2 If more than two defendants (person being sued), list their information below:**

Other defendant's name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
*Street City State Zip*

Mailing address (if different): \_\_\_\_\_  
*Street City State Zip*

Other defendant's name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street address: \_\_\_\_\_  
*Street City State Zip*

Mailing address (if different): \_\_\_\_\_  
*Street City State Zip*

Check here if your case is against more than four defendants and fill out and attach another form [SC-500A](#).

**3 I understand that by filing a claim in small claims court, I have no right to appeal this claim.**

I declare under penalty of perjury under the laws of the State of California that the information above and on any attachments to this form is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Sign your name*

▶ \_\_\_\_\_  
*Sign your name*

Beginning **November 1, 2021**, a landlord has the option to bring an action in small claims court to recover COVID-19 rental debt that is more than the normal limits for small claims actions. The purpose of bringing these claims in small claims court is to resolve disputes about COVID-19 rental debt. The small claims court **cannot** determine possession of residential property or evict a tenant from property.

### What is COVID-19 rental debt?

COVID-19 rental debt means any unpaid rent or any other money owed under a residential lease or residential rental agreement (for example, parking fees or utility payments) that came due between **March 1, 2020, and September 30, 2021**.

### What is small claims court?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. You may ask a lawyer for advice before you go to court, but you cannot have a lawyer in court.

### Who are the parties in a small claims case?

- The person who sues is the plaintiff, the **landlord** in these cases. If the landlord is a business, an employee such as a property manager may go to a small claims trial for the landlord (use form [SC-109, Authorization to Appear](#)).
- The person who is sued is the defendant, the **tenant** in these cases. There may be more than one tenant paying rent for a single residence. The landlord may want to name all tenants as defendants.

### How does a COVID-19 rental debt case start in the small claims court?

The landlord must:

- Complete and file form [SC-500, Plaintiff's Claim and ORDER to Go to Small Claims Court \(COVID-19 Rental Debt\)](#);
- Attach documentation showing the landlord's good-faith efforts to seek rental assistance (examples of documentation include emails, texts, and notes from phone calls); and
- Serve the form on the tenants (see form [SC-100-INFO, Information for the Plaintiff](#)).

### How does a tenant respond?

A tenant does not need to file any papers before the trial date. Tenants should go to court on the day of trial with evidence about the amount of COVID-19 rental debt owed, if any.

### What should tenant take to small claims court for a COVID-19 rental debt case?

Both the landlord and the tenant in a small claims action for COVID-19 rental debt can present arguments and evidence about how much money they believe is owed, how much has already been paid, and other factors that can affect the amount of COVID-19 rental debt that must be paid.

The parties should bring the rental agreement, any rental receipts, and any other receipts or other documents that show the following:

- The **amounts** of COVID-19 rental debt owed and the **dates** on which each amount came due. Remember that COVID-19 rental debt means rent and other financial obligations that came due between **March 1, 2020, and September 30, 2021**.
- Any amounts that the tenant **paid** toward the rent or other financial obligations and the **dates of payment**.
- Any other amounts of rent or other obligations that were paid through rental assistance programs or other third parties on behalf of the tenant.
- Any evidence of conditions affecting the residence, such as items needing repair.
- Any evidence to support arguments made to determine the amount of money owed.

Page 2 of this information sheet provides a list of some of the arguments that landlords and tenants can make to help the court determine the amount of COVID-19 rental debt that is owed.

### Can you bring a witness to small claims court?

Both the landlord and the tenant may bring witnesses to the trial who can tell the court what they know about the COVID-19 rental debt, the condition of the home, and agreements between the landlord and the tenant about the need for repairs and payment for repairs.

## What arguments can you make?

The landlord and tenant may disagree about the amount of rent that is owed for various reasons. Read more about these reasons in the California Department of Real Estate's guide at [landlordtenant.dre.ca.gov/resources/guidebook/index.html](http://landlordtenant.dre.ca.gov/resources/guidebook/index.html), in the "[Living in the Rental Unit](#)" and "[Dealing with Problems](#)" sections. Below are questions that can help you identify the issues that may exist in the case and may affect the amount of rent owed.

Please note: This list does not include every possible argument. Other laws, including local ordinances, may affect the rights of landlords and tenants in COVID-19 rental debt cases.

- Did landlord make a good-faith effort to:
  - Investigate whether governmental rental assistance is available to the tenant;
  - Seek governmental rental assistance for the tenant; or
  - Cooperate with the tenant's efforts to obtain rental assistance from any governmental entity or other third party under Civil Code section 1947.3(a)(3)?
- Is there any pending application for rental assistance or other financial compensation from any other source corresponding to the amount claimed?
- Did landlord receive rental assistance or other financial compensation from any other source corresponding to the amount claimed?
- Did landlord improperly apply payments to past-due rent without the tenant's written agreement?
- Does the amount claimed include service fees that were increased or not previously charged?
- Does the amount claimed include late fees on rent or other financial obligations?
- Did landlord improperly raise the rent?
- Did tenant or a third party offer a rental payment that landlord would not accept?
- If the lease or rental agreement was terminated, was the security deposit returned? Read more about the rules for security deposits at [www.courts.ca.gov/selfhelp-eviction-security-deposits.htm](http://www.courts.ca.gov/selfhelp-eviction-security-deposits.htm).
- Did tenant make needed repairs and properly deduct the cost from the rent? If so, did landlord give proper credit?
- Did landlord fail to provide habitable premises? This means that if the housing did not meet certain standards, the amount owed may be reduced.

Note: It is illegal for a landlord to retaliate against a tenant for raising any of the above issues or any of the defenses listed on form [UD-105, Answer—Unlawful Detainer](#).

## Can a tenant file a claim in the landlord's case?

A tenant who is a defendant in a COVID-19 rental debt case may bring a claim against the landlord in the same case using form [SC-120, Defendant's Claim and ORDER to Go to Small Claims Court](#).

## What if you disagree with the court's decision?

If you are a tenant, you may appeal the decision on a claim filed against you. More information about appeals is available in the information at the end of [Plaintiff's Claim and ORDER to Go to Small Claims Court \(COVID-19 Rental Debt\)](#) (form SC-500) and at [www.courts.ca.gov/smallclaims/appeals](http://www.courts.ca.gov/smallclaims/appeals).

If you are the landlord, you cannot appeal a small claims decision on a claim you filed. (Note that a landlord has the option of filing a COVID-19 rental debt recovery case in general civil court [use form [Complaint—Recovery of COVID-19 Rental Debt](#) (form [PLD-C-500](#))]. In general civil court, all parties may appeal the court's decision and all parties may be represented by lawyers.)

## How much does it cost to file a case in small claims court?

The amount the court charges a landlord to file a case in small claims court depends on the amount demanded and how many cases are brought by the landlord in a single year. The filing fees for small claims cases are listed on the Statewide Civil Fee Schedule, available at [www.courts.ca.gov/7646.htm](http://www.courts.ca.gov/7646.htm). There is no fee for the tenant to go to the hearing.

### What if you cannot afford the filing fee?

If you want to sue someone in small claims court and cannot afford to pay court fees and costs, you may not have to pay. The court may waive all or part of those fees **if you:** Are getting public benefits; **or**

- Are a person with very low income; **or**
- Do not have enough income to pay for your household's basic needs and your court fees.

To ask the court to waive your fees in small claims court, complete form [FW-001, Request to Waive Court Fees](#). File your request with the court.

### Where can you get help with a small claims case?

- **Small Claims Advisors.** Every county has a Small Claims Advisor who is available to help you with your small claims case. These services are free. To find the Small Claims Advisor in your county, go to [www.courts.ca.gov/selfhelp-advisors.htm](http://www.courts.ca.gov/selfhelp-advisors.htm).
- **Forms and online help.** You can find small claims forms and more information about small claims court at the California Courts Online Self-Help Center [www.courts.ca.gov/smallclaims](http://www.courts.ca.gov/smallclaims). You can also get forms and help at your county law library or the courthouse nearest you.
- **Local court websites.** Your local court may have additional information and help for your small claims matter. Visit your court's website for current information on small claims hearing procedures. For help finding your court, visit [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).
- **Legal services organizations.** Local organizations may be able to assist parties in preparing for court. Parties may be able to find a legal service organization that serves their area at <http://lawhelpca.org/>.
- **Lawyers.** Both parties may ask a lawyer about the case, but a lawyer may not represent either party in court at the small claims trial. Generally, after judgment and on appeal, both parties may be represented by lawyers.

### What help is available when you go to court?

- **Accommodations for 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 tell the court about your needs.
  - For more information about making a disability accommodation request, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).
  - Remember to submit your request to the ADA Coordinator or designated person in your court.
  - Visit your court's website to find the ADA Coordinator or designated person. For help finding your court, go to [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).
- **Interpreters.** If you do not speak English well:
  - Ask the court clerk as soon as possible for a court-provided interpreter.
  - You may use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form to request an interpreter.
  - If no court interpreter is available at the time of your trial, it may be necessary to reschedule your trial.
  - You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. See Cal. Rules of Court, rule 2.893, and form [INT-140, Temporary Use of a Noncertified or Nonregistered Spoken Language Interpreter](#).

### Who can look at your case file?

If you are sued in small claims court for nonpayment of COVID-19 rental debt, only the following people may see the case file:

- The parties (landlords and tenants).
- A person who gives the court clerk the name of at least one landlord and one tenant.
- A person who lives in the residence for which COVID-19 rental debt is owed who shows proof of residency and gives the clerk the case number or the name of one of the parties.
- A person who gets an order from the court after showing that they have good cause to see the case file.

**SUMMONS—EVICTION**  
**(CITACIÓN JUDICIAL—DESALOJO)**

SUM-130

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

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

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

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

**DRAFT**  
**03/18/2025**  
**NOT APPROVED**  
**BY COUNCIL**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within **10** days. You have **10** 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 served through the Secretary of State's Safe at Home address confidentiality program, you have **15** days from the date of service, 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 Self-Help Guide to the California Courts ([selfhelp.courts.ca.gov](http://selfhelp.courts.ca.gov)), 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](http://www.lawhelpca.org)), the Self-Help Guide to the California Courts ([selfhelp.courts.ca.gov](http://selfhelp.courts.ca.gov)), 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 **10** 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 **10** 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 entregado a través del programa de dirección confidencial del Secretario del Estado Seguro en Casa, tiene **15** días después de la fecha de entrega, 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 la Guía de Ayuda de las Cortes de California ([selfhelp.courts.ca.gov/es](http://selfhelp.courts.ca.gov/es)), 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.lawhelpca.org/es](http://www.lawhelpca.org/es)), en la Guía de Ayuda de las Cortes de California, ([selfhelp.courts.ca.gov/es](http://selfhelp.courts.ca.gov/es)) 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 monto de \$10,000 ó más recibido 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 <input type="checkbox"/> CCP 416.10 (corporation).	<input type="checkbox"/> CCP 416.60 (minor).
<input type="checkbox"/> CCP 416.20 (defunct corporation).	<input type="checkbox"/> CCP 416.70 (conservatee).
<input type="checkbox"/> CCP 416.40 (association or partnership).	<input type="checkbox"/> CCP 416.90 (authorized person).
<input type="checkbox"/> CCP 415.46 (occupant).	<input type="checkbox"/> other (specify):
  - e.  by personal delivery on (date):

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

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):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b> <b>03/18/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT: <input type="checkbox"/> DOES 1 TO	
<b>COMPLAINT—UNLAWFUL DETAINER*</b> <input type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Amendment Number):	CASE NUMBER:
<b>Jurisdiction (check all that apply):</b> <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE (amount demanded does not exceed \$35,000) Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$35,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check all that apply): <input type="checkbox"/> from unlawful detainer to general unlimited civil (possession not in issue). <input type="checkbox"/> from limited to unlimited. <input type="checkbox"/> from unlawful detainer to general limited civil (possession not in issue). <input type="checkbox"/> from unlimited to limited.	

1. PLAINTIFF (name each):

alleges causes of action against DEFENDANT (name each):

- 2. a. Plaintiff is (1)  an individual over the age of 18 years. (4)  a partnership.  
                                   (2)  a public agency. (5)  a corporation.  
                                   (3)  other (specify):
- b.  Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):
- 3. a. The venue is the court named above because defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):
- b. The premises in 3a are (check one)  
       (1)  within the city limits of (name of city):  
       (2)  within the unincorporated area of (name of county):
- c. The premises in 3a were constructed in (approximate year):
- 4. Plaintiff's interest in the premises is  as owner  other (specify):
- 5. The true names and capacities of defendants sued as Does are unknown to plaintiff.

\* NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).



PLAINTIFF: DEFENDANT:	CASE NUMBER:
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6. a. On or about *(date)*:  
defendant *(name each)*:
- (1) agreed to rent the premises as a  month-to-month tenancy  other tenancy *(specify)*:  
(2) agreed to pay rent of \$ \_\_\_\_\_ payable  monthly  other *(specify frequency)*:  
(3) agreed to pay rent on the  first of the month  other day *(specify)*:
- b. This  written  oral agreement was made with  
(1)  plaintiff. (3)  plaintiff's predecessor in interest.  
(2)  plaintiff's agent. (4)  Other *(specify)*:
- c.  The defendants not named in item 6a are  
(1)  subtenants.  
(2)  assignees.  
(3)  Other *(specify)*:
- d.  The agreement was later changed as follows *(specify)*:
- e.  A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. *(Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)*
- f.  *(For residential property)* A copy of the written agreement is **not** attached because *(specify reason)*:  
(1)  the written agreement is not in the possession of the landlord or the landlord's employees or agents.  
(2)  this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2)).
7. The tenancy described in 6 *(complete (a) or (b))*  
a.  is **not** subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2). The specific subpart supporting why tenancy is exempt is *(specify)*:  
b.  is subject to the Tenant Protection Act of 2019.
8. *(Complete only if item 7b is checked. Check all applicable boxes.)*  
a.  The tenancy was terminated for at-fault just cause (Civil Code, § 1946.2(b)(1)).  
b.  The tenancy was terminated for no-fault just cause (Civil Code, § 1946.2(b)(2)) and the plaintiff *(check one)*  
(1)  waived the payment of rent for the final month of the tenancy, before the rent came due, under section 1946.2(d)(2), in the amount of \$ \_\_\_\_\_  
(2)  provided a direct payment of one month's rent under section 1946.2(d)(3), equaling \$ \_\_\_\_\_ to *(name each defendant and amount given to each)*:
- c.  Because defendant failed to vacate, plaintiff is seeking to recover the total amount in 8b as damages in this action.
9. a.  Defendant *(name each)*:
- was served the following notice on the same date and in the same manner:
- (1)  3-day notice to pay rent or quit (6)  3-day notice to perform covenants or quit  
*(not applicable if item 7b checked)*  
(2)  30-day notice to quit (7)  3-day notice to quit under Civil Code, § 1946.2(c). Prior  
required notice to perform covenants served *(date)*:  
(3)  60-day notice to quit (8)  Other *(specify)*:  
(4)  3-day notice to quit  
(5)  30-day notice to quit under the federal CARES Act (15 U.S.C. § 9058(c))

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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9. b. (1) On *(date)*: \_\_\_\_\_ the period stated in the notice checked in 9a expired at the end of the day.  
 (2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d.  The notice included an election of forfeiture.
- e.  A copy of the notice is attached and labeled Exhibit 2. *(Required for residential property. See Code Civ. Proc., § 1166. When Civil Code, § 1946.2(c), applies and two notices are required, provide copies of both.)*
- f.  One or more defendants were served (1) with the prior required notice under Civil Code, § 1946.2(c), (2) with a different notice, (3) on a different date, or (4) in a different manner, as stated in Attachment 10c. *(Check item 10c and attach a statement providing the information required by items 9a–e and 10 for each defendant and notice.)*
10. a.  The notice in item 9a was served on the defendant named in item 9a as follows:
- (1)  By personally handing a copy to defendant on *(date)*: \_\_\_\_\_
- (2)  By leaving a copy with *(name or description)*: \_\_\_\_\_  
 a person of suitable age and discretion, on *(date)*: \_\_\_\_\_ at defendant's  
 residence  business AND mailing a copy to defendant at defendant's place of residence  
 on *(date)*: \_\_\_\_\_ because defendant cannot be found at defendant's residence or usual place of business.
- (3)  By posting a copy on the premises on *(date)*: \_\_\_\_\_  
 AND giving a copy to a person found residing at the premises AND mailing a copy to defendant at the premises  
 on *(date)*: \_\_\_\_\_  
 (a)  because defendant's residence and usual place of business cannot be ascertained OR  
 (b)  because no person of suitable age or discretion can be found there.
- (4)  *(Not for 3-day notice; see Civil Code, § 1946, before using)* By sending a copy by certified or registered mail  
 addressed to defendant on *(date)*: \_\_\_\_\_
- (5)  *(Not for residential tenancies; see Civil Code, § 1953, before using)* In the manner specified in a written  
 commercial lease between the parties \_\_\_\_\_
- b.  *(Name)*: \_\_\_\_\_  
 was served on behalf of all defendants who signed a joint written rental agreement.
- c.  Information about service of notice on the defendants alleged in item 9f is stated in Attachment 10c.
- d.  Proof of service of the notice in item 9a is attached and labeled Exhibit 3.
11.  Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
12.  At the time the 3-day notice to pay rent or quit was served, the amount of **rent due** was \$ \_\_\_\_\_
13.  The fair rental value of the premises is \$ \_\_\_\_\_ per day.
14.  Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure  
 section 1174(b). *(State specific facts supporting a claim up to \$600 in Attachment 14.)*
15.  A written agreement between the parties provides for attorney fees.
16.  Defendant's tenancy is subject to the local rent control or eviction control ordinance of *(city or county, title of ordinance, and  
 date of passage)*: \_\_\_\_\_

Plaintiff has met all applicable requirements of the ordinances.

17.  Other allegations are stated in Attachment 17.
18. Plaintiff accepts the jurisdictional limit, if any, of the court.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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**19. PLAINTIFF REQUESTS**

- a. possession of the premises.
- b. costs incurred in this proceeding:
- c.  past-due rent of \$
- d.  reasonable attorney fees.
- e.  forfeiture of the agreement.
- f.  damages in the amount of waived rent or relocation assistance as stated in item 8: \$
- g.  damages at the rate stated in item 13 from  
*date:*  
for each day that defendants remain in possession through entry of judgment.
- h.  statutory damages up to \$600 for the conduct alleged in item 14.
- i.  other (*specify*):

20.  Number of pages attached (*specify*):

**UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)**

21.  (*Complete in all cases.*) An unlawful detainer assistant  did **not**  did for compensation give advice or assistance with this form. (*If declarant has received **any** help or advice for pay from an unlawful detainer assistant, complete a–f.*)

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (*date*):

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 OF PLAINTIFF)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
<b>PLAINTIFF'S MANDATORY COVER SHEET AND          SUPPLEMENTAL ALLEGATIONS—UNLAWFUL DETAINER</b>		CASE NUMBER:
<p><i>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).</i></p> <ul style="list-style-type: none"> <li>• <i>Serve this form and any attachments to it with the summons.</i></li> <li>• <i>If a summons has already been served without this form, then serve it by mail or any other means of service authorized by law.</i></li> <li>• <i>If defendant has answered prior to service of this form, there is no requirement for defendant to respond to the supplemental allegations before trial.</i></li> </ul> <p><i>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.</i></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



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.:	<b>FOR COURT USE ONLY</b>          CASE NUMBER:
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
<b>COVER SHEET FOR DECLARATION OF          COVID-19–RELATED FINANCIAL DISTRESS</b>		

### Information for Defendant

A defendant tenant may use this form to file a declaration of COVID-19–related financial distress with the court if a plaintiff has filed an unlawful detainer action against the defendant and asserts that a defendant did not deliver a declaration within the required 15-day period after service of a notice demanding payment of rent or other financial obligations. (Code Civ. Proc., § 1179.03(h).)

For information about legal resources that may be available and to learn about other protections that may be available to you under federal or local law, go to [lawhelpca.org](http://lawhelpca.org) or <https://landlordtenant.dre.ca.gov/>.

- The signed declaration (you may use form UD-104(A)) must be filed within 5 days after the summons and legal papers in the case are served on you, not counting Saturdays, Sundays, and other judicial holidays. This is the same time frame in which you must file an answer or other response to the complaint.
- If the declaration is filed within the time frame described above, the case against you may be dismissed. The court will set a hearing to determine if there was good cause for your not delivering the declaration to the plaintiff in the time required.
  - The court will provide a notice of the time and place of the hearing to all plaintiffs and defendants.
  - At the hearing, you may explain why you did not deliver this to the landlord in the time required.
  - If the court finds that your failure to provide the declaration was due to mistake, inadvertence, surprise, or excusable neglect, the court will dismiss the case against you.
- Written filings with the court must be provided in English. (Code Civ. Proc., §185 (a).)
  - If attaching a non-English-language declaration provided by the landlord, you should also attach an English-language version, either a copy that was given to you by the landlord or one from [landlordtenant.dre.ca.gov/tenant/forms.html](http://landlordtenant.dre.ca.gov/tenant/forms.html).
  - You can attach a translation of the declaration instead, if signed by the translator.

1. Defendant (name):  
has attached a declaration of COVID-19–related financial distress to this form, signed by defendant.
2. Number of pages attached, including signed declaration (specify):

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):	STATE BAR NUMBER:  STATE: ZIP CODE: FAX NO.:	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
<b>ATTACHMENT—DECLARATION OF COVID-19—RELATED FINANCIAL DISTRESS</b>		CASE NUMBER:

*Review the information on form UD-104 to learn more about when to file this form.*

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

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.:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>03/18/2025</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
<b>ANSWER—UNLAWFUL DETAINER</b>		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.
- b.  **Specific Denials** (Check this box and complete (1) and (2) below if complaint demands more than \$1,000.)  
Defendant admits that all the statements of the complaint are true EXCEPT:

**Denial of Allegations in Complaint (form UD-100 or other complaint for unlawful detainer)**

(1) 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).

(2) 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).

3. **DEFENSES AND OBJECTIONS (NOTE: For each box checked, you must state brief facts to support it in item 3s (on page 3) or, if more room is needed, on form MC-025. You can learn more about defenses and objections at [selfhelp.courts.ca.gov/eviction-tenant](https://selfhelp.courts.ca.gov/eviction-tenant).)**

- 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.



PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. 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 3s 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 3s 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 immediate family member, or a member of defendant's household—that constitutes domestic violence, sexual assault, stalking, human trafficking, abuse of an elder or a dependent adult, or a crime that caused bodily injury, involved a deadly weapon, or used force or threat of force. (*This defense requires one of the following, which may be included with this form: (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.*)
- (1)  The abuse or violence was committed by a person who does not live in the dwelling unit.
- (2)  The abuse or violence was committed by a person who lives in the dwelling unit and defendant claims protection from eviction under Code of Civil Procedure section 1161.3(d)(2).
- 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).)
- (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 a local COVID-19–related ordinance regarding evictions (*briefly state facts describing this in item 3s*).
- 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 refused to accept payment from a third party for rent due. (Civ. Code, § 1947.3; Gov. Code, § 12955.)
- q.  Defendant has a disability and plaintiff refused to provide a reasonable accommodation that was requested. (Cal. Code Regs., tit. 2, § 12176(c).)
- r.  Other defenses and objections are stated in item 3s.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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3. **s.** (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 3s.

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.
- 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: \_\_\_\_\_

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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**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: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
<b>APPLICATION TO PREVENT FORFEITURE DUE TO COVID-19 RENTAL DEBT</b>		CASE NUMBER:

*This form must be filed by the defendant in an unlawful detainer case to ask the court to stop the eviction process if the defendant has been approved for COVID-19-related emergency rental assistance. Defendant must be able to declare under penalty of perjury that all the statements in item 2 are true.*

*For the court to stop the eviction process, defendant may have to pay any amounts demanded in the complaint that the rental assistance does not cover. (Code Civ. Proc., § 1179.13(a)(3).) Note: this application does not take the place of an Answer to the complaint, which should be filed within five days of receiving the complaint. (You can use form UD-105.)*

1. Defendant (name):  
asks the court to prevent or relieve forfeiture of the lease or rental agreement for property at issue in this unlawful detainer case under Code of Civil Procedure section 1179.13.
2. Both of the following statements are true:
  - a. This unlawful detainer case is based on a demand for payment of rent or other financial obligation that was due during one or both of the following time periods (check any periods below when rent was due):
    - (1)  between March 1, 2020, and September 30, 2021.
    - (2)  between October 1, 2021, and March 31, 2022, and the defendant's tenancy was initially established before October 1, 2021.
  - b. A government rental assistance program has approved an application for rental assistance for part or all of the rent or other financial obligations demanded.
3. (Defendant must check a or b.)
  - a.  A copy of the final decision from a government rental assistance program approving the application for rental assistance for the property in this case is attached. (The approval must show the property address and the amount of payment approved, and the time period the payment covers.)
  - b.  (The following information must be provided if a copy of the approval is not available.)
    - (1) The address for the property at issue in this case (address):
    - (2) The application number assigned to defendant's rental assistance application:
    - (3) The name of the government rental assistance program that granted the approval (if known):

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)

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Civil Practice and Procedure: Amendment of the Collections Case Rule

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Amend Cal. Rules of Court, rule 3.740

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

*Staff contact (name, phone and email):* Jenny Grantz, 415-865-4394, jenny.grantz@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): 10/22/2024

Project description from annual agenda: Jurisdictional Amounts: Amend rule 3.740: Develop rule recommendations as appropriate. SB 71 raised the amount in controversy for limited civil and small claims court cases. Prior to the enactment of SB 71, the monetary threshold in rule 3.740, which provides alternative procedures for certain collection cases, matched the jurisdictional limit for limited civil cases. The committee should consider amending this rule to use the current jurisdictional limit.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/7/2025

approved by Office Director (or Designee) (name) 3/13/2025  
on (date)

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

### SPR25-08

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Title	Action Requested
Civil Practice and Procedure: Amendment of the Collections Case Rule	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 3.740	January 1, 2026
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	Jenny Grantz, 415-865-4394 <a href="mailto:jenny.grantz@jud.ca.gov">jenny.grantz@jud.ca.gov</a>

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending the monetary limit in California Rules of Court, rule 3.740, which governs collections cases, to match the current jurisdictional limit for limited civil cases, which was recently raised by Senate Bill 71 (Stats. 2023, ch. 861) to \$35,000 effective January 1, 2024. The committee also proposes amending the rule's time for service and default judgment provisions.

### Background

Rule 3.740 was adopted effective July 1, 2007, to establish a category of “collections cases” and to provide uniform statewide rules for such cases.<sup>1</sup> The rule exempts collections cases from the case management rules that apply to general civil cases. The plaintiff in a collections case has 180 days to serve the complaint, rather than 60 days, and must obtain a default judgment within 360 days after the filing of the complaint if service is effected and the defendant does not file responsive pleadings. Rule 3.740 does not apply to collections cases that seek to recover more than \$25,000.

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<sup>1</sup> Judicial Council of Cal., Advisory Com. Rep., *Collections Cases: Service and Case Management* (Apr. 1, 2007).

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

In SB 71 (see Link A), the Legislature raised the jurisdictional limit for limited civil cases to \$35,000 or less, effective January 1, 2024.<sup>2</sup> Although the \$25,000 limit in rule 3.740 matched the jurisdictional limit for limited civil cases that was in place until 2024, there is no requirement in the rule or statute to increase the rule’s monetary limit to match an increase in the jurisdictional limit for limited civil cases. The Judicial Council is therefore not required to amend rule 3.740 to implement SB 71.

## **The Proposal**

### **Increasing the rule’s monetary limit**

The committee proposes amending subdivision (a) of rule 3.740 to change the monetary limit for collections cases from \$25,000 to \$35,000 to match the current jurisdictional limit for limited civil cases.

The committee considered leaving the rule’s monetary limit unchanged because the committee was concerned that making additional collections cases exempt from the general case management, time for service, and default judgment rules could increase the number of cases not disposed of in one year or that are not moving toward resolution because of a lack of active case management. The committee also considered that the \$25,000 monetary limit in the rule was originally chosen because “if the recovery sought is greater [than \$25,000], the case would not be simple and may require active case management.”<sup>3</sup> It is unclear whether the same reasoning now applies to cases seeking more than \$25,000, considering that \$25,000 in 2007 dollars (the year the rule was adopted) is \$38,000 in 2025 dollars.

The committee determined that leaving the monetary limit unchanged could be confusing for court staff and court users, who might be unaware that rule 3.740’s monetary limit remains at \$25,000. This confusion could cause some collections cases to be incorrectly handled, such as errors by courts or court users when completing or processing forms such as *Civil Case Cover Sheet* (form CM-010). Additionally, as explained below, the committee ultimately decided to propose deleting the rule’s service and default judgment provisions, which eliminates the risks created by giving more collections cases additional time to serve the complaint or seek default judgment.

### **Removing the rule’s time for service and default judgment provisions**

The committee also proposes deleting subdivisions (c)(1), (d), (e), and (f) of rule 3.740, which extend the time for service and the time to seek a default judgment in collections cases.

However, the committee proposes keeping subdivision (c)(2), which exempts collections cases

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<sup>2</sup> Code Civ. Proc., §§ 85, 86.

<sup>3</sup> Judicial Council of Cal., Advisory Com. Rep., *Collections Cases: Service and Case Management* (Apr. 1, 2007), p. 5. The delineation between limited and unlimited cases was one factor in choosing the monetary limit in the rule, but it was not the only factor. (See *id.* at p. 3 [“The committee agrees that the rules should exempt limited jurisdiction collections cases . . . and that unlimited cases should be treated as other general civil cases.”].)



from the case management rules that apply to all general civil cases under rules 3.712–3.715 and 3.721–3.730, unless a defendant files a responsive pleading.

The committee believes that eliminating these provisions would serve the interest of judicial efficiency by decreasing the average time for service and time to disposition in collections cases. Eliminating these provisions would also eliminate fundamental unfairness created by the different treatment of these parties as compared to parties in other civil matters.

The committee is concerned that the rule’s extension of time to serve collections complaints might be exacerbating service issues, for example by making it more likely that the defendant’s address will have changed by the time the plaintiff attempts service. Similarly, the extended time between filing the complaint and service might be making it more difficult for defendants to understand why the complaint was filed or mount a defense, for example because the passage of time might be making it harder to locate the bill or other documentation underlying the debt at issue.

The committee considered leaving these provisions in the rule unchanged. The committee acknowledges that the rule’s time for service provisions were created because “it may be difficult to locate defendants and effect service of complaints within the 60-day period required under rule 3.110.”<sup>4</sup> The committee is therefore concerned that removing the time for service provision might lead to more hearings in collections cases because more plaintiffs might need to ask the court to extend their service deadlines. The committee is also concerned that removing the time for service provision could lead to more requests for service by publication.

The committee ultimately determined that it would be beneficial to propose these amendments to rule 3.740 and seek public comment on the potential benefits and drawbacks. The committee’s objective is to ensure that (1) defendants in collections cases are not placed at a disadvantage compared to defendants in other case types, (2) service is effected on the right person, and (3) cases are disposed of quickly but within parameters of due process. The committee asks for comments on whether the proposed amendments will meet that objective.

### **Alternatives Considered**

The committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users. As discussed in the explanation of the proposal, the committee considered several alternatives when drafting the proposed rule amendments and concluded that the current proposal is consistent with the *Strategic Plan for California’s Judicial Branch*, specifically the goals of Modernization of Management and Administration (Goal III) and Quality of Justice and Service to the Public (Goal IV).

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<sup>4</sup> *Id.* at p. 2.

## Fiscal and Operational Impacts

Amending rule 3.740 will require educating court staff and judicial officers and might require changes to computerized case management 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?

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 two 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 3.740, at pages 5–6
2. Link A: Senate Bill 71,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB71](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB71)

Rule 3.740 of the California Rules of Court would be amended, effective January 1, 2026, to read:

1 **Rule 3.740. Collections cases**

2  
3 **(a) Definition**

4  
5 “Collections case” means an action for recovery of money owed in a sum stated to  
6 be certain that is not more than ~~\$25,000~~ \$35,000, exclusive of interest and attorney  
7 fees, arising from a transaction in which property, services, or money was acquired  
8 on credit. A collections case does not include an action seeking any of the  
9 following:

- 10  
11 (1) Tort damages;
- 12  
13 (2) Punitive damages;
- 14  
15 (3) Recovery of real property;
- 16  
17 (4) Recovery of personal property; or
- 18  
19 (5) A prejudgment writ of attachment.

20  
21 **(b) Civil Case Cover Sheet**

22  
23 If a case meets the definition in (a), a plaintiff must check the case type box on the  
24 *Civil Case Cover Sheet* (form CM-010) to indicate that the case is a collections  
25 case under rule 3.740 and serve the *Civil Case Cover Sheet* (form CM-010) with  
26 the initial complaint.

27  
28 **(c) Exemption from ~~general time for service requirement and case management~~**  
29 **rules**

30  
31 A collections case is exempt from:

- 32  
33 ~~(1) The time for service requirement of rule 3.110(b); and~~
- 34  
35 ~~(2) The case management rules that apply to all general civil cases under~~  
36 ~~rules 3.712–3.715 and 3.721–3.730, unless a defendant files a~~  
37 ~~responsive pleading.~~

38  
39 ~~**(d) Time for service**~~

40  
41 ~~The complaint in a collections case must be served on all named defendants, and~~  
42 ~~proofs of service on those defendants must be filed, or the plaintiff must obtain an~~

1 order for publication of the summons, within 180 days after the filing of the  
2 complaint.

3  
4 **(e) — ~~Effect of failure to serve within required time~~**

5  
6 ~~If proofs of service on all defendants are not filed or the plaintiff has not obtained~~  
7 ~~an order for publication of the summons within 180 days after the filing of the~~  
8 ~~complaint, the court may issue an order to show cause why reasonable monetary~~  
9 ~~sanctions should not be imposed. If proofs of service on all defendants are filed or~~  
10 ~~an order for publication of the summons is filed at least 10 court days before the~~  
11 ~~order to show cause hearing, the court must continue the hearing to 360 days after~~  
12 ~~the filing of the complaint.~~

13  
14 **(f) — ~~Effect of failure to obtain default judgment within required time~~**

15  
16 ~~If proofs of service of the complaint are filed or service by publication is made and~~  
17 ~~defendants do not file responsive pleadings, the plaintiff must obtain a default~~  
18 ~~judgment within 360 days after the filing of the complaint. If the plaintiff has not~~  
19 ~~obtained a default judgment by that time, the court must issue an order to show~~  
20 ~~cause why reasonable monetary sanctions should not be imposed. The order to~~  
21 ~~show cause must be vacated if the plaintiff obtains a default judgment at least 10~~  
22 ~~court days before the order to show cause hearing.~~

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Civil Practice and Procedure: Confidential Information Form for Doxing Cases

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Revise form MC-125

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

*Staff contact (name, phone and email):* Jenny Grantz, 415-865-4394, jenny.grantz@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): 10/22/2024

Project description from annual agenda: Develop forms recommendations as appropriate. AB 1979 creates a private cause of action against a person who doxes (publishes private information about an individual on the internet) another person. A plaintiff in such a case may use a pseudonym by filing a confidential information form. Courts are required to keep the plaintiff's name and certain characteristics confidential, and, upon request, limit access to court records.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/6/2025

approved by Office Director (or Designee) (name) Michael Giden  
on (date) 3/10/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

### SPR25-09

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Title	Action Requested
Civil Practice and Procedure: Confidential Information Form for Doxing Cases	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form MC-125	January 1, 2026
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	Jenny Grantz, 415-865-4394 <a href="mailto:jenny.grantz@jud.ca.gov">jenny.grantz@jud.ca.gov</a>

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### Executive Summary and Origin

Assembly Bill 1979 (Stats. 2024, ch. 557) creates a private cause of action against a person who publishes private information about an individual on the internet (referred to as “doxing”). The Civil and Small Claims Advisory Committee recommends revising one form to allow plaintiffs in these cases to use a pseudonym, as required by law.

### Background

The Doxing Victims Recourse Act (AB 1979, see Link A) added Civil Code section 1708.89, which creates a private cause of action against a person who “doxes” another person by publishing personal identifying information on the internet.<sup>1</sup> A plaintiff in such a case may use a pseudonym; if they do, the court is required to keep the plaintiff’s name and certain characteristics confidential, and, upon request, limit access to court records.<sup>2</sup> The Judicial Council is required to create or revise rules and forms as necessary to allow plaintiffs in these cases to use pseudonyms.<sup>3</sup>

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<sup>1</sup> Civ. Code, § 1708.89.

<sup>2</sup> *Id.*, § 1708.89(e).

<sup>3</sup> *Id.*, § 1708.89(h).

*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.*

Civil Code section 1708.89 is modeled on Civil Code section 1708.85. Section 1708.85 allows plaintiffs to use pseudonyms in cases involving distribution of sexually explicit material. The Judicial Council adopted *Confidential Information Form Under Civil Code Section 1708.85* (form MC-125), effective July 1, 2025, to implement section 1708.85.<sup>4</sup>

Apart from their defined terms and use of those terms, Civil Code sections 1708.85 and 1708.89 are essentially identical.

## **The Proposal**

The committee proposes revising form MC-125 so it can also be used for cases under Civil Code section 1708.89. Specifically, the committee proposes:

- Revising the form title to refer to Civil Code sections 1708.85 and 1708.89;
- Revising item 1 to ask which Civil Code section applies; and
- Revising the instructions on page 2 to refer to both Civil Code sections.

The committee considered creating a new form to implement AB 1979 instead of revising form MC-125 but determined it would be less confusing for court users if there were only one form for both case types. The two forms would have been so similar that it might have been difficult for court users to tell them apart, especially court users who are less familiar with the relevant statutory citations.

## **Alternatives Considered**

The committee did not consider the alternative of taking no action because AB 1979 requires the Judicial Council to create or revise rules and forms as necessary to implement the law and existing forms are not sufficient to comply with AB 1979. As discussed in the explanation of the proposal, the committee considered alternatives when drafting the proposed form and concluded that the current proposal best satisfies the statutory mandate.

## **Fiscal and Operational Impacts**

The new statute will require training of court staff and judicial officers. The revised form is intended to facilitate courts' and parties' implementation of the new statute and will require education and possibly some changes to computerized case management systems. Because the revisions are required to implement a new law, these operational impacts cannot be avoided.

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<sup>4</sup> Judicial Council of Cal., Advisory Comm. Rep., *Rules and Forms: Confidential Information Form Under Civil Code § 1708.85* (Mar. 19, 2015), [www.courts.ca.gov/documents/jc-20150417-itemA1.pdf](http://www.courts.ca.gov/documents/jc-20150417-itemA1.pdf).



### **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 two 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 MC-125, at pages 4–5
2. Link A: Assem. Bill 1979,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB1979](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1979)

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 (party name or pseudonym):	FOR COURT USE ONLY  <b>DRAFT</b> <b>03/07/2025</b> <b>NOT APPROVED</b> <b>BY COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
SHORT TITLE:	
<b>CONFIDENTIAL INFORMATION FORM</b> <b>UNDER CIVIL CODE SECTION 1708.85 OR 1708.89</b>	CASE NUMBER:
<b>TO COURT CLERK: THIS FORM IS CONFIDENTIAL</b>	

INSTRUCTIONS FOR FILER ARE ON **PAGE 2**

1. This action includes a claim under (check one):
  - a.  Civil Code section 1708.85 (distribution of sexually explicit material).
  - b.  Civil Code section 1708.89 (doxing).
  
2. The document with which this form is being filed is a
  - a.  complaint or other pleading.
  - b.  discovery document.
  - c.  other (describe):
  
3. **Name of Plaintiff** (complete if being filed with the complaint)
  - a.  Plaintiff did not use a pseudonym in the complaint.
  - b.  Plaintiff used a pseudonym in the complaint (complete the following for each plaintiff for whom a pseudonym was used).

Pseudonym used

True name of plaintiff

4. **Redacted Information** (complete for any pleading or document that includes redactions)

	LOCATION OF REDACTION (page and line where the redaction occurs)	INFORMATION REDACTED (text that has been redacted)
1.		
2.		
3.		

Continued on next page.

SHORT TITLE:	CASE NUMBER:
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	LOCATION OF REDACTION <i>(page and line where the redaction occurs)</i>	INFORMATION REDACTED <i>(text that has been redacted)</i>
4.		
5.		
6.		
7.		

Additional pages are attached. Number of pages attached: \_\_\_\_\_

Date:

\_\_\_\_\_ ▶ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE)

**INSTRUCTIONS**

*(Note: This form may be used only in cases brought under Civil Code section 1708.85 or 1708.89.)*

1. To protect personal privacy, parties who bring an action under Civil Code section 1708.85 (distribution of sexually explicit material) or section 1708.89 (doxing) may use a pseudonym in place of the true name of the plaintiff and may exclude or redact from all pleadings and documents other identifying characteristics. (Civ. Code, §§ 1708.85(f)(1), 1708.89(e)(1).) In such cases, papers filed by other parties **must** be worded so as to protect the name or other identifying characteristics of the plaintiff from public revelation. (Civ. Code, §§ 1708.85(f)(2), 1708.89(e)(2).)
2. A plaintiff who uses a pseudonym must file this confidential information form with the court at the time of filing the complaint, with items 2 and 3 completed, in order to provide their true name to the court. Plaintiff must also serve the form on defendant along with the complaint and summons. Counsel for a party filing under a pseudonym may provide the pseudonym for the name of the represented party in the attorney/party information box at the top of the form. Any other party must also use this form when necessary.
3. Any party required to redact identifying characteristics from any pleading or document filed with the court other than a complaint **must** file with the court and serve on all parties this confidential information form, with items 2 and 4 completed, providing any identifying characteristics that have been redacted from the pleading or document and stating where the information was redacted.
4. "Identifying characteristics" that the plaintiff may and all other parties **must** redact include, but are not limited to, name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to defendant, race or ethnic background, telephone number, email address, social media profiles, online identifiers, contact information, or any other information, including images of the plaintiff, from which the plaintiff's identity can be discerned. (Civ. Code, §§ 1708.85(f)(3), 1708.89(a)(5); for a list of "online identifiers," see Civ. Code, §§ 1708.85(f)(3)(B), 1708.89(a)(7).)
5. If more space is needed to describe all the redactions in a pleading or document, form MC-025 may be attached, with information provided in the same format as in item 4.
6. A copy of this form should be completed each time a pleading or document redacted under Civil Code section 1708.85 or 1708.89 is filed, and a copy of this form should be served and filed along with the redacted document.

**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**

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Civil Practice and Procedure: Authorization to Appear on Behalf of a Party in Small Claims Cases

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Revise form SC-109

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

*Staff contact (name, phone and email):* Jenny Grantz, 415-865-4394, jenny.grantz@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): 10/22/2024

Project description from annual agenda: Small Claims Forms: Include Information Required Under Code of Civil Procedure section 116.540: Develop forms recommendations as appropriate. A member of the committee pointed out that Authorization to Appear (form SC-109) may need to be revised to more fully comply with the required statements by individuals authorized to appear on behalf of parties in small claims court under Code of Civil Procedure section 116.540.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/7/2025

approved by Office Director (or Designee) (name) 3/17/2025  
on (date)

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

### SPR25-10

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Title	Action Requested
Civil Practice and Procedure: Authorization to Appear on Behalf of a Party in Small Claims Cases	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form SC-109	January 1, 2026
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	Jenny Grantz, 415-865-4394 <a href="mailto:jenny.grantz@jud.ca.gov">jenny.grantz@jud.ca.gov</a>

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### Executive Summary and Origin

*Authorization to Appear* (form SC-109) implements Code of Civil Procedure section 116.540, which allows others to appear in small claims court on behalf of the plaintiff or defendant in certain circumstances. The Civil and Small Claims Advisory Committee proposes revising form SC-109 to ensure it fully complies with section 116.540.

### The Proposal

Code of Civil Procedure section 116.540 allows others to appear in small claims court on behalf of the plaintiff or defendant in certain circumstances. Anyone appearing on another's behalf under section 116.540 must file a declaration stating that they meet the statutory requirements for their appearance. *Authorization to Appear* (form SC-109) currently does not reflect all the requirements of section 116.540. The committee proposes several revisions to ensure form SC-109 complies with the law.

*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.*

### **Duties of employment**

Section 116.540 allows an individual to appear on behalf of a business or organization if the individual is not employed solely to represent the business or organization in small claims court.<sup>1</sup> The individual must file a declaration stating that this requirement has been met.<sup>2</sup>

Form SC-109 currently explains in the instructions at the top of page 1 that “[y]ou cannot appear for a defendant or plaintiff if your only job is to represent him or her in small claims court,” but does not require the person completing the form to declare that this requirement is met. The committee proposes revising items 3a through 3g to add, “Representing [the party] in small claims court is not the only duty of my job.”

### **Members of the armed forces**

Section 116.540 allows an individual to appear on behalf of someone assigned to active duty in the U.S. armed forces if the person on active duty is assigned to a location more than 100 miles from the court where the action is proceeding or is otherwise unable to personally appear due to the performance of military duty.<sup>3</sup> These requirements were different until January 1, 2023, when they were amended by Senate Bill 1311.<sup>4</sup> The committee proposes revising item 3h to state the current requirements.

Additionally, section 116.540 requires an individual appearing on behalf of someone in the armed forces to declare that they have not been paid to appear and have not appeared in small claims court more than four times in the current calendar year.<sup>5</sup> However, these conditions do not apply to someone employed by the United States or the State of California. The committee proposes revising item 3h on form SC-109 to add a checkbox for employees of the United States or California.

### **People who are incarcerated**

Section 116.540 allows an individual to appear on behalf of someone currently in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities [sic] facility.<sup>6</sup> Form SC-109 currently refers to people who are “in a jail, a prison, or another detention facility,” rather than referring to facilities maintained by the specific entities named in the statute. To reduce confusion about which “detention facilities” qualify, the committee proposes revising item 3i on form SC-109 to refer to “a county jail, a Department of Corrections and Rehabilitation facility, or a county juvenile facility.” This language mirrors the statutory language, except

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<sup>1</sup> Code Civ. Proc., § 116.540(b) (applies to those appearing on behalf of a corporation), (c) (partnership or other party who is neither a corporation nor a natural person), (d) (sole proprietorship), (h) (owner of rental properties in California), (i) (association created to manage a common interest development).

<sup>2</sup> *Id.*, § 116.540(j).

<sup>3</sup> *Id.*, § 116.540(e).

<sup>4</sup> Stats. 2022, ch. 620, [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB1311](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1311).

<sup>5</sup> Code Civ. Proc., § 116.540(e).

<sup>6</sup> *Id.*, § 116.540(f).

“Division of Juvenile Facilities” has been replaced with “a county juvenile facility” to reflect the 2023 closure of the Division of Juvenile Justice.

### **Defendant owners of real property**

Section 116.540 allows an individual to appear on behalf of a defendant who is an owner of real property and is not a resident of California.<sup>7</sup> Form SC-109 currently does not include this category of defendants. The committee proposes adding item 3j to implement this portion of section 116.540.

### **Spouses and registered domestic partners**

Section 116.540 allows a person to appear on behalf of their spouse if the claim is by or against both spouses and the represented spouse has consented.<sup>8</sup> The item on SC-109 implementing this provision currently refers to a “husband or wife.” The committee proposes revising item 3k to say “spouse” instead of “husband or wife” to comply with current terminology standards for Judicial Council forms.

Under Code of Civil Procedure section 17(b)(12), “spouse” includes “registered domestic partner” throughout the Code of Civil Procedure. The committee proposes adding “or registered domestic partner” to item 3k to make sure that users of the form are aware that registered domestic partners may qualify to appear on behalf of their partners.

### **Parties requiring assistance**

Section 116.540 allows an individual to assist a party in small claims court if the party “cannot properly present their claim or defense and needs assistance.”<sup>9</sup> A person appearing under this provision appears with the party, rather than on the party’s behalf.

The instructions at the top of page 1 of form SC-109 currently explain that “you may also use this form to ask the court for permission to help a plaintiff or defendant who cannot properly speak for himself or herself.” However, the only place on the form to make this request is the last checkbox in item 3, which simply says “Other (explain).”

The committee proposes revising form SC-109 to add item 4, which reads, “I am appearing to assist a plaintiff or defendant who is not listed in item 3. I am appearing because this person cannot properly present their claim or defense and needs assistance.” Someone selecting this item must explain the reasons for their request because section 116.540 requires the court to “determine[] that a party cannot properly present their claim or defense and needs assistance.”

The committee also proposes providing information in this item about *Disability Accommodation Request* (form MC-410) in case the plaintiff or defendant needs assistance because of a disability. The committee asks for specific comments on whether item 4 should include

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<sup>7</sup> *Id.*, § 116.540(g).

<sup>8</sup> *Id.*, § 116.540(k).

<sup>9</sup> *Id.*, § 116.540(l).



additional instructions about when to use form MC-410 and when to use form SC-109 to aid a plaintiff or defendant who needs assistance. For example, the committee is aware that some courts use the accommodations request process to handle all requests to assist a party, even if the request does not involve a disability. The committee would like feedback from courts on whether the instructions in item 4 will help court users figure out how to most effectively seek assistance in various circumstances.

### **Alternatives Considered**

The committee did not consider the alternative of taking no action because revisions are needed to ensure form SC-109 reflects current law. To the extent the proposed revisions were not required by the terms of Code of Civil Procedure section 116.540, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

### **Fiscal and Operational Impacts**

The revised form will require education and possibly some changes to computerized case management systems. Because the revisions are required to ensure the form reflects current law, these operational impacts cannot be avoided.

## 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 4 on form SC-109 include different or additional instructions about when to use form MC-410 and when to use form SC-109 to aid a plaintiff or defendant who needs assistance?

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 two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

## Attachments

1. Form SC-109, at pages 6–7

This form is used to tell the court you are authorized to appear for a plaintiff or defendant in a small claims case. You may also use this form to ask the court for permission to help a plaintiff or defendant who cannot properly present their claim or defense. If you are a lawyer, you can appear only as authorized by section 116.530 of the Code of Civil Procedure.

Fill out 1-5 on this page and page 2, then file this form with the small claims clerk at or before the trial.

Clerk stamps date here when form is filed.
DRAFT
03/07/2025
NOT APPROVED
BY COUNCIL

1 Your name, address, and position:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Job title or relationship to the plaintiff or defendant you want to appear for: \_\_\_\_\_

Fill in court name and street address:
Superior Court of California, County of \_\_\_\_\_

2 Who are you appearing for?

A plaintiff in this case (name):

A defendant in this case (name):

Fill in your case number and case name below:
Case Number:
Case Name:

3 Tell us about the plaintiff or defendant you are appearing for.

I am appearing for a (check one):

- a. Corporation and I am an employee, officer, or director of that corporation. Representing the corporation in small claims court is not the only duty of my job.
b. Partnership and I am an employee, officer, director, or partner of that partnership. Representing the partnership in small claims court is not the only duty of my job.
c. Other business (not a corporation, partnership, or sole proprietorship) and I am an employee, officer, or director of that business. Representing the business in small claims court is not the only duty of my job.
d. Government agency or other public entity and I am an employee, officer, or director of that agency or entity. Representing the agency or entity in small claims court is not the only duty of my job.
e. Sole proprietorship and I am an employee of that business. I am qualified to testify about business records made in the regular course of business at or near the time of the event. The content of the business records is the only issue in this case. (Evid. Code, § 1271.) Representing the business in small claims court is not the only duty of my job.
f. Owner of rental property in California who employs me as a property agent. This claim is about the rental property I manage. Representing the owner in small claims court is not the only duty of my job.
g. Association created to manage a common interest development and I am an agent, management company representative, or bookkeeper for that association. Representing the association in small claims court is not the only duty of my job.

(More options on next page)





## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 4/10/2025

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

**Title of proposal:** Criminal Law: Findings and Orders for Pretrial Release or Detention

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Approve form CR-104

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

*Staff contact (name, phone and email):* 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): 10/22/24

Project description from annual agenda: To assist in the implementation of In re Humphrey (2021) (11 Cal.5th 135) and In re Harris (2024) (16 Cal.5th 292), the committee will consider revising Defendant's Financial Statement (CR-105) and/or Defendant's Statement of Assets Form (CR-115) to allow use in the pretrial context and may develop rules of court necessary to provide guidance on "least restrictive" non-financial conditions as defined in SB 129, the use of risk assessments, and the Harris factors for pretrial hearings.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/6/2025

approved by Office Director (or Designee) (name) Kara Portnow  
on (date) 2/25/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

### SPR25-11

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Title	Action Requested
Criminal Law: Findings and Orders for Pretrial Release or Detention	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve form CR-104	January 1, 2026
Proposed by	Contact
Criminal Law Advisory Committee Hon. Lisa Rodriguez, Chair	Sarah Fleischer-Ihn, 415-865-7702 sarah.fleischer-ihn@jud.ca.gov

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### Executive Summary and Origin

In *In re Humphrey* (2021) 11 Cal.5th 135, the Supreme Court held that conditioning pretrial release from custody solely on whether an arrestee can afford bail is unconstitutional and articulated a framework for bail determinations based on public and victim safety. To assist courts with making the appropriate findings and orders for pretrial release or detention as articulated in *In re Humphrey* and the California Constitution, the Criminal Law Advisory Committee proposes a new form for optional use.

### Background

In *In re Humphrey*, the Supreme Court observed that pretrial detention should be a limited exception to the norm of pretrial release<sup>1</sup> and articulated a framework for bail determinations based on public and victim safety:

- Whether nonfinancial conditions of release may reasonably protect the public or victim and assure future court appearances by the defendant.<sup>2</sup>

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<sup>1</sup> *In re Humphrey*, *supra*, 11 Cal.5th at p. 156.

<sup>2</sup> *Id.* at p. 154.

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- If nonfinancial conditions alone will be insufficient, whether a financial condition, such as cash bail, coupled with or without nonfinancial conditions, is “reasonably necessary” to protect the public or the victim and/or assure future court appearances. If so, the court must consider the defendant’s ability to pay, and bail must be set at an amount the defendant can reasonably afford.<sup>3</sup>
- The court may order pretrial detention if it concludes, by clear and convincing evidence, that no nonfinancial condition in conjunction with affordable money bail can reasonably protect public safety or arrestee appearance.<sup>4</sup>
- If nonfinancial conditions are necessary, they must be the least restrictive conditions necessary to ensure a return to court and to protect the public or the victim.<sup>5</sup>
- A defendant cannot be held in custody unless the defendant has the ability to pay but chooses not to post bail or detention is necessary to protect public safety or ensure their future appearance in court and there is clear and convincing evidence of no less restrictive alternative.<sup>6</sup> In the latter case, the court may set no bail or preventively high bail.<sup>7</sup>

Article I, sections 12 and 28(f) of the California Constitution also address when a court may deny bail. Article I, section 12 specifies, in relevant part, that a person must be released on bail by sufficient sureties except for (1) capital crimes;<sup>8</sup> (2) felony offenses involving acts of violence on another person or sexual assault offenses, where the court finds that there is a substantial likelihood the person’s release would result in great bodily harm to others;<sup>9</sup> or (3) felony offenses where the court finds that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.<sup>10</sup> Even if the defendant meets these requirements, the court retains the discretion to grant bail or release the defendant on their own recognizance.<sup>11</sup>

Article I, section 28(f)(3) states, in relevant part, that

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<sup>3</sup> *Ibid.*

<sup>4</sup> *Id.* at p. 143.

<sup>5</sup> *Id.* at p. 154.

<sup>6</sup> *Id.* at p. 156.

<sup>7</sup> The California Supreme Court granted review in *In re Kowalczyk* (2022) 85 Cal.App.5th 667 on the issue of whether a court may set preventively high bail above an arrestee’s ability to pay.

<sup>8</sup> Cal. Const., art. I, § 12(a).

<sup>9</sup> *Id.* at § 12(b).

<sup>10</sup> *Id.* at § 12(c).

<sup>11</sup> *In re White* (2020) 9 Cal.5th 455, 469.



[a] person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.<sup>12</sup>

Additionally, a person may be released on their own recognizance in the court's discretion, subject to the same factors considered in setting bail.<sup>13</sup>

## **The Proposal**

*Findings and Orders for Pretrial Release or Detention* (form CR-104) leads a judicial officer chronologically through the process of making findings and an order of pretrial release or detention based on the factors articulated in *In re Humphrey* and article I, sections 12 and 28(f) of the California Constitution.

After noting the procedural posture of the case and evidence reviewed, the form guides the judicial officer through factors relevant to the risk of nonappearance or to public or victim safety, such as the defendant's past history of nonappearances, community ties, and whether a victim sustained any injuries, so that the judicial officer can note their reasons for a finding that the defendant is or is not a flight risk or a danger to the safety of the public or victim. Based on these findings, the court may order pretrial release with appropriate nonfinancial and financial conditions or detain the defendant by denying bail or setting preventively high bail. The form also allows the court to set provisional bail if the parties wish to present additional evidence on the matter at a later date.

The form also details the least restrictive conditions imposed by the judicial officer and any additional conditions ordered, guides the judicial officer through the process of imposing financial conditions of release with or without nonfinancial conditions, outlines mandatory conditions required of all defendants released pretrial, and includes findings and orders relevant to preventive detention.

## **Alternatives Considered**

The committee did not develop a form to assist courts with pretrial release or detention findings and orders immediately after *In re Humphrey* was decided. In light of feedback from courts and justice system partners, the committee determined that an optional form detailing the required findings for pretrial release or detention would be helpful for courts to ensure that all matters considered in the decision-making process are substantiated, documented, and transparent. The

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<sup>12</sup> Cal. Const., art. I, § 28(f)(3).

<sup>13</sup> *Ibid.*

committee has been monitoring caselaw and issues identified by courts in this area and intends to continue developing rules and forms that are responsive to both.

The form was modeled on a pretrial determination minute order and script developed by the Superior Court of San Diego County. The original draft of the form called for details of the specific case, such as the charges. Committee members felt strongly that this form be (1) as succinct as possible and not replicate information already collected in the minute order, which could have an adverse impact on court staff and court operations; and (2) provide all the necessary components that a judicial officer must consider.

On item 8c of the form, the committee initially proposed two separate checkboxes for the court to indicate that either the “facts are evident” or the “presumption is great” that the defendant committed the offense, as stated in Article I, sections 12(b) and (c) and 28(f)(3) of the California Constitution. The committee discussed whether to instead include one checkbox indicating that “the facts are evident or the presumption is great” that the defendant committed the offense, noting that the law was not clear on whether this is one finding or two separate findings. The committee sought to bridge both interpretations by keeping two separate checkboxes but revising the item to state that “the facts are evident and/or presumption is great” to allow a court to check one or both boxes. The committee seeks specific comments on the utility of this approach versus the others.

### **Fiscal and Operational Impacts**

The committee does not anticipate significant fiscal and operational impacts, as the form reflects the application of existing law and is intended to assist courts with implementing the factors from *In re Humphrey* in a clear and uniform manner. Expected costs include training, case management system updates, and the production of new forms.

### **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?
- In denying bail because the “facts are evident or the presumption is great” that the defendant committed the offense (Cal. Const., art. I, §§ 12(b) & (c); 28(f)(3)), are there preferred alternatives for the court to indicate this finding than the one proposed by the committee?

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 two 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-104, at pages 6–9

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>  <b>03/27/2024</b> <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
<b>FINDINGS AND ORDERS FOR PRETRIAL RELEASE OR DETENTION</b>	<i>FOR COURT USE ONLY</i> Date: Time: Department:

**1. Procedural Posture**

The court is addressing pretrial release at:

- a.  Arraignment.
- b.  Bail review per Penal Code section 1270.2. No changed circumstances required.
- c.  Bail review after preliminary examination per Penal Code section 1277. No changed circumstances required.
- d.  Good cause due to change in circumstances per Penal Code section 1289.

**2. The court has reviewed and considered the following items:**

- a.  The complaint and/or  information in this case.
- b.  The pretrial services report/risk assessment.
- c.  The People’s argument and:
  - (1)  Attachments/exhibits:
  - (2)  Statements/proffer of witnesses:
- d.  The defense argument and
  - (1)  Attachments/exhibits:
  - (2)  Amount of bail the defendant can afford:
  - (3)  Statements/proffer of witnesses:
- e.  Criminal history.
- f.  History of appearance.
- g.  Police report/probable cause declaration.
- f.  Proposed conditions of release:
- g.  Other:

**3. Risk of Nonappearance or to Public/Victim Safety**

- a. The court finds the following factors regarding flight risk:
  - (1)  Does or  does not have a prior history of failures to appear
    - (a)  Has always made prior court appearances.
    - (b)  Has a minimal history of failing to appear.
    - (c)  Has a significant history of *(number)*: failures to appear.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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- (d)  Previously absconded from the court process for:
- (e)  Previously cut off GPS device.
- (f)  Previously attempted to avoid court process by:
- (g)  Has demonstrated an intention to subvert the criminal process by:
- (2)  Has been released since *(date)*: \_\_\_\_\_ and is here in court today
  - (a)  Has posted a bond and returned to court.
  - (b)  Has posted bail with the court and returned to court.
- (3)  Has  minimal  significant ties to the community including:
- (4)  Has stated a willingness to follow any conditions deemed reasonable by the court.
- (5)  Previously failed to comply with court orders including:
- (6)  Has *(enter number)*: \_\_\_\_\_ outstanding felony/misdemeanor warrant(s).
- (7)  Was on probation/parole/PRCS/mandatory supervision at the time of the offense.
- (8)  Faces a potential penalty for the charged offense that is great.
- (9)  Has a history of untreated mental health or substance abuse issues.
- (10)  Other:

b. The court finds the following factors regarding danger to the safety of the public or the victim:

- (1)  The alleged crime  does  does not involve a victim.
  - (a)  The victim sustained injuries.  The injuries are serious:
  - (b)  Defendant threatened witness(es) or victim(s) by:
- (2)  The alleged crime  is  is not a crime of violence  including:
  - (a)  A firearm was used in the commission of the crime.
  - (b)  A deadly weapon *(describe)*: \_\_\_\_\_ was used in the commission of the crime.
- (3)  Defendant  does  does not present a danger to public safety because:
- (4)  Defendant  does  does not have a history of violence.
- (5)  Defendant's criminal record demonstrates a history of violence.
- (6)  Defendant is alleged to have violated a restraining order.
- (7)  Defendant has a history of violating restraining orders.
- (8)  Defendant has a history of untreated mental health or substance abuse issues.
- (9)  The crime involved a large quantity of a controlled substance *(describe)*:
- (10)  Mitigating factors were presented:
- (11)  Other:

**4. Finding for Release or Detention**

Based on the factors in item 3, the court

- a.  Finds that defendant does not pose a flight risk or a public safety risk, and will release the defendant on OR. (See item 7.)
- b.  Finds defendant presents a  flight risk and/or  a public safety risk, but that risk can be mitigated by nonfinancial conditions. (See item 5.)
- c.  Finds defendant has previously bailed out  or was released on their own recognizance but still presents  a flight risk and/or  a public safety risk, but that risk can be mitigated by nonfinancial conditions. (See item 5.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

**4. Finding for Release or Detention**

- d.  Finds defendant presents a  flight risk and/or  a public safety risk, but that risk can be mitigated by nonfinancial conditions with monitoring by Pretrial Services. (See item 5.)
- e.  Finds defendant presents a  flight risk and/or  a public safety risk, and finds by clear and convincing evidence that nonfinancial conditions are not sufficient to  ensure a return to court or  protect the public or victims, and will impose a **financial condition** of (*amount*): **and further finds the defendant has the ability to pay that amount**  coupled with the following least restrictive nonfinancial conditions. (See items 5 & 6.)
- f.  Finds the defendant presents a  flight risk and/or  public safety risk by clear and convincing evidence and finds by clear and convincing evidence there are no less restrictive nonfinancial conditions or financial conditions that will ensure a return to court or protect the public or victim(s) and thus
- (1)  denies bail. (See item 8.)
  - (2)  sets preventively high bail. (See item 8.)
- g.  Finds defendant presents a flight risk and/or public safety risk but that the parties wish to present additional evidence regarding:
- (1)  evidence to support a denial of bail or preventively high bail
  - (2)  evidence of alternative available conditions
  - (3)  evidence regarding ability to pay
- and sets **provisional** bail in the amount of:
- and a bail review hearing on (*date*):

**5. Imposition of the Least Restrictive Conditions**

- a.  In addition to the mandatory conditions in item 7, the defendant must obey the following orders that the court finds are the least restrictive conditions necessary to ensure a return to court and to protect the safety of the public or victim because:
- b.  The court finds that nonfinancial conditions are insufficient to protect the government's interests. (See item 6 and 8.)

**6. Imposition of Financial Condition of Release**

- a.  **Setting financial condition alone or coupled with nonfinancial conditions:** The court has considered nonfinancial conditions and finds that without a financial condition, they would be insufficient to ensure a return to court and/or protect the public:
- (1)  Nonfinancial conditions considered by the court (if not imposed in item 5):
  - (2)  Reasons the court finds they are insufficient to protect the government's interests:
  - (3)  The court will set economic bail in the amount of:
  - (4)  The court finds that the defendant has the ability to pay this amount based on counsel's statements or the evidence presented.

**7. Mandatory Conditions**

The defendant must comply with the terms and conditions of Penal Code section 1318. The defendant is ordered to appear at all times and places by this court and as ordered by any court in which the charge is pending, obey all laws, immediately notify the court of any change of physical or mailing address, not depart the state without leave of the court, waive extradition if the defendant fails to appear and is apprehended outside the state of California.

**8. Preventive Detention**

- a. The court finds that there is **clear and convincing** evidence that defendant presents
- (1)  A flight risk and/or
  - (2)  A danger to the safety of the public or any victim

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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b. The court **has considered** the following less restrictive nonfinancial and financial conditions and finds by **clear and convincing evidence** that they are insufficient to ensure a return to court and/or protect the public:

- (1)  Conditions considered by the court:
- (2)  Evidence supporting the court’s findings, in addition to those listed in item 3:

c. The court finds that the  facts are evident and/or  presumption is great that the defendant committed the offense.

d. The court is setting  no bail  preventively high bail in in the amount of:

Under

- (1)  Article I, section 12:
  - (a)  Capital crime.
  - (b)  Committed felony offenses involving an act of violence on another or felony sexual assault offense on another, and the court finds by clear and convincing evidence there is a substantial likelihood release will result in great bodily harm to others.
  - (c)  Committed a felony and the court finds by clear and convincing evidence that the person has threatened another with great bodily harm and there is a substantial likelihood that the person will carry out the threat if released.
- (2)  Article I, section 28:
  - (a)  Capital crime.
  - (b)  Protection of the public based on the safety of the victim, seriousness of the offense, prior criminal record.
  - (c)  There is a probability the person will not appear at trial or a hearing of the case.

Date:

 \_\_\_\_\_  
 JUDICIAL OFFICER

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 4/10/2025

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

**Title of proposal:** Criminal Law: Implementation of Recent Legislation Regarding Criminal Protective Orders

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

Amend Cal. Rules of Court, rule 1.51; repeal rule 4.700; revise CR-160, CR-161, and CR-162; adopt CLETS-002 and CR-850; approve CR-800, CR-800-INFO, CR-830, and CR-840

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

*Staff contact (name, phone and email):* 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): 10/22/24

Project description from annual agenda: Amend California Rules of Court, rule 4.700, firearm relinquishment procedures, and the criminal protective order forms to incorporate SB 2907 (Stats. 2024, ch. 538) and SB 899 (Stats. 2024, ch. 544), which address firearm relinquishment procedures for criminal protective orders and establish a 15-year maximum postconviction protective order term under Penal Code section 273.5. The committee will also consider revisions to the criminal protective orders based on stakeholder suggestions regarding consequences for violating a protective order and including a protected person's date of birth for inclusion in the National Crime Information Center's Protection Order File, a federal electronic database maintained by the U.S. Department of Justice.

**Out of Cycle/Early Implementation:** *If requesting July 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.)

Two other spring cycle proposals entitled Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement AB 2759 and Protective Orders: Civil Restraining Order Forms to Implement Senate Bill 899 address similar statutory changes affecting domestic violence restraining orders, juvenile restraining orders, and criminal protective orders.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 3/11/2025

approved by Office Director (or Designee) (name) Kara Portnow  
on (date) 2/28/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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

(11/1/24)



mandates translation: [Click or tap here to enter text.](#)

includes forms that staff will request be translated.

- **Form Descriptions** (for any report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

### SPR25-12

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Title

Criminal Law: Implementation of Recent Legislation Regarding Criminal Protective Orders

Action Requested

Review and submit comments by May 23, 2025

Proposed Effective Date

January 1, 2026

Proposed Rules, Forms, Standards, or Statutes  
Amend Cal. Rules of Court, rule 1.51; repeal rule 4.700; adopt form CLETS-002; approve forms CR-800, CR-800-INFO, CR-830, CR-840, and CR-850; revise forms CR-160, CR-161, and CR-162

Contact

Sarah Fleischer-Ihn, 415-865-7702  
[sarah.fleischer-ihn@jud.ca.gov](mailto:sarah.fleischer-ihn@jud.ca.gov)

Proposed by

Criminal Law Advisory Committee  
Hon. Lisa Rodriguez, Chair

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### Executive Summary and Origin

To implement recent legislation addressing firearm and ammunition relinquishment for defendants subject to a criminal protective order and lengthening the time frame for certain postconviction criminal protective orders, the Criminal Law Advisory Committee proposes repealing a rule of court, revising three existing criminal protective order forms, and approving four new forms and an information sheet. The committee also proposes adoption of a new confidential California Law Enforcement Telecommunications System form for use with criminal protective orders, and amending California Rules of Court, rule 1.51 to require prosecuting agencies to use the form.

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

## Background

### Assembly Bill 2308

Effective January 1, 2025, Assembly Bill 2308 (Stats. 2024, ch. 649)<sup>1</sup> allows a court to issue a postconviction protective order for up to 15 years when a defendant is convicted of a violation of Penal Code section 273.5(a).<sup>2</sup> Previously, a court could issue such orders for up to 10 years.

### Assembly Bill 2907

Effective January 1, 2025, Assembly Bill 2907 (Stats. 2024, ch. 538)<sup>3</sup> amended Penal Code section 273.75(d) to require a court to inform a defendant about how to comply with firearm and ammunition prohibitions if the court has information or evidence that a defendant charged with a domestic violence–related offense *and* subject to a domestic violence criminal protective order has a firearm or ammunition.<sup>4</sup> If evidence of compliance is not provided by the defendant within 48 hours, the court must notify within two business days the prosecuting agency and appropriate law enforcement officials. The prosecuting agency and law enforcement must take all necessary action to obtain the firearms and ammunition as soon as practicable.<sup>5</sup>

Effective January 1, 2025, Penal Code section 29825.5 requires a defendant subject to specified postconviction protective orders<sup>6</sup> to relinquish firearms to law enforcement or a licensed firearms dealer within 24 hours of being served with the order and to file proof with the court within a specified period. The court is required to provide information on how to relinquish firearms and ammunition, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment.<sup>7</sup> The bill also adds exemption criteria for sworn peace officers and others.<sup>8</sup>

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<sup>1</sup> See Link A.

<sup>2</sup> All further statutory references are to the Penal Code unless otherwise specified.

<sup>3</sup> See Link B.

<sup>4</sup> § 273.75(d). Section 273.75(d) applies to protective orders issued in a case involving acts of domestic violence under section 136.2(h) and (i), and sections 273.5(j), 368(l), 646.9(k), and 1203.097(a)(2). Section 136.2(h)(1) concerns pretrial domestic violence protective orders and (h)(2) concerns a pretrial protective order issued when a sex offense is charged. Because section 273.75 addresses domestic violence offenses, the reference to orders issued under section 136.2(h) likely only applies to cases involving domestic violence.

<sup>5</sup> § 273.75(d).

<sup>6</sup> Specifically, orders issued under section 273.5(j), 368(l), or 646.9(k).

<sup>7</sup> § 29825.5(b).

<sup>8</sup> § 29825.5(g).

## Senate Bill 899

Effective January 1, 2026, Senate Bill 899 (Stats. 2024, ch. 544)<sup>9</sup> requires the relinquishment of ammunition for a defendant subject to a criminal protective order under section 136.2 and adds new court procedures related to firearms and ammunition relinquishment:<sup>10</sup>

- Upon the issuance of a protective order:
  - The court is required to provide information on how to relinquish firearms and ammunition, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment.<sup>11</sup>
  - A court holding a hearing on the matter must determine whether a receipt has been filed and inquire of the respondent whether they have complied.<sup>12</sup>
  - Any violations of the firearms prohibition must be reported to the prosecutor within two business days of the court hearing unless the restrained person provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk.<sup>13</sup>
  - If the restrained person does not file a receipt within 48 hours after receiving the order for a firearm in their possession, the court must notify appropriate law enforcement officials.<sup>14</sup>
  - The court may grant an exemption based on modified criteria for sworn peace officers and others.<sup>15</sup>

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<sup>9</sup> See Link C.

<sup>10</sup> SB 899 also amended statutes governing civil harassment, elder and dependent abuse, postsecondary private school violence, workplace violence, and gun violence restraining orders. The Civil and Small Claims Advisory Committee is circulating an invitation to comment proposing changes to several forms to implement SB 899. Similarly, the Family and Juvenile Law Advisory Committee is circulating an invitation to comment proposing form revisions to implement AB 2759, which changed the requirements for granting a firearm exception to a domestic violence or juvenile restraining order. See SPR25-27, *Protective Orders: Civil Restraining Order Forms to Implement SB 899* and SPR25-26, *Protective Orders: Changes to Domestic Violence and Juvenile Forms to Implement AB 2759*, available at <https://courts.ca.gov/policy-administration/invitations-comment>.

<sup>11</sup> Code Civ. Proc., § 527.9(b).

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Code Civ. Proc., § 527.9(f).

- When relevant information is provided to the court at any noticed hearing that the restrained person has a firearm:
  - The court must determine whether the restrained person has a firearm in violation of the order.<sup>16</sup>
  - In making the determination, the court may consider whether the restrained person has filed a firearm relinquishment receipt or if an exemption was granted.<sup>17</sup>
  - The court may make the determination at any noticed hearing where a restraining order is issued, at a subsequent review hearing, or at any subsequent hearing while the order remains in effect.<sup>18</sup>
  - The court may set a review hearing within 10 court days after the hearing at which the information was presented.<sup>19</sup>
  - If the restrained person is not present when the court sets the review hearing, the protected person must provide notice of the review hearing to the restrained person.<sup>20</sup>

Previously, Senate Bill 320 (Stats. 2021, ch. 685) implemented similar relinquishment procedural requirements for civil domestic violence restraining orders, and SB 899 was intended to replicate that framework for other civil and criminal protective orders.<sup>21</sup> As a result, many of the committee’s proposed amendments to implement SB 899 are modeled after those adopted for domestic violence restraining orders in light of SB 320.

**Confidential CLETS information form**

*Confidential Information for Law Enforcement* (form CLETS-001) must be submitted with requests for specified civil protective orders.<sup>22</sup> The form requires the protected person’s age and gender, and gives the option of including the protected person’s date of birth, telephone number, and whether they speak English or another language. The form also requires the name and gender of additional protected people and gives the option of including their race and date of

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<sup>16</sup> § 18120.5(a).

<sup>17</sup> § 18120.5(b)(1).

<sup>18</sup> § 18120.5(b)(2).

<sup>19</sup> § 18120.5(c)(1), (2).

<sup>20</sup> § 18120.5(c)(2).

<sup>21</sup> See Sen. Rules Com., Off. of Sen. Floor Analyses, Rep. on Sen. Bill 899 (2023–2024 Reg. Sess.) Aug. 28, 2024, pp. 5, 7.

<sup>22</sup> Cal. Rules of Court, rule 1.51(a).

birth. After the protected person's information from the form is entered into the California Law Enforcement Telecommunications System (CLETS),<sup>23</sup> the form must be promptly destroyed.<sup>24</sup>

The Judicial Council first adopted a confidential CLETS information form to address safety concerns raised by domestic violence victim advocates about how including the protected person's date of birth and other identifying information on a domestic violence restraining order could be used to harass or stalk the protected person.<sup>25</sup> Subsequently, similar forms were adopted for use with juvenile protective orders and proceedings to prevent elder and dependent abuse, civil harassment, private postsecondary school violence, and workplace violence. These forms were consolidated into a single form, CLETS-001, effective January 1, 2012.

Adopted effective January 1, 2011, California Rules of Court, rule 1.51 provides direction to the public and the courts about how the confidential CLETS information form should be used, who has access to the information it contains, and how long courts should retain the form.

### **Protected person's date of birth**

All restraining orders issued in California must be entered into the California Department of Justice's restraining order database (CARPOS). Eligible restraining orders entered into CARPOS are then forwarded to a federal electronic database called the National Crime Information Center Protection Order File (NCIC-POF), which is maintained by the U.S. Department of Justice. The NCIC-POF is used by law enforcement agencies to verify and enforce out-of-state protective orders.

Currently, civil and criminal restraining orders do not require the protected person's date of birth, and only the age of the protected person is required for entry into CARPOS. However, the federal database will not display the protected person's name in a restraining order record unless the protected person's date of birth is provided. This proposal includes the option of providing the protected person's date of birth through a confidential CLETS information form for inclusion in the federal database.

### **The Proposal**

The Criminal Law Advisory Committee proposes amending rule 1.51, repealing rule 4.700, revising forms CR-160, CR-161, and CR-162, and adopting two new forms and approving four new forms and an information sheet, effective January 1, 2026, as described below.

### **Confidential CLETS information form**

The committee proposes adoption of a new form, *Confidential Information for Law Enforcement—Criminal* (form CLETS-002), modeled after form CLETS-001, for use in criminal

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<sup>23</sup> CLETS is a state law enforcement database.

<sup>24</sup> Cal. Rules of Court, rule 1.51(e).

<sup>25</sup> See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence Prevention Act Forms* (Aug. 27, 2003), p. 2.

cases to provide the protected person's gender, age, and date of birth, as well as additional information about the protected person and the defendant. The committee anticipates that the prosecuting agency would fill out and submit the form with the protected person's information. Forms CR-160 and CR-161 would be revised to delete the protected person's gender and age and the gender of additional protected persons, and to include a reference to using form CLETS-002. These changes would align the criminal protective orders with all other protective orders with a protected party that are entered into CLETS, address concerns with the protected person's identifying information being available on the order, and allow the protected person's date of birth to be provided for inclusion in the federal database in a confidential manner.

Additionally, the committee proposes amending rule 1.51 by adding to subdivision (a) that a prosecuting agency requesting protective orders issued under Penal Code section 136.2, 273.5(j), 368(l), 646.9(k), or 1203.097(a)(2) must submit to the court with the request a completed form CLETS-002.<sup>26</sup> The committee also proposes amending the rule where necessary to refer to "*Confidential CLETS Information forms*," plural, to make clear that the rule's other provisions apply to form CLETS-002, including the requirement in rule 1.51(b) that CLETS forms be kept confidential.

Unlike form CLETS-001, form CLETS-002 does not include an item regarding the protected person and defendant/restrained person's language preferences and an item for the petitioner to identify whether the defendant has firearms, firearm parts, ammunition, or body armor. The criminal protective orders do not currently ask for the language preferences of the protected person and defendant, so the committee preferred not to require this additional information. The committee also did not think information about prohibited items needed to be included on the CLETS form in criminal cases, given that the protective orders include that information.

While the committee's consensus was that adopting form CLETS-002 would result in a modest but manageable workload increase, the committee seeks specific comments on whether requiring the use of form CLETS-002 would create workload pressures for prosecuting agencies, law enforcement, or the courts. It is the committee's understanding that several prosecuting agencies already use form CLETS-001 in conjunction with forms CR-160 and CR-161.

### **Repealing rule 4.700**

The committee proposes repealing rule 4.700 and seeks specific comments on whether there are reasons to retain all or part of the rule.

Rule 4.700 requires a court, upon issuing specified criminal protective orders, to set a review hearing to determine whether the defendant relinquished firearms if the court has good cause to believe that the defendant owns a firearm. The main rationale for the rule was that at the time, there were no statutory provisions to ensure that a court's order to relinquish firearms had been

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<sup>26</sup> The Judicial Council is considering amendments to rule 1.51, effective July 1, 2025. (See Judicial Council of Cal., W25-07, *Protective Orders: New Civil Retail Crime Restraining Order*, p. 7, <https://courts.ca.gov/system/files/itc/w25-07.pdf>).

followed,<sup>27</sup> and one of the rule's stated purposes is to assist courts issuing criminal protective orders to determine whether a defendant has a firearm and assist courts to determine compliance with orders to relinquish under Code of Civil Procedure section 527.9.<sup>28</sup>

A similar rule governing civil domestic violence restraining orders, rule 5.495, was adopted by the Judicial Council effective July 1, 2014. The rationale for that rule was also the lack of statutory provisions around following up on relinquishment orders issued as part of restraining orders.<sup>29</sup> Subsequently, SB 320 codified rule 5.495 as Family Code section 6322.5, and the rule was repealed as of January 1, 2023.

Under Penal Code section 18120.5, which largely mirrors Family Code section 6322.5, it appears that the statutory gaps around firearm relinquishment compliance that rule 4.700 sought to address no longer exist. Though section 18120.5 does not directly codify rule 4.700, it does address when and how a court must determine whether a restrained person has a prohibited firearm, and the consequences of noncompliance.

### **Revising form CR-160**

The committee proposes revising *Criminal Protective Order—Domestic Violence* (form CR-160) by:

- Removing the protected person's gender and age and the item on the gender of additional protected persons and adding a reference to use form CLETS-002, where that information will be provided;
- Adding a statement that orders issued under section 273.5(j) last to up to 15 years;
- Adding, in item 8:
  - Ammunition as an item that must be relinquished;
  - A statement that the defendant may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form CR-800); and
  - New item 8e for the court to indicate if a firearm exemption was granted, and if so, to see detailed orders on attached *Permission to Have Firearm or Ammunition for Work* (form CR-850);

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<sup>27</sup> See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence: Firearms Relinquishment in Criminal Protective Order Cases* (Apr. 19, 2010), p. 1.

<sup>28</sup> Cal. Rules of Court, rule 4.700(b)(2).

<sup>29</sup> See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence: Firearms Relinquishment in Family and Juvenile Law Restraining Order Cases* (Apr. 2, 2014), p. 1.



- Adding new item 9, “Possession of prohibited items,” for the court to list prohibited firearms and ammunition, note when the defendant provided proof of compliance, and set a review hearing on compliance;
- Adding new item 10, “Noncompliance with surrendering prohibited items,” stating that the court will notify the prosecuting attorney and law enforcement that the defendant has not complied with relinquishment orders; and
- Adding citations to Code of Civil Procedure section 527.12 to the Instructions for Law Enforcement on page 5.

### **Revising form CR-161**

The committee proposes revising *Criminal Protective Order—Other Than Domestic Violence* (form CR-161) by:

- Removing the protected person’s gender and age and the item on the gender of additional protected persons, and adding a reference to use form CLETS-002, where that information will be provided;
- Adding, in item 8:
  - Relinquishment requirements and time frames for orders issued under section 136.2 (item 8b) and sections 368(l) and 646.9(k) (new item 8c);
  - New item 8d stating that the defendant may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form CR-800); and
  - New item 8e for the court to indicate if a firearm exemption was granted, and if so, to see detailed orders on attached *Permission to Have Firearm or Ammunition for Work* (form CR-850);
- Adding new item 9, “Possession of prohibited items,” for the court to list prohibited firearms and ammunition, note when the defendant provided proof of compliance, and set a review hearing on compliance;
- Adding new item 10, “Noncompliance with surrendering prohibited items,” stating that the court will notify the prosecuting attorney and law enforcement that the defendant has not complied with relinquishment orders; and
- Adding citations to Code of Civil Procedure section 527.12 to the Instructions for Law Enforcement on page 4.

### **Revising form CR-162**

The committee proposes revising *Order to Surrender Firearms in Domestic Violence Case* (form CR-162) by:

- Changing the form title to *Order to Surrender Firearms, Firearm Parts, and Ammunition in Domestic Violence Case*;
- Revising item 4 to follow the structure and language of forms CR-160 and CR-161;
- Adding new item 4b for the court to indicate if a firearm exemption was granted, and if so, to see detailed orders on attached *Permission to Have Firearm or Ammunition for Work* (form CR-850);
- Adding new item 5, “Relinquishment of prohibited items,” for the court to list prohibited firearms and ammunition, note when the defendant provided proof of compliance, and set a review hearing on compliance; and
- Adding new item 6, “Noncompliance with surrendering prohibited items,” stating that the court will notify the prosecuting attorney and law enforcement that the defendant has not complied with relinquishment orders.

#### **Approving forms CR-800, CR-800-INFO, CR-830, CR-840, and CR-850**

The committee proposes several new forms to implement the changes in law:

- Approve *Receipt for Firearms, Firearm Parts, and Ammunition* (form CR-800) and a corresponding information sheet (form CR-800-INFO). Under SB 899, courts must provide information to a defendant subject to a criminal protective order on how to relinquish firearms and ammunition, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment.<sup>30</sup> Forms CR-800 and CR-800-INFO are modeled after existing forms for use with civil restraining orders.
- Approve *Noncompliance With Firearms and Ammunition Order* (form CR-830). This form would be used by a court to report noncompliance with relinquishment orders to both the prosecuting agency and law enforcement.<sup>31</sup> In domestic violence cases, the agencies must “take all actions necessary to obtain those and any other firearms or ammunition owned, possessed, or controlled by the defendant and to address any violation of the order with respect to firearms or ammunition as appropriate and as soon as practicable.”<sup>32</sup> This directive is not included for cases that do not involve domestic violence. To reflect these differences, the form has separate items for domestic violence cases and cases not involving domestic violence.
- Approve *Prohibited Items Finding and Orders* (form CR-840). This form is intended for use by the court when it learns that the restrained person has a firearm *after* a protective order has issued, pursuant to the procedures under Penal Code section 18120.5 and Code of Civil

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<sup>30</sup> Code Civ. Proc., § 527.9(b).

<sup>31</sup> Code Civ. Proc., § 527.9(b); Pen. Code, § 273.75(d).

<sup>32</sup> § 273.75(d).

Procedure section 527.9. The form allows the court to list prohibited firearms and ammunition, note when the defendant provided proof of compliance, set a review hearing on compliance, and state that the court will notify the prosecuting attorney and law enforcement if the defendant has not complied with relinquishment orders.

- Adopt *Permission to Have Firearm or Ammunition for Work* (form CR-850). This form allows the court to make appropriate findings and orders when granting a request for a firearm exemption under Code of Civil Procedure section 527.9(f) or Penal Code section 29825.5(g).

### **Alternatives Considered**

The committee did not consider the alternative of taking no action because form revisions are needed to comply with AB 2308, AB 2907, and SB 899. To the extent the proposed revisions were not required by the terms of the new laws, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

### **Conflict between relinquishment procedures in SB 899 and AB 2907**

Though AB 2907 and SB 899 both address relinquishment of prohibited items due to a criminal protective order, there are some discrepancies on requirements and procedures depending on whether the order was issued pretrial, postconviction, or in a domestic violence case. Because the discrepancies appear to be due to oversight, the committee discussed whether to attempt to reconcile or standardize the requirements and procedures, but decided to directly reflect the applicable statutory language.

For example, while ammunition must now be relinquished with most criminal protective orders,<sup>33</sup> no statute requires ammunition relinquishment for postconviction criminal protective orders issued under Penal Code section 273.5(j), 368(l), or 646.9(k) in a case not involving domestic violence (see form CR-161, item 8c), because section 29825.5, the only statute addressing these types of cases, does not include clear language on ammunition relinquishment.

Additionally, section 273.75(d), regarding criminal protective orders issued in domestic violence cases, does not specify how prohibited items should be relinquished but requires the court to provide information to the defendant on how to comply with the prohibition. Given that relinquishment in the criminal context generally involves surrendering to law enforcement or selling to a licensed gun dealer, the committee proposes directing relinquishment to law enforcement or a licensed gun dealer for orders issued under Penal Code section 1203.097.<sup>34</sup>

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<sup>33</sup> See Code Civ. Proc., § 527.9(b); Pen. Code, § 273.75(d).

<sup>34</sup> All other criminal protective orders are subject to statutes requiring relinquishment to law enforcement or a licensed gun dealer (see Code Civ. Proc., § 527.9(b); Pen. Code, § 29825.5(b).)

### **Conflict between conviction-based relinquishment procedures under Penal Code section 29810 and postconviction criminal protective order relinquishment procedures**

Postconviction criminal protective orders are generally issued in cases in which a conviction of the underlying offense also prohibits the defendant from possessing a firearm. In these matters, the postconviction criminal protective order relinquishment procedures conflict with some of the conviction-based relinquishment procedures under Penal Code section 29810, and there are no cross-references in the statutory language.

It is not certain which provisions supersede, and the committee noted the difficulty for litigants and judges to understand how to navigate the conflicting procedures. The committee discussed whether to try to reconcile the procedures in the forms but decided that it would require legislative clarity or resolution by the courts.

### **Service by protected person**

Penal Code section 18120.5(c)(1), which applies to gun violence restraining orders and criminal protective orders issued under section 136.2, states that if the restrained person is not present when the court sets a review hearing regarding their compliance with relinquishment orders, the protected person must provide notice of the review hearing to the restrained person at least two court days before the review hearing, by personal service or by mail to the restrained person's last known address.

Despite the statutory language, the committee is not including an item addressing service of the defendant by the protected person on form CR-840, as this is not a common practice in a criminal case and the likelihood that the protected person would be present at the time a review hearing is set is minimal. The committee discussed the option of including an item about service of the defendant by the protected person and modifying it to state that the protected person may seek assistance from the prosecuting agency, but ultimately preferred excluding the language entirely.

### **Mandatory or optional forms**

Forms CR-830 and CR-840 are modeled after forms DV-830 and DV-840, which are used for proceedings related to domestic violence restraining orders. Forms CR-830 and DV-830 allow a court to report a restrained person's noncompliance with a relinquishment order to the prosecuting agency and law enforcement, and forms CR-840 and DV-840 are for courts to use when compliance issues arise after a restraining order has issued. Forms DV-830 and DV-840 are mandatory forms. Though there is a preference for Judicial Council forms to be as consistent as possible, the committee proposes making forms CR-830 and CR-840 optional rather than mandatory, since criminal courts have additional avenues to address noncompliance, such as a probation revocation, or may have local preferences to communicate with the prosecuting agency and law enforcement.

### **Firearm exemption advisement**

On form CR-850, the committee initially considered presenting item 2c as a stand-alone warning text box:

Warning: The court orders listed above in ② only apply to this restraining order. If you are prohibited from having firearms or ammunition by another order or law, you may be in violation of state or federal law.

The committee discussed how to make this advisement as clear as possible to the defendant to avoid any confusion in the future, including whether to require the defendant to initial the warning to confirm it was received. The committee decided it would be clearer to make the advisement part of the order as item 2c. The committee seeks specific comments on whether the advisement is more clearly communicated as a stand-alone warning text box.

### **Notice of noncompliance to law enforcement and the prosecuting agency**

For the notice to the law enforcement and prosecuting agency of a defendant's noncompliance with surrendering prohibited items,<sup>35</sup> the committee considered deriving the time frame for such notification from the statutory language of Code of Civil Procedure section 527.9(b)<sup>36</sup> and Penal Code section 273.75(d)<sup>37</sup> rather than calling for the court's immediate notification of law enforcement and prosecuting agencies. The committee modeled the language to immediately notify the agencies after the language implementing SB 320 in the domestic violence restraining orders, communicating to the restrained person that this exchange would occur swiftly.

### **Review hearings**

Under new Penal Code section 18120.5, when relevant information is provided to the court at any noticed hearing that a person subject to a criminal protective order issued under section 136.2 has a firearm, the court must determine if the person has a firearm in violation of the order, with the option of setting a review hearing.<sup>38</sup> Section 18120.5 does not discuss ammunition, though under SB 899, it is now a prohibited item that must be relinquished, alongside firearms, under Code of Civil Procedure section 527.9(b).

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<sup>35</sup> See item 10 of forms CR-160 and CR-161, and item 5 on form CR-840.

<sup>36</sup> "Violations of the firearms prohibition of any restraining order under this section shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court. If the person does not file a receipt with the court within 48 hours after receiving the order for a firearm in their possession, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of a protective order, information about the firearm or ammunition, and of any other information the court deems appropriate." (Code Civ. Proc., § 527.9(b).)

<sup>37</sup> "If evidence of compliance with firearms prohibitions is not provided within 48 hours of the defendant being served with the protective order or after a review hearing under rule 4.700 of the California Rules of Court if required or as may be required otherwise, the court shall order the clerk of the court to notify within two business days, by the most effective means available, the prosecuting agency and appropriate law enforcement officials of the issuance and contents of the protective order, information about the firearm or ammunition, and of any other information obtained through the search that the court determines is appropriate." (Pen. Code, § 273.75(d).)

<sup>38</sup> § 18120.5(a), (c)(1).

To maintain consistency between the prohibited items that are required to be relinquished and the court findings and review hearings, the committee proposes adding ammunition as an item subject to the court findings and review hearings.<sup>39</sup> While new Penal Code section 18120.5 only expressly requires the court to determine if a person has a firearm in violation of an order, there is nothing precluding the court from making findings regarding ammunition as well.

### **Service by peace officer**

SB 899 introduced new Code of Civil Procedure section 527.12, requiring a peace officer, “upon the request of a petitioner,” to serve specified protective orders on the respondent, including criminal protective orders issued under section 136.2. The committee considered but declined to include language on the existing or proposed forms regarding this provision, noting that a defendant will generally be personally served at the time the order is issued.

### **Use of form CLETS-001**

The committee initially proposed including criminal protective orders in form CLETS-001, alongside civil restraining orders. However, the committee ultimately proposes a separate form due to the differences present in criminal cases. Form CLETS-002 is intended to be completed by a prosecuting agency rather than a petitioner and is designed for streamlined use by focusing on the protected person’s information.

### **Fiscal and Operational Impacts**

The proposal will require training of court staff and judicial officers on the revised and new forms and amended rules. Additional expected costs include case management system updates and the production of new forms.

While the committee anticipates that requiring the use of form CLETS-002 for criminal protective orders will result in a modest but manageable workload increase, the committee seeks specific comments on whether this may create workload pressures for the courts, prosecuting agencies, or law enforcement.

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<sup>39</sup> See item 9b on forms CR-160 and CR-161, and item 4 on form CR-840.

## 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 all or parts of California Rules of Court, rule 4.700 be retained rather than repealed? If so, why?
- Item 2c on form CR-850 is an advisement to the defendant that a granted firearm exemption only applies to the specific restraining order, and that if the defendant is prohibited from having firearms or ammunition by another order or law, the defendant may be in violation of state or federal law. Is such information more clearly communicated as a stand-alone warning box?
- Would proposed form CLETS-002 increase the workload for courts, prosecuting agencies, and law enforcement?
- Would it be helpful to include language preferences and prohibited item information on form CLETS-002, similar to form CLETS-001?

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 two 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 1.51 and 4.700, at pages 15–18
2. Form CLETS-002, CR-160, CR-161, CR-162, CR-800, CR-800-INFO, CR-830, CR-840, and CR-850, at pages 19–41
3. Link A: Assem. Bill 2308,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB2308](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2308)
4. Link B: Assem. Bill 2907,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB2907](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2907)
5. Link C: Sen. Bill 899,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB899](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB899)

Rule 1.51 of the California Rules of Court would be amended and rule 4.700 would be repealed, effective January 1, 2026, to read:

1 **Rule 1.51. California Law Enforcement Telecommunications System (CLETS)**  
2 **information form**

3  
4 **(a) Confidential CLETS Information form to be submitted to the court**

5  
6 (1) A person requesting protective orders under Code of Civil Procedure section  
7 527.6, 527.8, or 527.85; Family Code section 6320, 6404, or 6454; Penal  
8 Code sections 18100–18205; or Welfare and Institutions Code section 213.5  
9 or 15657.03 must submit to the court with the request a completed  
10 *Confidential CLETS Information* form.

11  
12 (2) A prosecuting agency requesting protective orders under Penal Code section  
13 136.2, 273.5(j), 368(l), 646.9(k), or 1203.097(a)(2) must submit to the court  
14 with the request a completed *Confidential Information for Law*  
15 *Enforcement—Criminal* (form CLETS-002).

16  
17 **(b) Confidentiality of the form**

18  
19 The *Confidential CLETS Information* forms ~~is~~ are confidential, and access to the  
20 information on the forms ~~is~~ is limited to the persons listed in (c).

21  
22 **(c) Access to information on the form**

23  
24 The *Confidential CLETS Information* forms ~~is~~ is must not be included in the court file.  
25 After the form is submitted to the court, only the following persons may have  
26 access to the information on the form:

- 27  
28 (1) Authorized court personnel; and  
29  
30 (2) Law enforcement and other personnel authorized by the California  
31 Department of Justice to transmit or receive CLETS information.  
32

33 **(d) Amendment of the form**

34  
35 A person or party requesting protective orders or the person's attorney may submit  
36 an amended *Confidential CLETS Information* form as a matter of right to provide  
37 updated or more complete and accurate information.  
38

39 **(e) Retention and destruction of the form**

- 40  
41 (1) When a *Confidential CLETS Information* form is submitted to the court, the  
42 court, if a temporary restraining order or order after hearing is entered, may:



Rule 1.51 of the California Rules of Court would be amended and rule 4.700 would be repealed, effective January 1, 2026, to read:

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- (A) Transmit the form to a law enforcement agency for entry into CLETS and not retain any copy; or
- (B) Enter the information on the form into CLETS itself and promptly destroy the form or delete it from its records.

(2) If no temporary restraining order or order after hearing is entered, the court may promptly destroy the form or delete it from its records.

(3) Until the court has completed (1) or (2), the form must be retained in a secure manner that prevents access to the information on the form except to those persons identified in (c).

**Rule 4.700. Firearm relinquishment procedures for criminal protective orders**  
**[Repealed]**

**(a) Application of rule**

~~This rule applies when a court issues a criminal protective order under Penal Code section 136.2 during a criminal case or as a condition of probation under Penal Code section 1203.097(a)(2) against a defendant charged with a crime of domestic violence as defined in Penal Code section 13700 and Family Code section 6211.~~

**(b) Purpose**

~~This rule is intended to:~~

- ~~(1) Assist courts issuing criminal protective orders to determine whether a defendant subject to such an order owns, possesses, or controls any firearms; and~~
- ~~(2) Assist courts that have issued criminal protective orders to determine whether a defendant has complied with the court's order to relinquish or sell the firearms under Code of Civil Procedure section 527.9.~~

**(c) Setting review hearing**

~~(1) At any hearing where the court issues a criminal protective order, the court must consider all credible information, including information provided on~~

Rule 1.51 of the California Rules of Court would be amended and rule 4.700 would be repealed, effective January 1, 2026, to read:

1           ~~behalf of the defendant, to determine if there is good cause to believe that the~~  
2           ~~defendant has a firearm within his or her immediate possession or control.~~

3  
4           ~~(2) If the court finds good cause to believe that the defendant has a firearm~~  
5           ~~within his or her immediate possession or control, the court must set a review~~  
6           ~~hearing to ascertain whether the defendant has complied with the requirement~~  
7           ~~to relinquish the firearm as specified in Code of Civil Procedure section~~  
8           ~~527.9. Unless the defendant is in custody at the time, the review hearing~~  
9           ~~should occur within two court days after issuance of the criminal protective~~  
10           ~~order. If circumstances warrant, the court may extend the review hearing to~~  
11           ~~occur within 5 court days after issuance of the criminal protective order. The~~  
12           ~~court must give the defendant an opportunity to present information at the~~  
13           ~~review hearing to refute the allegation that he or she owns any firearms. If the~~  
14           ~~defendant is in custody at the time the criminal protective order is issued, the~~  
15           ~~court should order the defendant to appear for a review hearing within two~~  
16           ~~court days after the defendant's release from custody.~~

17  
18           ~~(3) If the proceeding is held under Penal Code section 136.2, the court may,~~  
19           ~~under Penal Code section 977(a)(2), order the defendant to personally appear~~  
20           ~~at the review hearing. If the proceeding is held under Penal Code section~~  
21           ~~1203.097, the court should order the defendant to personally appear.~~

22  
23           ~~(d) **Review hearing**~~

24  
25           ~~(1) If the court has issued a criminal protective order under Penal Code section~~  
26           ~~136.2, at the review hearing:~~

27  
28           ~~(A) If the court finds that the defendant has a firearm in or subject to his or~~  
29           ~~her immediate possession or control, the court must consider whether~~  
30           ~~bail, as set, or defendant's release on own recognizance is appropriate.~~

31  
32           ~~(B) If the defendant does not appear at the hearing and the court orders that~~  
33           ~~bail be revoked, the court should issue a bench warrant.~~

34  
35           ~~(2) If the criminal protective order is issued as a condition of probation under~~  
36           ~~Penal Code section 1203.097, and the court finds at the review hearing that~~  
37           ~~the defendant has a firearm in or subject to his or her immediate possession~~  
38           ~~or control, the court must proceed under Penal Code section 1203.097(a)(12).~~

39  
40           ~~(3) In any review hearing to determine whether a defendant has complied with~~  
41           ~~the requirement to relinquish firearms as specified in Code of Civil Procedure~~  
42           ~~section 527.9, the burden of proof is on the prosecution.~~

Rule 1.51 of the California Rules of Court would be amended and rule 4.700 would be repealed, effective January 1, 2026, to read:

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**Advisory Committee Comment**

~~When issuing a criminal protective order under Penal Code section 136.2 or 1203.097(a)(2), the court is required to order a defendant “to relinquish any firearm in that person’s immediate possession or control, or subject to that person’s immediate possession or control . . . .” (Code Civ. Proc., § 527.9(b).) Mandatory Judicial Council form CR 160, *Criminal Protective Order—Domestic Violence*, includes a mandatory order in bold type that the defendant “must surrender to local law enforcement or sell to a licensed gun dealer any firearm owned or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order.”~~

~~Courts are encouraged to develop local procedures to calendar review hearings for defendants in custody beyond the two court day time frame to file proof of firearms relinquishment with the court under Code of Civil Procedure section 527.9.~~

# CLETS-002 Confidential Information for Law Enforcement—Criminal

### Instructions:

- The prosecuting agency seeking the criminal order must complete item ① and ② of this form and give it to the court clerk along with form CR-160 or CR-161. Item ③ is optional.
- If the judge grants the protective order, information on this form will be entered into the California Law Enforcement Telecommunications System (CLETS) and may be entered into a federal law enforcement database.
- If information changes later, this form may be completed again and turned 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.**

PEOPLE OF THE STATE OF CALIFORNIA  
v.  
DEFENDANT:

*Court fills in case number when form is received.*

Case Number:

Date received by court: \_\_\_\_\_

**Information that has a star (\*) next to it is required. All other information is helpful.**

## ① \*Protected Person's Information

\*Name: \_\_\_\_\_

\*Gender:  M  F  Nonbinary \*Race: \_\_\_\_\_

\*Age: \_\_\_\_\_ Date of Birth (month, day, year): \_\_\_\_\_

*(Date of birth is required for the protected person's information to appear in a federal law enforcement database. )*

Telephone: \_\_\_\_\_

## ② Other Protected People

*(Date of birth is required for the information of any protected people listed below to appear in a federal law enforcement database. )*

\*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, write "Item 4" at the top, and attach it to this form.

**This is not a Court Order—Do not place in court file.**



**3 Defendant**

\*Name: \_\_\_\_\_

See form CR-160 or CR-161 for all additional information.

Other names used: \_\_\_\_\_

\*Gender:  M  F  Nonbinary \*Race: \_\_\_\_\_

\*Age: \_\_\_\_\_ (estimate, if age unknown) Date of Birth: \_\_\_\_\_

Marks, scars, or tattoos: \_\_\_\_\_

Driver's license (number and state): \_\_\_\_\_ SSN: \_\_\_\_\_

Vehicle type: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_ Plate number: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name of employer and address: \_\_\_\_\_

**This is not a Court Order—Do not place in court file.**

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>  <b>03/18/2025</b> <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> v. DEFENDANT:	
<b>CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE</b> <b>(CLETS—CPO)</b>  <input type="checkbox"/> <b>ORDER PENDING TRIAL (Pen. Code, § 136.2)</b> <input type="checkbox"/> <b>MODIFICATION</b> <input type="checkbox"/> <b>PROBATION CONDITION ORDER (Pen. Code, § 1203.097(a)(2))</b> <b>ORDER UPON CONVICTION:</b> <input type="checkbox"/> <b>PENAL CODE, § 136.2(i)</b> <input type="checkbox"/> <b>PENAL CODE, § 273.5(j)</b> <input type="checkbox"/> <b>PENAL CODE, § 368(l)</b> <input type="checkbox"/> <b>PENAL CODE, § 646.9(k)</b>	CASE NUMBER:

*This order may take precedence over other conflicting orders; see item 4 on page 5.*

**1. Restrained person**

\*Name: \_\_\_\_\_ \*Gender:  M  F  Nonbinary \*Race: \_\_\_\_\_  
 \*Date of birth: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_

**2. Protected person (use form CLETS-002)**

\*Name: \_\_\_\_\_

**3. Additional protected persons (use form CLETS-002)**

\*Name \_\_\_\_\_ Relationship to person in item 2 \_\_\_\_\_

- a.  The court finds that the additional protected persons were also victims of the crime (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).
- b.  The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).

(For items 1, 2, and 3: Information that has a star (\*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

**4. Expiration date**

- a. For pretrial orders, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
- b. For postconviction orders, this order expires on (date): \_\_\_\_\_ (Orders under Penal Code sections 136.2(i), 368(l), and 646.9(k) may be valid for up to 10 years, and orders under section 273.5(j) may be valid for up to 15 years.)

**5. Hearing**

This proceeding was heard on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_  
 by (judicial officer): \_\_\_\_\_

**6. Personal service**

Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.

**7. The court finds good cause to grant a protective order. See items 8–21.**

**To the defendant**

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense. (18 U.S.C. § 2261(a)(1).)

DEFENDANT:	CASE NUMBER:
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**8. No firearms (guns), firearm parts, or ammunition**

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms (guns), 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), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.
- b. Within 24 hours of receiving this order, the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms, firearm parts, and ammunition owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms, firearm parts, and ammunition have been turned in, sold or stored.
- d. The defendant may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form CR-800).
- e.  The court has granted a limited exception to allow firearms or ammunition for work only. See detailed orders on attached form CR-850.

**9.  Possession of prohibited items**

a.  The court finds that the defendant has the following prohibited items:

(1) Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(a)		<input type="checkbox"/> (date):
(b)		<input type="checkbox"/> (date):

(2) Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
			<input type="checkbox"/> (date):

Check here to list additional items. List them on a separate piece of paper, write "Restrained Person Has Prohibited Items" at the top, and attach it to this form.

b.  The court sets a review hearing for (date): \_\_\_\_\_ (time): \_\_\_\_\_ (dept.): \_\_\_\_\_ to determine whether the defendant has properly turned in, sold, or stored all prohibited items, including any items listed in item 9a. If the defendant does not attend the review hearing, the court may find that the defendant has violated the protective order and notify law enforcement and a prosecuting attorney of the violation.

**10.  Noncompliance with surrendering prohibited items**

- a. The court finds that the defendant has 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 item 9a.
- b.  The court will immediately notify the following law enforcement agency of this violation (law enforcement agency or agencies): \_\_\_\_\_
- c.  The court will immediately notify the following prosecuting agency of this violation (prosecuting agency): \_\_\_\_\_

**11. No body armor**

The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

**12.  No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**

The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.

DEFENDANT:	CASE NUMBER:
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**13. No obtaining addresses (for orders issued under Penal Code section 136.2)**

- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b.  The court finds good cause not to make this order.

**14.  Order to not abuse**

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.

- “Disturb the peace of” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, activities, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to related health information.

**15.  No-contact order**

Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.

**16.  Stay-away order**

Defendant must stay at least \_\_\_\_\_ yards away from **(check all that apply):**

- a.  The protected person
- b.  The protected person’s  home  job or workplace  vehicle
- c.  other protected persons in item 3    d.  Other location:

**17.  Exceptions**

Defendant may have peaceful contact with the protected persons named in items 2 and 3, as an exception to the no-contact and stay-away orders in items 15 and 16 of this order, only for the safe exchange of children and court-ordered visitation as stated in

- a.  the family, juvenile, or probate court order in *(case number)*:  
issued on *(date)*:
- b.  any family, juvenile, or probate court order issued *after* the date this order is signed.

The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.

**18.  Protected animals**

a. The protected persons named in items 2 and 3 are given the exclusive care, possession, and control of the animals listed below:

Name:	Type of animal:	Breed (optional):	Color (optional):
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- b.  Defendant must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals listed above.
- c.  Defendant must not come within \_\_\_\_\_ yards of the animals listed above.



DEFENDANT:	CASE NUMBER:
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19.  **Electronic monitoring**

Defendant must be placed on electronic monitoring for *(specify length of time)*:  
(Not to exceed **one** year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)

20.  **Recordings**

The protected person in item 2 may record communications made by the person in item 1 **who** violated this order.

21.  **Other orders**

Executed on *(date)*:

\_\_\_\_\_

JUDICIAL OFFICER

**Certificate of Compliance With Violence Against Women Act (VAWA)**

This protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994). This court has jurisdiction over the parties and the subject matter, and the restrained person has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, and shall be enforced as if it were an order of that jurisdiction.**

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**

DEFENDANT:	CASE NUMBER:
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### Instructions for Law Enforcement

#### 1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1), 368(f), and 646.9(k) are valid for up to 10 years, and orders under section 273.5(j) are valid for up to 15 years, and may be issued by the court regardless of whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- Orders under Penal Code section 1203.097(a)(2) are probationary orders, and the court has jurisdiction as long as the defendant is on probation.
- To terminate this protective order, courts should use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).

#### 2. If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

#### 3. Enforcing This Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- The peace officer or law enforcement officer must first determine if the restrained person had notice of the order. If notice cannot be verified, the restrained person must be advised of the terms of the order. If the restrained person fails to obey the order, the officer must enforce it. (Code Civ. Proc., § 527.12; Fam. Code, § 6383.)

#### 4. 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 Code of Civil Procedure, section 517.12(d)(2), Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **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 also be enforced.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must also be enforced. Item 15 is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Code of Civil Procedure section 517.12(d)(2), Family Code sections 6383(h)(2), 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 also be enforced.
- **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 also be enforced.

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> v. DEFENDANT:	<b>03/18/2025</b> <b>DRAFT</b> Not approved by the Judicial Council
<b>CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE</b> <b>(CLETS—CPO) (Pen. Code, §§ 136.2, 136.2(i), 368(f), and 646.9(k))</b>  ORDER <input type="checkbox"/> Pen. Code, § 136.2 <input type="checkbox"/> MODIFICATION PENDING TRIAL: <input type="checkbox"/> Pen. Code, § 136.2(i) <input type="checkbox"/> Pen. Code, § 646.9(k) ORDER UPON <input type="checkbox"/> Pen. Code, § 136.2(i) <input type="checkbox"/> Pen. Code, § 646.9(k) CONVICTION: <input type="checkbox"/> Pen. Code, § 368(f)	CASE NUMBER:

**1. Restrained person**

\*Name: \_\_\_\_\_ \*Gender:  M  F  Nonbinary \*Race: \_\_\_\_\_  
 \*Date of birth: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_

**2. Protected person** (use form CLETS-002)

\*Name: \_\_\_\_\_

**3. Additional protected persons** (use form CLETS-002)

\*Name \_\_\_\_\_ Relationship to person in item 2 \_\_\_\_\_

- a.  The court finds that the additional protected persons were also victims of the crime (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).
- b.  The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).

(For items 1, 2, and 3: Information that has a star (\*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

**4. Expiration date**

- a. For pretrial orders, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
- b. For postconviction orders, this order expires on (date): \_\_\_\_\_ . (Postconviction orders under Penal Code sections 136.2(i) and 646.9(k) may be valid for up to 10 years.)

**5. Hearing**

This proceeding was heard on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_  
 by (judicial officer): \_\_\_\_\_

**6. Personal service**

Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.

**7. The court finds good cause to grant a protective order. See items 8–19.**

**To the defendant**

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.

DEFENDANT:	CASE NUMBER:
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**8. No firearms (guns), firearm parts, or ammunition**

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms (guns), 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), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.
- b.  For orders issued under Penal Code section 136.2: Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms, firearm parts, and ammunition owned by the defendant or within the defendant's immediate possession or control. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms, firearm parts, and ammunition have been turned in, sold, or stored.
- c.  For orders issued under Penal Code sections 368(l) or 646.9(k): Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms and firearm parts owned by the defendant or within the defendant's immediate possession or control. By (date): \_\_\_\_\_ the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored.
- d. The defendant may use *Receipt for Firearms, Firearm Parts, and Ammunition* (form CR-800).
- e.  The court has granted a limited exception to allow firearms or ammunition for work only. See detailed orders on attached form CR-850.

**9.  Possession of prohibited items**

a.  The court finds that the defendant has the following prohibited items:

(1) Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(a)		<input type="checkbox"/> (date):
(b)		<input type="checkbox"/> (date):

(2) Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
			<input type="checkbox"/> (date):

Check here to list additional items. List them on a separate piece of paper, write "Restrained Person Has Prohibited Items" at the top, and attach it to this form.

b.  The court sets a review hearing for (date): \_\_\_\_\_ (time): \_\_\_\_\_ (dept.): \_\_\_\_\_ to determine whether the defendant has properly turned in, sold, or stored all prohibited items, including any items listed in item 9a. If the defendant does not attend the review hearing, the court may find that the defendant has violated the protective order and notify law enforcement and a prosecuting attorney of the violation.

**10.  Noncompliance with surrendering prohibited items (for orders issued under Penal Code section 136.2)**

- a. The court finds that the defendant has 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 item 9a.
- b.  The court will immediately notify the following law enforcement agency of this violation (law enforcement agency or agencies): \_\_\_\_\_
- c.  The court will immediately notify the following prosecuting agency of this violation (prosecuting agency): \_\_\_\_\_

**11. No body armor**

The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

**12.  No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**

The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.

DEFENDANT:	CASE NUMBER:
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**13. No obtaining addresses (for orders issued under Penal Code section 136.2)**

- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b.  The court finds good cause not to make this order.

**14.  Order to not abuse**

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.

**15.  No-contact order**

Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.

**16.  Stay-away order**

Defendant must stay at least \_\_\_\_\_ yards away from **(check all that apply):**

- a.  The protected person
- b.  **The protected person's**  home  job or workplace  vehicle
- c.  Other protected persons in item 3
- d.  Other location:

**17.  Exceptions**

Defendant may have peaceful contact with the protected persons named in items 2 and 3, as an exception to the no-contact and stay-away orders in items 15 and 16 of this order, only for the safe exchange of children and court-ordered visitation as stated in

- a.  the family, juvenile, or probate court order in *(case number)*:  
issued on *(date)*:
- b.  any family, juvenile, or probate court order issued *after* the date this order is signed.

The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.

**18.  Electronic monitoring**

Defendant must be placed on electronic monitoring for *(specify length of time)*:  
(Not to exceed **one** year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)

**19.  Other orders**

Executed on *(date)*:

\_\_\_\_\_ JUDICIAL OFFICER

DEFENDANT:	CASE NUMBER:
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### Instructions for Law Enforcement

#### 1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1) and 646.9(k) are valid for up to 10 years and may be issued by the court regardless of whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- To terminate this protective order, courts should use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).

#### 2. Enforcing This Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- The peace officer must first determine if the restrained person had notice of the order. If notice cannot be verified, the restrained person must be advised of the terms of the order. If the restrained person fails to obey the order, the officer must enforce it. (Code Civ. Proc., § 527.12.)

#### 3. 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 Code of Civil Procedure, section 527.12(d)(2), Penal Code section 136.2, and Family Code sections 6383(h)(2), 6405(b)):

- **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 also be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must also be enforced. Item 15 is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced (Code of Civil Procedure, section 527.12(d)(2) & Family Code sections 6383(h)(2), 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 also be enforced.
- **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 also be enforced.

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>  03/12/2025 DRAFT Not approved by the Judicial Council
<b>PEOPLE OF THE STATE OF CALIFORNIA</b>  v.  DEFENDANT:	
<b>ORDER TO SURRENDER FIREARMS, FIREARM PARTS, AND AMMUNITION IN DOMESTIC VIOLENCE CASE (CLETS—CPO) (Penal Code, § 136.2(a)(1)(G)(ii))</b>	CASE NUMBER:

PERSON TO SURRENDER FIREARMS (*complete name*):

Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary	Race:	Date of birth:
Ht.:	Wt.:	Hair color:
		Eye color:

1. This proceeding was heard on (*date*): \_\_\_\_\_ at (*time*): \_\_\_\_\_ in Dept.: \_\_\_\_\_  
 Room: \_\_\_\_\_ by judicial officer (*name*): \_\_\_\_\_
2. This order expires on (*date*): \_\_\_\_\_. If no date is listed, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
3.  Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. **No firearms (guns), firearm parts, or ammunition**
  - a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms (guns), 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), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.
  - b.  The court has granted a limited exception to allow firearms or ammunition for work only. See detailed orders on attached form CR-850.
5.  **Relinquishment of prohibited items**
  - a. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms, firearm parts, and ammunition owned by the defendant or within the defendant's immediate possession or control. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms, firearm parts, and ammunition have been turned in, sold, or stored.
  - b.  The court finds that the defendant has the following prohibited items:
 

<b>(1) Firearms and/or firearm parts</b>	<i>Description (include serial number, if known)</i>	<i>Location, if known</i>	<i>Proof of compliance received by the court</i>
(a)			<input type="checkbox"/> ( <i>date</i> ):
(b)			<input type="checkbox"/> ( <i>date</i> ):
<b>(2) Ammunition</b>	<i>Description</i>	<i>Amount, if known</i>	<i>Location, if known</i>
			<i>Proof of compliance received by the court</i>
			<input type="checkbox"/> ( <i>date</i> ):

Check here to list additional items. List them on a separate piece of paper, write "Restrained Person Has Prohibited Items" at the top, and attach it to this form.

- c.  The court sets a review hearing for (*date*): \_\_\_\_\_ (*time*): \_\_\_\_\_ (*dept.*): \_\_\_\_\_ to determine whether the defendant has properly turned in, sold, or stored all prohibited, including items described in item 5b. (Code Civ. Proc., § 527.9; Pen. Code, § 18120.5.) If the defendant does not attend the review hearing, the court may find that the defendant has violated the protective order and notify law enforcement and a prosecuting attorney of the violation.

DEFENDANT:	CASE NUMBER:
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6.  **Noncompliance with surrendering prohibited items**

- a.  The court finds that the defendant has 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 item 5b.
- b.  The court will immediately notify the following law enforcement agency of this violation (law enforcement agency or agencies):
- c.  The court will immediately notify the following prosecuting agency of this violation (prosecuting agency):

7. **No body armor**

The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

Executed on: \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE OF JUDICIAL OFFICER)

**NOTICES**

- This order is effective as of the date it was issued by the judicial officer and expires as ordered in item 2.
- This order is to be used ONLY when the court orders firearms relinquishment but does not make any other protective or restraining orders. Do NOT use in conjunction with other criminal protective orders (form CR-160 or CR-161).



Clerk stamps date here when form is filed.

**This form provides information for a restrained person/defendant who is ordered to turn in firearms, firearm parts, and ammunition under a criminal protective order (form CR-160 or CR-161) or *Order to Surrender Firearms in Domestic Violence Case* (form CR-162).**

03/18/2025  
DRAFT  
Not approved by  
the Judicial Council

**1 Protected Person:**

Name: \_\_\_\_\_

**2 Restrained Person / Defendant**

a. Name: \_\_\_\_\_

Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. 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: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_

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:**

City: \_\_\_\_\_

Fax: \_\_\_\_\_

**3 To the Restrained Person:**

If a judge has ordered you to turn in, sell, or store your firearms (guns), firearm parts, and ammunition—meaning receivers, frames, or 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 a law enforcement officer or a licensed gun dealer to complete 4 or 5. For more information on how to properly turn in your items, read form CR-800-INFO, *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?*

**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 number: \_\_\_\_\_ Email address: \_\_\_\_\_

**Items Surrendered**

a. Firearms, firearm parts, and ammunition transferred on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_  a.m.  p.m.



Case Number: \_\_\_\_\_

**4 To Law Enforcement**

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 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 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 number: \_\_\_\_\_ Email address: \_\_\_\_\_

**Items Stored or Sold**

a. Firearms, firearm parts, and ammunition 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 Firearm Acquisition), use 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 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**

a. 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"/>



b. Ammunition

	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 "CR-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, or ammunition?

No

Yes (If yes, check one of the boxes below:)

a.  I filed a Receipt for Firearms, Firearm Parts, and Ammunition (form CR-800) or other proof for those items with the court on (date): \_\_\_\_\_

b.  I am filing the proof for those firearms (guns), firearm parts, or ammunition along with this proof.

c.  I have not yet filed the proof for the other firearms (guns), firearm parts, or ammunition. (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.
- Keep a copy for yourself.

Note that failure to file a receipt with the court is a violation of the court's order.

**CR-800-INFO****How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?**

**This form provides information for a restrained person/defendant who is ordered to turn in firearms, firearm parts, and ammunition under a criminal protective order (form CR-160 or CR-161) or *Order to Surrender Firearms in Domestic Violence Case* (form CR-162).**

**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?**

In most cases, within 24 hours of being served with the protective order. Check the protective order or court order for further details.

**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 protective order or court 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 protective order or court 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 CR-800, *Receipt for Firearms, Firearm Parts, and Ammunition*, with you, and ask the dealer or officer to complete and sign the form.
- ② File form CR-800 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 protective order or court order, unless the judge gave you another deadline.

*Clerk stamps date here when form is filed.*

**This notice is provided to the agency or agencies listed below.**

03/19/2025  
DRAFT  
Not approved by  
the Judicial Council

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**1 Protected Person**

Name: \_\_\_\_\_

**2 Restrained Person / Defendant**

Name: \_\_\_\_\_

**3  Noncompliance—Domestic Violence**

a. The court has found that the person listed in **2** has firearms (guns), firearm parts, or ammunition in violation of the following order in a case involving domestic violence (*choose one*):

- (1)  *Criminal Protective Order—Domestic Violence* (form CR-160)
- (2)  *Order to Surrender Firearms, Firearm Parts, and Ammunition in Domestic Violence Case* (form CR-162)

b.  Notice to Law Enforcement Agency (*name of agency or agencies*):

The person listed in **2** is subject to a criminal protective order in a case involving domestic violence. Notice is provided under Penal Code section 273.75(d). The agency must take all actions necessary to obtain firearms and ammunition.

c.  Notice to Prosecuting Agency (*name of agency*): \_\_\_\_\_

The person listed in **2** is subject to a criminal protective order in a case involving domestic violence. Notice is provided under Penal Code section 273.75(d). The agency must take all actions necessary to obtain firearms and ammunition.

d.  Additional information

The court has conducted a background search pursuant to Penal Code section 273.75. In addition to the information provided above, the court is attaching the following information found in the background search. (*Briefly describe information*): \_\_\_\_\_

**4  Noncompliance—Other Than Domestic Violence**

a. The court has found that the person listed in **2** has firearms (guns), firearm parts, or ammunition in violation of the following order:

- Criminal Protective Order—Other Than Domestic Violence* (form CR-161)

b.  Notice to Law Enforcement Agency (*name of agency or agencies*):

The person listed in **2** is subject to a criminal protective order issued under Penal Code section 136.2. Notice is provided under Code of Civil Procedure section 527.9(b).



- 4 c.  Notice to Prosecuting Agency (*name of agency*): \_\_\_\_\_
- The person listed in 2 is subject to a criminal protective order issued under Penal Code section 136.2. Notice is provided under Code of Civil Procedure section 527.9(b).

5 Number of pages attached to this form, if any: \_\_\_\_\_

**Judge's Signature**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judge or Judicial Officer*

**—Clerk's Certificate—**

[seal] I certify that I am not a party to this case and that a true copy of *Noncompliance with Firearms and Ammunition Order* (form CR-830), was sent to the agency or agencies listed on page 1:

- a.  **Law enforcement agency listed in (*check one*):** item  3b or  4b
- (1)  by fax, email, or other electronic means  by personal delivery
- (2) (*Phone number, email address, or address*): \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (3) Date of transmission or delivery: \_\_\_\_\_
- b.  **Prosecuting agency listed in (*check one*):** item  3c or  4c
- (1)  by fax, email, or other electronic means  by personal delivery
- (2) (*Phone number, email address, or address*): \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (3) Date of transmission or delivery: \_\_\_\_\_

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

03/19/2025  
DRAFT  
Not approved by  
the Judicial Council

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**1 Protected Person**

Name: \_\_\_\_\_

**2 Restrained Person/Defendant**

a. Name: \_\_\_\_\_

b. The defendant is subject to a criminal protective order issued under Penal Code section 136.2.

**3  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"/> (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 "CR-840, item 3" at the top, and attach it to this form.



**4**  **Notice of Compliance Hearing**

To the person in **2** :

The restrained person must attend the court hearing listed below to prove that all prohibited items have been properly turned in, sold, or stored. If the restrained person does not attend the hearing listed below, the court may find that the restrained person has violated the protective order and notify law enforcement and a prosecuting attorney of the violation.

	Date: _____ Time: _____	Dept.: _____ Room: _____	Name and address of court, if different from the one listed above: _____ _____
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**5**  **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 **3**.
- 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*): \_\_\_\_\_.

**Judge's Signature**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judge or Judicial Officer*

**This is a Court Order.**



**CR-850**

**Permission to Have Firearm or Ammunition for Work**

Case Number: \_\_\_\_\_

This form is attached to (*check one*):  CR-160     CR-161     CR-162     Other: \_\_\_\_\_

**1 Court Findings**

The court finds that the restrained person (*name*): \_\_\_\_\_

- a. Is required to carry a specific firearm or ammunition during scheduled work hours as a condition of their continued employment.
- b. Cannot be reassigned by their employer to another position where having a firearm or ammunition is not needed.
- c. Is not otherwise prohibited from having firearms or ammunition under state or federal law.
- d. Does not pose an additional threat of harm to any protected person or the public by having access to a specific firearm or ammunition.

e.  Is a sworn peace officer and:

- (1) The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise; and
- (2) The personal safety of the restrained person depends on their ability to carry a specific firearm or ammunition outside of scheduled work hours.

f.  Is not a sworn peace officer and (*check (1) or (2)*):

- (1)  The court did not order the restrained person to complete a psychological evaluation.
- (2)  The court ordered and reviewed a completed psychological evaluation of the restrained person by a licensed mental health professional with domestic violence expertise.

g.  Other

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**This is a Court Order.**



**2 Court Order**

a. The restrained person is (*check one*):

(1)  Not a sworn peace officer and may have the items listed in 2b only during scheduled work hours.

(2)  A sworn peace officer and (*check one*):

(A)  May have the items listed in 2b while on duty.

(B)  May have the items listed in 2b while on or off duty.

b. This restraining order does not require the restrained person to relinquish the specific firearm or ammunition listed below:

Firearm (*make*): \_\_\_\_\_ (*model*): \_\_\_\_\_ (*serial no.*): \_\_\_\_\_

Ammunition (*description*): \_\_\_\_\_

c. The court orders listed above only apply to this restraining order. If you are prohibited from having firearms or ammunition by another order or law, you may be in violation of state or federal law.

**This is a Court Order.**

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 4/10/2025

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

**Title of proposal:** Criminal Law: Mental Competency Proceedings

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Adopt Cal. Rules of Court, rule 4.132 and 4.133; amend rule 4.130 and 4.131

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

*Staff contact (name, phone and email):* 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): 10/22/24

Project description from annual agenda: Amend California Rules of Court, rule 4.130 on mental competency proceedings to incorporate statutory changes and update case law references. As relevant to the rule, SB 1323 (Stats. 2024, ch. 646) streamlines competency proceeding procedures, provides courts with more treatment-based solutions for felony defendants, and allows courts to determine whether it is in the interests of justice to restore a defendant to competence in a felony case that is eligible for diversion. As relevant to the rule, SB 1400 (Stats. 2024, ch. 647) would remove authority for a court to dismiss a misdemeanor incompetent to stand trial case and instead require the court to determine if the defendant is eligible for mental health diversion or other treatment, and to allow dismissal if a conservatorship is filed. Additionally, while amending the rule to implement the new laws, the committee may update rule 4.130(d)(3), which provides that the defendant's statements made during the examination cannot be used in a trial on the defendant's guilt or a sanity trial in a not guilty by reason of sanity trial, to reflect more recent case law.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)  
This report or invitation to comment was:
  - reviewed by EGG on (date) 3/3/2025
  - approved by Office Director (or Designee) (name) Francine Byrne on (date) 2/20/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

### SPR25-13

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Title	Action Requested
Criminal Law: Mental Competency Proceedings	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rules 4.132 and 4.133; amend rules 4.130 and 4.131	January 1, 2026
Proposed by	Contact
Criminal Law Advisory Committee Hon. Lisa Rodriguez, Chair	Sarah Fleischer-Ihn, 415-865-7702 sarah.fleischer-ihn@jud.ca.gov

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### Executive Summary and Origin

Statutes on competency to stand trial in felony and misdemeanor cases were recently amended to provide courts with additional treatment-based solutions for defendants found incompetent to stand trial and to streamline mental competency proceedings.

The Criminal Law Advisory Committee proposes adopting California Rules of Court, rule 4.132, amending rule 4.130, amending rule 4.131, and renumbering former rule 4.131 as new rule 4.133 to implement these legislative changes, as well as additional amendments to clarify procedures, remove language duplicative of statute, and improve organization, clarity, and concision.

### Background

California Rules of Court, rule 4.130 was adopted effective January 1, 2007, to provide for uniformity and fidelity to the legal requirements of mental competency proceedings by clarifying the appropriate and necessary procedures and bringing together the statutory and case law authorities in a logical and sequential manner.<sup>1</sup> The rule has been amended several times in

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<sup>1</sup> See Judicial Council of Cal., Advisory Com. Rep., *Criminal Cases: Rules Governing Mental Competency Proceedings in Superior Court* (Aug. 31, 2006), p. 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.*

recent years, largely to implement statutory changes, but has not undergone significant structural amendments aimed at increasing accessibility and utility.

Effective January 1, 2025, Senate Bill 1323 (Stats. 2024, ch. 646) amended several statutes addressing a defendant's competency to stand trial. The amendments include streamlining mental competency proceedings and, in felony cases, requiring courts to determine whether it is in the interests of justice to restore a defendant to competence.<sup>2</sup> If the court finds that restoring the person to mental competence is not in the interests of justice, the court must hold a hearing on the defendant's eligibility for mental health diversion.<sup>3</sup> If the defendant is ineligible for diversion or if diversion is terminated unsuccessfully, the legislation provides for additional treatment-based solutions, as well as the option to reinstate competency proceedings.<sup>4</sup>

Effective January 1, 2025, Senate Bill 1400 (Stats. 2024, ch. 647) amended Penal Code section 1370.01 on misdemeanor competency to stand trial proceedings to state that if a defendant is found mentally incompetent and proceedings are suspended, the court must conduct a hearing on eligibility for mental health diversion.<sup>5</sup> The Legislature's stated intent is for the court to consider all treatment options as provided in section 1370.01 before dismissing criminal charges, without limiting the court's discretion under Penal Code section 1385.<sup>6</sup>

## **The Proposal**

The Criminal Law Advisory Committee proposes, effective January 1, 2026, the following amendments to implement recent legislation on mental competency proceedings, clarify procedures, and improve the rules' accessibility.

### **Rule 4.130**

The committee proposes reorganizing and streamlining rule 4.130 and removing provisions that are duplicative of statute, are more appropriate for a practice guide or treatise, or have limited utility. These amendments include the removal of provisions on the mental competency trial, posttrial procedure, reinstatement of felony proceedings under section 1001.36, and related advisory committee comments. These proposed deletions are not based on a change in or repeal of the statutes and case law supporting those provisions. The committee also proposes moving several provisions to other rules, as explained in more detail below. These proposed changes to rule 4.130 include:

- Moving subdivision (a)(2) and (3) to rule 4.131(a);
- Moving subdivision (d) to rule 4.131(b), with revisions;

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<sup>2</sup> Pen. Code, § 1370(a)(1)(B)(i)(I). All further statutory references are to the Penal Code unless otherwise specified.

<sup>3</sup> § 1370(a)(1)(B)(iii).

<sup>4</sup> § 1370(a)(1)(B)(iii)(III).

<sup>5</sup> § 1370.01(b)(1)(A).

<sup>6</sup> § 1370.01(e).

- Deleting subdivisions (e), (f), and (g) to remove provisions duplicative of statute and to simplify the rule;
- Moving subdivision (h) to proposed new rule 4.132, with revisions;
- Moving the advisory committee comment on experts to rule 4.131; and
- Deleting the advisory committee comments on the use of defendant’s statements made during the examination and trial procedure, to simplify the rule.

Additionally, the committee proposes several substantive changes to rule 4.130:

- Amending subdivision (a) to address when the duty to initiate a competency proceeding arises;
- Amending subdivision (b)(2) to clarify that a hearing about counsel’s opinion on the defendant’s mental competency that may reveal attorney-client privileged information is “ex parte” and in camera;
- Amending subdivisions (b) and (c)(2) to streamline existing provisions, clarify requirements and procedures, and remove provisions duplicative of statutory language;
- Amending subdivision (c)(1) to add new statutory language under SB 1323 that criminal proceedings may be reinstated if the defendant is found mentally competent by the court when neither party objects to the competency report under section 1369(c)(1); and
- Adding new subdivision (c)(3) to state that the initiation of competency proceedings, in and of itself, is not grounds to revoke release on OR or modify bail, to address concerns about court practices, as further explained below.

The committee proposes adding subdivision (c)(3) because multiple committee members noted that it was not uncommon for courts to revoke a defendant’s release on OR or modify bail as a matter of course when criminal proceedings are suspended and competency proceedings initiated. Subdivision (c)(3) would prevent this practice by stating that suspending proceedings and initiating competency proceedings, in and of itself, is not grounds to revoke release on OR or modify bail. This provision would not interfere with a court’s ability to increase or reduce the amount of monetary bail if good cause is shown (see § 1289) or the court’s discretion to revoke release on OR with proper review.<sup>7</sup>

### **Rules 4.131 and 4.133**

The committee proposes renumbering current rule 4.131 as new rule 4.133.

The committee proposes replacing the current text of rule 4.131 with the text of current rule 4.130(a)(2), (a)(3), and (d), and amending to implement substantive changes by:

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<sup>7</sup> *In re Annis* (2005) 127 Cal.App.4th 1190, 1199.

- In subdivision (b)(7), requiring an opinion on eligibility for mental health diversion and whether symptoms of the mental health disorder would respond to mental health treatment in a misdemeanor case<sup>8</sup> and upon request by the defense in a felony case;<sup>9</sup>
- In subdivision (b)(6), requiring, in a felony case, an opinion on the likelihood of the defendant attaining competency and on the benefits or necessity of treatment with antipsychotic or other medication;<sup>10</sup>
- In subdivision (b)(8), on whether cause exists to suspect that the defendant may have a developmental disability, to assist courts with properly referring defendants with a developmental disability to the procedures under Penal Code section 1370.1; and<sup>11</sup>
- In subdivision (b)(9), requiring an opinion on whether the defendant in a felony case may be gravely disabled as defined in statute, as explained further below.<sup>12</sup>

As discussed above, the committee proposes revising subdivision (b)(9) to include felony cases. Under current rule 4.130(d)(2)(H), when the defendant is charged only with a misdemeanor offense, the expert is required to provide an opinion on whether the defendant is gravely disabled as defined in statute. This provision allows one court-appointed expert to provide all relevant mental health information instead of requiring appointment of a separate expert at a later time, and allows courts to act swiftly to assist defendants.<sup>13</sup>

Under SB 1323, if a defendant is found incompetent to stand trial in a felony case and the court finds restoration is not in the interests of justice, the court must hold a hearing on eligibility for mental health diversion.<sup>14</sup> If the defendant is found ineligible for mental health diversion or if diversion is terminated unsuccessfully, the court may refer the defendant to the county conservatorship investigator if it appears to the court or a qualified mental health expert that the defendant appears to be gravely disabled as defined in Welfare and Institutions Code section 5008(h)(1).<sup>15</sup> The committee proposes amending the rule to extend the requirement for an opinion on whether the defendant is gravely disabled to felony cases under the same rationale as misdemeanor cases, allowing the court to timely seek appropriate treatment and referrals for the defendant.

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<sup>8</sup> § 1370.01(b)(1)(A).

<sup>9</sup> § 1369(b)(1)(D).

<sup>10</sup> § 1369(b)(1)(C), (b)(2)(A)–(C).

<sup>11</sup> This provision also supports referrals under Penal Code section 1369(a)(2), which states that “[i]f it is suspected that the defendant has a developmental disability, the court shall appoint the director of the regional center” for examination.

<sup>12</sup> § 1370(a)(1)(B)(iii)(III)(ic).

<sup>13</sup> See Judicial Council of Cal., Advisory Com. Rep., *Criminal Procedure: Mental Competency Proceedings* (Apr. 18, 2022), p. 5, <https://jcc.legistar.com/View.ashx?M=F&ID=10816478&GUID=8D1DBF4B-FFD5-4289-A453-4E3FC60CF272>.

<sup>14</sup> § 1370(a)(1)(B)(iii).

<sup>15</sup> § 1370(a)(1)(B)(iii)(III)(ic).



The committee proposes the following revisions aimed at simplifying and streamlining the rule:

- Removing current rule 4.130(d)(2)(F) on the list of sources considered by the examiner and replacing with an abbreviated list in subdivision (b)(2);
- Removing current rule 4.130(d)(3) on the use of statements made by the defendant during the examination from rule 4.131, to simplify the rule;
- Splitting current rule 4.130(d)(2)(B) into subdivision (b)(2) on the examination summary and subdivision (b)(4) on current diagnoses applicable to the defendant;
- Amending current rule 4.130(d)(2)(D) to simplify language on malingering or feigning symptoms; and
- Removing current rule 4.130(d)(2)(G) from rule 4.131. Under the current rule, in a felony case, the expert’s report must include a recommendation, if possible, for a placement that is most appropriate for restoring the defendant to competency. The committee proposes removing the placement recommendation because it is often not within the expert’s scope of knowledge and is not necessary for the report.

#### **Rule 4.132**

The committee proposes adopting rule 4.132, which consists of current rule 4.130(h), with amendments to replace “regained” competence with “attained” competence, to reflect changes made to Penal Code section 1370 by SB 1323.

#### **Alternatives Considered**

The committee did not consider the alternative of not amending the rules because it determined that revisions were necessary to implement new legislation. To the extent the proposed revisions were not required by the terms of the legislation, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

The committee initially discussed amending rule 4.130 to simply reflect changes under SB 1323 and SB 1400, without undertaking further amendments addressed at improving the rule’s accessibility. However, the committee agreed that the rule had become dense and difficult to navigate due to piecemeal amendments implementing legislative changes in recent years, and decided to propose further structural amendments.

Some committee members were concerned about the authority to include the provision in rule 4.130(c)(3) about not revoking release on OR or modifying bail when criminal proceedings were suspended, and whether it could be misinterpreted as preventing a judge from revoking release on one’s OR or modifying bail in appropriate circumstances. To address these concerns, the committee modified the provision to add that suspension of criminal proceedings “in and of itself” was insufficient to distinguish the practice of revoking release on OR or modifying bail as a matter of course with a process in line with existing law.

## Fiscal and Operational Impacts

The proposed amendments to rule 4.131 regarding the contents of the expert's report include several changes based on legislation, including:

- In a felony proceeding, providing an opinion on whether there is a substantial likelihood that the defendant will attain competency in the foreseeable future, with consideration as to the possible benefits of treatment with antipsychotic medication, whether treatment with antipsychotic or other medication is necessary to restore the defendant to competency, and whether defendant has capacity to make decisions regarding antipsychotic medication;<sup>16</sup>
- Providing an opinion on eligibility for mental health diversion in all misdemeanor cases<sup>17</sup> and upon request by the defense in a felony case;<sup>18</sup> and
- Expanding the current provision on providing an opinion in a misdemeanor case on whether the defendant appears to be gravely disabled to apply to felony cases.<sup>19</sup>

While these requirements are largely identical or similar to existing requirements in rule 4.130(d), the committee anticipates that some of the legislative changes may require a court-appointed expert to conduct further evaluation of a defendant and provide greater detail in the expert report, which may result in greater costs to some courts depending on how they pay for court-appointed experts.

Proposed amendments to streamline and simplify the contents of the expert's report are not intended to have a fiscal impact. The committee seeks specific comments on whether there are any unintended fiscal impacts from these amendments, such as whether the revised language on an assessment on malingering should retain language that the assessment is clinically indicated, or whether the revised language on providing a diagnosis should retain language indicating a diagnosis "if possible."

The committee does not anticipate additional fiscal impacts from the rule revisions.

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<sup>16</sup> § 1369(b)(1)(C), (b)(2)(A)–(C).

<sup>17</sup> § 1370.01(b)(1)(A).

<sup>18</sup> § 1369(b)(1)(D).

<sup>19</sup> § 1370(a)(1)(B)(iii)(III)(ic).

### 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 any of the committee's proposed amendments to rule 4.131 to streamline and simplify the expert's report have an unintended fiscal impact?

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 two 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 4.130, 4.131, 4.132, and 4.133, at pages 8–19
2. Link A: Sen. Bill 1323,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB1323](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1323)
3. Link B: Sen. Bill 1400,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB1400](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1400)

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1 **Rule 4.130. Mental competency proceedings**

2  
3 **(a) Application**

4  
5 (1) ~~This rule applies to proceedings in the superior court under Penal Code~~  
6 ~~section 1367 et seq. to determine the mental competency of a criminal~~  
7 ~~defendant.~~

8  
9 (2) ~~The requirements of subdivision (d)(2) apply only to a formal competency~~  
10 ~~evaluation ordered by the court under Penal Code section 1369(a).~~

11  
12 (3) ~~The requirements of subdivision (d)(2) do not apply to a brief preliminary~~  
13 ~~evaluation of the defendant's competency if:~~

14  
15 (A) ~~The parties stipulate to a brief preliminary evaluation; and~~

16  
17 (B) ~~The court orders the evaluation in accordance with a local rule of court~~  
18 ~~that specifies the content of the evaluation and the procedure for its~~  
19 ~~preparation and submission to the court.~~

20  
21 The duty to initiate a competency proceeding may arise at any time before  
22 judgment, and after judgment in a proceeding to revoke probation, mandatory  
23 supervision, postrelease community supervision, or parole.

24  
25 **(b) Initiation of mental competency proceedings**

26  
27 (1) ~~The court must initiate mental competency proceedings if the judge has a~~  
28 ~~reasonable doubt, based on substantial evidence, about the defendant's~~  
29 ~~competence to stand trial. If the court has a reasonable doubt based on~~  
30 ~~substantial evidence that the defendant, due to a mental disorder or~~  
31 ~~developmental disability, is incapable of understanding the nature of the~~  
32 ~~proceedings against them or of rationally assisting in their defense, the court~~  
33 ~~must suspend criminal proceedings and commence competency proceedings.~~

34  
35 (2) The opinion of counsel, without a statement of specific reasons supporting  
36 that opinion, does not constitute substantial evidence. The court may allow  
37 defense counsel to present ~~his or her~~ their opinion regarding the defendant's  
38 mental competency ex parte and in camera if the court finds there is reason to  
39 believe that attorney-client privileged information will be inappropriately  
40 revealed if the hearing is conducted in open court.

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

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~~(3) In a felony case, if the judge initiates mental competency proceedings prior to the preliminary examination, counsel for the defendant may request a preliminary examination as provided in Penal Code section 1368.1(a)(1), or counsel for the People may request a determination of probable cause as provided in Penal Code section 1368.1(a)(2) and rule 4.131.~~

**(c) Effect of initiating mental competency proceedings**

(1) ~~If mental competency proceedings are initiated, criminal proceedings are suspended and may not be reinstated until a trial on the competency of the defendant has been concluded and the defendant is found mentally competent at a trial conducted under Penal Code section 1369, by the court under section 1369(c)(1) when neither party objects to the competency report, at a hearing conducted under Penal Code section 1370(a)(1)(G)(I) or at a hearing following a certification of restoration under Penal Code section 1372.~~

(2) ~~In misdemeanor cases, speedy trial requirements are tolled during the suspension of criminal proceedings for mental competency evaluation and trial. If criminal proceedings are later reinstated and time is not waived, the trial must be commenced within 30 days after the reinstatement of the criminal proceedings, as provided by Penal Code section 1382(a)(3). Statutory requirements governing the time in which hearings must occur in the underlying criminal proceeding are tolled from the date on which criminal proceedings are suspended until the date on which criminal proceedings are reinstated. Upon reinstatement of criminal proceedings, unless waived by the defendant, all statutory time periods in which proceedings are required to occur are applicable, regardless of whether such time was waived by the defendant before the initiation of competency proceedings.~~

(3) ~~In felony cases, speedy trial requirements are tolled during the suspension of criminal proceedings for mental competency evaluation and trial. If criminal proceedings are reinstated, unless time is waived, time periods to commence the preliminary examination or trial are as follows: The fact that criminal proceedings have been suspended and that competency proceedings have been initiated, in and of itself, is not grounds to revoke the defendant's own recognizance status or to modify a previous bail order.~~

(A) ~~If criminal proceedings were suspended before the preliminary hearing had been conducted, the preliminary hearing must be commenced~~

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1                   within 10 days of the reinstatement of the criminal proceedings, as  
2                   provided in Penal Code section 859b.

3  
4           (B) ~~If criminal proceedings were suspended after the preliminary hearing~~  
5           ~~had been conducted, the trial must be commenced within 60 days of the~~  
6           ~~reinstatement of the criminal proceedings, as provided in Penal Code~~  
7           ~~section 1382(a)(2).~~

8  
9   **(d) Examination of defendant after initiation of mental competency proceedings**

10  
11           (1) ~~On initiation of mental competency proceedings, the court must inquire~~  
12           ~~whether the defendant, or defendant's counsel, seeks a finding of mental~~  
13           ~~incompetence.~~

14  
15           (2) ~~Any court appointed experts must examine the defendant and advise the~~  
16           ~~court on the defendant's competency to stand trial. Experts' reports are to be~~  
17           ~~submitted to the court, counsel for the defendant, and the prosecution. The~~  
18           ~~report must include the following:~~

19  
20           (A) ~~A brief statement of the examiner's training and previous experience as~~  
21           ~~it relates to examining the competence of a criminal defendant to stand~~  
22           ~~trial and preparing a resulting report;~~

23  
24           (B) ~~A summary of the examination conducted by the examiner on the~~  
25           ~~defendant, including a summary of the defendant's mental status, a~~  
26           ~~diagnosis under the most recent version of the *Diagnostic and*~~  
27           ~~*Statistical Manual of Mental Disorders*, if possible, of the defendant's~~  
28           ~~current mental health disorder or disorders, and a statement as to~~  
29           ~~whether symptoms of the mental health disorder or disorders which~~  
30           ~~motivated the defendant's behavior would respond to mental health~~  
31           ~~treatment;~~

32  
33           (C) ~~A detailed analysis of the competence of the defendant to stand trial~~  
34           ~~using California's current legal standard, including the defendant's~~  
35           ~~ability or inability to understand the nature of the criminal proceedings~~  
36           ~~or assist counsel in the conduct of a defense in a rational manner as a~~  
37           ~~result of a mental health disorder;~~

38  
39           (D) ~~A summary of an assessment—conducted for malingering or feigning~~  
40           ~~symptoms, if clinically indicated—which may include, but need not be~~  
41           ~~limited to, psychological testing;~~

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

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~~(E) Under Penal Code section 1369, a statement on whether treatment with antipsychotic or other medication is medically appropriate for the defendant and whether the defendant has capacity to make decisions regarding antipsychotic or other medication as outlined in Penal Code section 1370. If a licensed psychologist examines the defendant and opines that treatment with antipsychotic medication may be appropriate, the psychologist's opinion must be based on whether the defendant has a mental disorder that is typically known to benefit from that treatment. A licensed psychologist's opinion must not exceed the scope of their license. If a psychiatrist examines the defendant and opines that treatment with antipsychotic medication is appropriate, the psychiatrist must inform the court of their opinion as to the likely or potential side effects of the medication, the expected efficacy of the medication, and possible alternative treatments, as outlined in Penal Code section 1370;~~

~~(F) A list of all sources of information considered by the examiner, including legal, medical, school, military, regional center, employment, hospital, and psychiatric records; the evaluations of other experts; the results of psychological testing; police reports; criminal history; statement of the defendant; statements of any witnesses to the alleged crime; booking information, mental health screenings, and mental health records following the alleged crime; consultation with the prosecutor and defendant's attorney; and any other collateral sources considered by the examiner in reaching a conclusion;~~

~~(G) If the defendant is charged with a felony offense, a recommendation, if possible, for a placement or type of placement or treatment program that is most appropriate for restoring the defendant to competency; and~~

~~(H) If the defendant is charged only with a misdemeanor offense, an opinion based on present clinical impressions and available historical data as to whether the defendant, regardless of custody status, appears to be gravely disabled, as defined in Welfare and Institutions Code section 5008(h)(1)(A).~~

~~(3) Statements made by the defendant during the examination to experts appointed under this rule, and products of any such statements, may not be used in a trial on the issue of the defendant's guilt or in a sanity trial should defendant enter a plea of not guilty by reason of insanity.~~

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1  
2 **(e) Trial on mental competency**

3  
4 (1) ~~Regardless of the conclusions or findings of the court appointed expert, the~~  
5 ~~court must conduct a trial on the mental competency of the defendant if the~~  
6 ~~court has initiated mental competency proceedings under (b).~~

7  
8 (2) ~~At the trial, the defendant is presumed to be mentally competent, and it is the~~  
9 ~~burden of the party contending that the defendant is not mentally competent~~  
10 ~~to prove the defendant's mental incompetence by a preponderance of the~~  
11 ~~evidence.~~

12  
13 (3) ~~In addition to the testimony of the experts appointed by the court under (d),~~  
14 ~~either party may call additional experts or other relevant witnesses.~~

15  
16 (4) ~~After the presentation of the evidence and closing argument, the trier of fact~~  
17 ~~is to determine whether the defendant is mentally competent or mentally~~  
18 ~~incompetent.~~

19  
20 (A) ~~If the matter is tried by a jury, the verdict must be unanimous.~~

21  
22 (B) ~~If the parties have waived the right to a jury trial, the court's findings~~  
23 ~~must be made in writing or placed orally in the record.~~

24  
25 **(f) Posttrial procedure**

26  
27 (1) ~~If the defendant is found mentally competent, the court must reinstate the~~  
28 ~~criminal proceedings.~~

29  
30 (2) ~~If the defendant in a felony case is found to be mentally incompetent under~~  
31 ~~section 1370 or the defendant in any criminal action is found to be mentally~~  
32 ~~incompetent under section 1370.1 due to a developmental disability, the~~  
33 ~~criminal proceedings remain suspended and the court either:~~

34  
35 (A) ~~Must issue an order committing the person for restoration treatment~~  
36 ~~under the provisions of the governing statute; or~~

37  
38 (B) ~~In the case of a person eligible for commitment under sections 1370, if~~  
39 ~~the person is found incompetent due to a mental disorder, may consider~~  
40 ~~placing the person on a program of diversion under section 1001.36 in~~  
41 ~~lieu of commitment.~~



Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

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~~(3) If the defendant is found to be mentally incompetent in a misdemeanor case under section 1370.01, the criminal proceedings remain suspended, and the court may dismiss the case under section 1385 or conduct a hearing to consider placing the person on a program of diversion under section 1001.36~~

**(g) Reinstatement of felony proceedings under section 1001.36(g)**

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

~~(1) On receipt of the evaluation report, the court must conduct an inquiry into the defendant's current competency, under the procedures set forth in (h)(2) of this rule.~~

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

~~(3) If the court finds by a preponderance of the evidence that the defendant is mentally incompetent, criminal proceedings must remain suspended, and the court must order that the defendant be committed and placed for restoration treatment.~~

~~(4) If the court concludes, based on substantial evidence, that the defendant is mentally incompetent and is not likely to attain competency within the time remaining before the defendant's maximum date for returning to court, and has reason to believe the defendant may be gravely disabled, within the meaning of Welfare and Institutions Code section 5008(h)(1), the court may, instead of issuing a commitment order under section 1370, refer the matter to the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the defendant under Welfare and Institutions Code section 5350 et seq.~~

**(h) Posttrial hearings on competence under section 1370**



Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1 et seq. Should the results of this examination present substantial evidence of mental  
2 incompetency, the court must initiate competency proceedings under (b).

3  
4 ~~Once mental competency proceedings under Penal Code section 1367 et seq. have been initiated,~~  
5 ~~the court is to appoint at least one expert to examine the defendant under (d). Under no~~  
6 ~~circumstances is the court obligated to appoint more than two experts. (Pen. Code, § 1369(a).)~~  
7 ~~The costs of the experts appointed under (d) are to be paid for by the court as the expert~~  
8 ~~examinations and reports are for the benefit or use of the court in determining whether the~~  
9 ~~defendant is mentally incompetent. (See Cal. Rules of Court, rule 10.810, function 10.)~~

10  
11 ~~Subdivision (d)(3), which provides that the defendant’s statements made during the examination~~  
12 ~~cannot be used in a trial on the defendant’s guilt or a sanity trial in a not guilty by reason of sanity~~  
13 ~~trial, is based on the California Supreme Court holdings in *People v. Arcega* (1982) 32 Cal.3d~~  
14 ~~504 and *People v. Weaver* (2001) 26 Cal.4th 876.~~

15  
16 ~~Although the court is not obligated to appoint additional experts, counsel may nonetheless retain~~  
17 ~~their own experts to testify at a trial on the defendant’s competency. (See *People v. Mayes* (1988)~~  
18 ~~202 Cal.App.4th 908, 917–918.) These experts are not for the benefit or use of the court, and their~~  
19 ~~costs are not to be paid by the court. (See Cal. Rules of Court, rule 10.810, function 10.)~~

20  
21 ~~Both the prosecution and the defense have the right to a jury trial. (See *People v. Superior Court*~~  
22 ~~(*McPeters*) (1995) 169 Cal.App.3d 796.) Defense counsel may waive this right, even over the~~  
23 ~~objection of the defendant. (*People v. Masterson* (1994) 8 Cal.4th 965, 970.)~~

24  
25 ~~Either defense counsel or the prosecution (or both) may argue that the defendant is not competent~~  
26 ~~to stand trial. (*People v. Stanley* (1995) 10 Cal.4th 764, 804 [defense counsel may advocate that~~  
27 ~~defendant is not competent to stand trial and may present evidence of defendant’s mental~~  
28 ~~incompetency regardless of defendant’s desire to be found competent].) If the defense declines to~~  
29 ~~present evidence of the defendant’s mental incompetency, the prosecution may do so. (Pen. Code,~~  
30 ~~§ 1369(b)(2).) If the prosecution elects to present evidence of the defendant’s mental~~  
31 ~~incompetency, it is the prosecution’s burden to prove the incompetency by a preponderance of the~~  
32 ~~evidence. (*People v. Mixon* (1990) 225 Cal.App.3d 1471, 1484, fn. 12.)~~

33  
34 ~~Should both parties decline to present evidence of defendant’s mental incompetency, the court~~  
35 ~~may do so. In those cases, the court is not to instruct the jury that a party has the burden of proof.~~  
36 ~~“Rather, the proper approach would be to instruct the jury on the legal standard they are to apply~~  
37 ~~to the evidence before them without allocating the burden of proof to one party or the other.”~~  
38 ~~(*People v. Sherik* (1991) 229 Cal.App.3d 444, 459–460.)~~

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1 **Rule 4.131. Evaluation of defendant after initiation of mental competency**  
2 **proceedings**

3  
4 **(a) Application**

5  
6 The requirements of (b) of this rule apply only to a formal competency evaluation  
7 ordered by the court under section 1369(a). They do not apply to a brief  
8 preliminary evaluation of the defendant’s competency if:

9  
10 (1) The parties stipulate to a brief preliminary evaluation; and

11  
12 (2) The court orders the evaluation in accordance with a local rule of court that  
13 specifies the content of the evaluation and the procedure for its preparation  
14 and submission to the court.

15  
16 **(b) Examination of defendant**

17  
18 A court-appointed expert or experts must examine the defendant, review the  
19 records provided, and, in a report filed with the court and made available to counsel  
20 for the defendant and the prosecution, opine as to whether the defendant is  
21 currently competent to stand trial. The expert’s report must include the following:

22  
23 (1) A brief statement of the examiner’s training and previous experience as it  
24 relates to examining the competence of a criminal defendant to stand trial and  
25 preparing a resulting report;

26  
27 (2) A summary of the examination conducted by the examiner on the defendant,  
28 including statements made by the defendant during that examination, and a  
29 list of the records, digital media, and other information reviewed and  
30 considered by the examiner;

31  
32 (3) A detailed analysis of the competence of the defendant to stand trial using  
33 California’s current legal standard, including the defendant’s ability or  
34 inability to understand the nature of the criminal proceedings or assist  
35 counsel in the conduct of a defense in a rational manner as a result of a  
36 mental health disorder;

37  
38 (4) An analysis of all current diagnoses under the most recent version of  
39 the *Diagnostic and Statistical Manual of Mental Disorders* applicable to the  
40 defendant, based on the available records and evaluation;

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

- 1           (5) A summary of any assessment—which may include test results—into  
2                     whether the defendant is malingering or feigning symptoms;  
3  
4           (6) In a felony proceeding, an opinion as to whether:  
5  
6                (A) There is a substantial likelihood that the defendant will attain  
7                     competency in the foreseeable future, with consideration as to the  
8                     possible benefits of treatment with antipsychotic medication, if within  
9                     the scope of the expert’s licensure;  
10  
11              (B) Treatment with antipsychotic or other medication is necessary to  
12                     restore the defendant to competency; and  
13  
14              (C) The defendant has capacity to make decisions regarding antipsychotic  
15                     medication;  
16  
17           (7) An opinion as to whether the defendant is eligible for mental health diversion  
18                     under section 1001.36, and a statement as to whether symptoms of the mental  
19                     health disorder or disorders that motivated the defendant’s behavior would  
20                     respond to mental health treatment. This opinion must be provided in a  
21                     misdemeanor case or upon request by the defense in a felony case;  
22  
23           (8) An opinion as to whether cause exists to suspect that the defendant may have  
24                     a developmental disability, with an explanation; and  
25  
26           (9) An opinion based on present clinical impressions and available historical data  
27                     as to whether the defendant, regardless of custody status, appears to be  
28                     gravely disabled, as defined in Welfare and Institutions Code section  
29                     5008(h)(1)(A).  
30  
31

32                                     **Advisory Committee Comment**  
33

34 Once mental competency proceedings under Penal Code section 1367 et seq. have been initiated,  
35 the court is to appoint at least one expert to examine the defendant. Under no circumstances is the  
36 court obligated to appoint more than two experts. (Pen. Code, § 1369(a).) The costs of the experts  
37 appointed are to be paid for by the court, as the expert examinations and reports are for the  
38 benefit or use of the court in determining whether the defendant is mentally incompetent. (See  
39 Cal. Rules of Court, rule 10.810, function 10.)  
40  
41

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1 **Rule 4.132. Posttrial hearings on competence under section 1370**

2  
3 (a) If, at any time after the court has declared a defendant incompetent to stand trial,  
4 and counsel for the defendant, or a jail medical or mental health staff provider,  
5 provides the court with substantial evidence that the defendant’s psychiatric  
6 symptoms have changed to such a degree as to create a doubt in the mind of the  
7 judge as to the defendant’s current mental incompetence, the court may appoint a  
8 psychiatrist or a licensed psychologist to examine the defendant and opine as to  
9 whether the defendant has attained competence.

10  
11 (b) On receipt of an evaluation report under (a) or an evaluation by the State  
12 Department of State Hospitals under Welfare and Institutions Code section 4335.2,  
13 the court must direct the clerk to serve a copy on counsel for the People and  
14 counsel for the defendant. If, in the opinion of the appointed expert or the  
15 department’s expert, the defendant has attained competence, the court must conduct  
16 a hearing, as if a certificate of restoration of competence had been filed under  
17 section 1372(a)(1). At the hearing, the court may consider any evidence, presented  
18 by any party, that is relevant to the question of the defendant’s current mental  
19 competency.

20  
21 (1) At the conclusion of the hearing, if the court finds that it has been established  
22 by a preponderance of the evidence that the defendant is mentally competent,  
23 the court must reinstate criminal proceedings.

24  
25 (2) At the conclusion of the hearing, if the court finds that it has not been  
26 established by a preponderance of the evidence that the defendant is mentally  
27 competent, criminal proceedings must remain suspended.

28  
29 (3) The court’s findings on the defendant’s mental competency must be stated on  
30 the record and recorded in the minutes.

31  
32  
33 **Rule 4.133.4.131. Probable cause determinations under section 1368.1(a)(2)**

34  
35 (a) **Notice of a request for a determination of probable cause**

36  
37 The prosecuting attorney must serve and file notice of a request for a determination  
38 of probable cause on the defense at least 10 court days before the time appointed  
39 for the proceeding.  
40

Rule 4.132 of the California Rules of Court would be adopted, rule 4.130 would be amended, and rule 4.131 would be amended and renumbered as rule 4.133, effective January 1, 2026, to read:

1 **(b) Judge requirement**

2

3 A judge must hear the determination of probable cause unless there is a stipulation  
4 by both parties to having the matter heard by a subordinate judicial officer.

5

6 **(c) Defendant need not be present**

7

8 A defendant need not be present for a determination of probable cause to proceed.

9

10 **(d) Application of section 861**

11

12 The one-session requirement of section 861 does not apply.

13

14 **(e) Transcript**

15

16 A transcript of the determination of probable cause must be provided to the  
17 prosecuting attorney and counsel for the defendant consistent with the manner in  
18 which a transcript is provided in a preliminary examination.

19

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 4/10/2025

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

**Title of proposal:** Criminal Law: Prohibited Items While on Diversion

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Approve form CR-163

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

*Staff contact (name, phone and email):* 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): 10/22/24

Project description from annual agenda: The committee will consider developing a new court form to reflect findings under Penal Code section 1001.36(m), which allows the court to prohibit the possession of firearms when a person is on mental health diversion and the court finds that the person is a danger to themselves or others. The prohibition was added by AB 455 (Stats. 2023, ch. 236). This proposal was suggested by the California DOJ Bureau of Firearms.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

- reviewed by EGG on (date) 3/7/2025
- approved by Office Director (or Designee) (name) Francine Byrne on (date) 2/28/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

**SPR25-14**

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Title	Action Requested
Criminal Law: Findings and Orders Regarding Prohibited Items While on Diversion	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve form CR-163	January 1, 2026
Proposed by	Contact
Criminal Law Advisory Committee Hon. Lisa Rodriguez, Chair	Sarah Fleischer-Ihn, 415-865-7702 <a href="mailto:sarah.fleischer-ihn@jud.ca.gov">sarah.fleischer-ihn@jud.ca.gov</a>

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### Executive Summary and Origin

Recent legislation prohibits the possession of firearms, other deadly weapons, and ammunition for a defendant participating in mental health diversion or military diversion if a court makes specific findings that the defendant poses a significant danger of causing personal injury to themselves or another and that a prohibition is necessary to prevent personal injury. The prohibition remains in effect until the defendant has either successfully completed diversion or has their firearms rights restored under Welfare and Institutions Code section 8103(g)(4).

The Criminal Law Advisory Committee proposes a new order form for optional use to assist courts with making the appropriate findings and orders prohibiting a defendant from owning or possessing firearms, other deadly weapons, and ammunition while on mental health or military diversion. The initial request for a form memorializing the court's findings came from the Department of Justice, Division of Law Enforcement, Bureau of Firearms.

### Background

Effective July 1, 2024, Assembly Bill 455 (Stats. 2023, ch. 236) amended Penal Code section 1001.36 to allow the prosecution to request an order from the court to prohibit a defendant on mental health diversion from owning or possessing a firearm because they are a danger to themselves or others. For the court to order the prohibition, the prosecution must prove by clear and convincing evidence that both of the following are true: the defendant poses a significant

*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.*

danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm; and the prohibition is necessary to prevent personal injury to the defendant or any other person because less restrictive alternatives either have been tried and found to be ineffective or are inadequate or inappropriate for the circumstances of the defendant.<sup>1</sup> If the court orders the prohibition, the court “shall inform the person that they are prohibited ... from owning or controlling a firearm until they successfully complete diversion because they are a danger to themselves or others.”<sup>2</sup> The order remains in effect until the defendant successfully completes diversion or has firearm rights restored under Welfare and Institutions Code section 8103(g)(4).<sup>3</sup> Welfare and Institutions Code section 8103 was also amended to add subdivision (i), outlining reporting requirements from the court to the Department of Justice when an order prohibiting firearms while on mental health diversion is issued.

Effective January 1, 2025, Senate Bill 1002 (Stats. 2024, ch. 526) amended Welfare and Institutions Code section 8103 to add other deadly weapons and ammunition to existing firearm prohibitions when specified mental health-related findings have been made. Welfare and Institutions Code section 8103(i)(1), which states that a person prohibited from owning or controlling a firearm when they have been found to be a danger to themselves or others and have been granted mental health diversion under Penal Code section 1001.36(m) must not own or control a firearm until diversion is completed successfully or firearm rights are restored under Welfare and Institutions Code section 8103(g)(4), was amended to add references to other deadly weapons or ammunition as prohibited items, alongside firearms. Penal Code section 1001.36(m) was not amended to add other deadly weapons or ammunition as prohibited items.

Effective January 1, 2025, Senate Bill 1025 (Stats. 2024, ch. 924) amended Penal Code section 1001.80 on military diversion, including adding subdivision (p) to allow, upon a prosecutor’s request, a court to prohibit firearms. This new subdivision outlines a procedure substantially similar to mental health diversion under Penal Code section 1001.36(m). Welfare and Institutions Code section 8103(i) was also amended to refer to orders issued under Penal Code section 1001.80(p), alongside orders issued under Penal Code section 1001.36(m).

## **The Proposal**

The Criminal Law Advisory Committee proposes, effective January 1, 2026, *Findings and Orders Regarding Prohibited Items While on Diversion* (form CR-163) for findings and orders under Penal Code section 1001.36(m) for mental health diversion or 1001.80(p) for military diversion. The form includes:

- The prohibited person’s name and identifying information.

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<sup>1</sup> Pen. Code, § 1001.36(m)(2)(A), (B).

<sup>2</sup> Pen. Code, § 1001.36(m)(3)(B).

<sup>3</sup> Pen. Code, § 1001.36(m)(4); Welf. & Inst. Code, § 8103(i)(1).

- Information about the hearing.
- An item indicating the date and type of diversion granted.
- A section stating that the order remains in effect until the defendant successfully completes either mental health diversion or military diversion, or their firearms rights are restored under Welfare and Institutions Code section 8103(g)(4).
- A section on court findings, stating that the court finds by clear and convincing evidence that both of the following are true:
  - The defendant poses a significant danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm.<sup>4</sup>
  - The prohibition is necessary to prevent personal injury to the defendant or any other person because less restrictive alternatives either have been tried and found to be ineffective or are inadequate or inappropriate for the circumstances of the defendant.<sup>5</sup>
- A finding that the defendant was personally present when the order issued.
- A section outlining prohibited items<sup>6</sup> and a modified court advisement that the defendant is prohibited from owning or possessing the prohibited items because they are a danger to themselves or others.<sup>7</sup>
- A prohibition against the possession of body armor, under Penal Code section 31360, which prohibits the possession of body armor by any person prohibited from possessing a firearm under state law.

### **Alternatives Considered**

The committee initially did not consider developing a form because it did not anticipate a high number of these orders. However, because the orders are similar to temporary restraining orders, the committee decided that a statewide form would be helpful for the courts to make the appropriate findings and orders, and could assist courts to comply with reporting requirements to the Department of Justice.

The committee discussed whether to create two separate forms, one for mental health diversion and one for military diversion. As part of the discussion, the committee noted that there are minor differences between some terms used in Penal Code sections 1001.36(m) and 1001.80(p).

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<sup>4</sup> Pen. Code, §§ 1001.36(m)(2)(A), 1001.80(p)(2)(A).

<sup>5</sup> Pen. Code, §§ 1001.36(m)(2)(B), 1001.80(p)(2)(B).

<sup>6</sup> Although Penal Code sections 1001.36(m) and 1001.80(p) only prohibit owning or possessing firearms, Welfare and Institutions Code section 8103(i)(1) also prohibits other deadly weapons or ammunition. The form includes all of these as prohibited items, as well as firearm parts under Penal Code section 16520(b)(26) (definition of firearm includes firearm parts per Welfare and Institutions Code sections 8100–8108).

<sup>7</sup> Pen. Code, §§ 1001.36(m)(3)(B), 1001.80(p)(3)(B).

For example, the court must inform a defendant under section 1001.36(m)(3)(B) that the defendant is prohibited from “owning or controlling a firearm,” whereas a defendant under section 1001.80(p)(3)(B) is prohibited from “controlling, owning, purchasing, possessing, or receiving a firearm.” The committee discussed whether the differences were sufficient enough to require separate forms for each type of diversion, but agreed that the terms were substantively similar. Given that the court findings and order are largely identical, the committee decided to propose one form.

The committee extensively discussed whether to require the personal presence of the defendant, either physically or remotely, at the time the findings and order are made. The statute does not squarely address this issue but does require the court to inform the defendant of the prohibition. The committee discussed the importance of proper service and notice of the prohibition to the defendant, especially since the prohibition may outlast the period of diversion if diversion is unsuccessfully terminated.<sup>8</sup> The committee considered several alternatives to accommodate situations in which defense counsel is appearing for a defendant under Penal Code section 977, such as allowing counsel to notify the defendant and calendaring a follow-up date to require the defendant’s presence or the filing of an acknowledgment of receipt. However, because of the nature and durability of the finding, and the significant consequences it holds, the committee decided the defendant’s presence at the time the findings and order were made were crucial. The committee seeks specific comments on possible alternatives to this requirement.

Although the authorizing statutes, Penal Code sections 1001.36(m) and 1001.80(p), only prohibit the possession of firearms while on diversion when specific findings are made, Welfare and Institutions Code section 8103(i), which is cross-referenced in both statutes,<sup>9</sup> was amended under SB 1002 to reference other deadly weapons or ammunition as additional prohibited items. Although there was a question about whether to prohibit other deadly weapons or ammunition when there was no corresponding prohibition in the authorizing statutes, the committee decided to propose prohibiting other deadly weapons or ammunition across the board.

When ordering the prohibition, the court “shall inform the person that they are prohibited ... from owning or controlling a firearm until they successfully complete diversion because they are a danger to themselves or others.”<sup>10</sup> The committee discussed including a verbatim version of the advisement but was concerned that it was not fully accurate, given that the defendant is also prohibited from owning or controlling other deadly weapons or ammunition and that the second pathway for ending the prohibition is restoration of firearm rights under Welfare and Institutions

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<sup>8</sup> Pen. Code, §§ 1001.36(m)(4), 1001.80(p)(4); Welf. & Inst. Code, § 8103(i)(1).

<sup>9</sup> See Pen. Code, §§ 1001.36(m)(1), 1001.80(p)(1) (the prosecution may request an order from the court that the defendant be prohibited from controlling, owning, purchasing, possessing, or receiving a firearm until they successfully complete diversion because they are a danger to themselves or others under Welfare and Institutions Code section 8103(i)).

<sup>10</sup> Pen. Code, §§ 1001.36(m)(3)(B), 1001.80(p)(3)(B).

Code section 8103(g)(4). The committee proposes supplementing the advisement with references to this additional information (see item 5b).

## **Fiscal and Operational Impacts**

The fiscal and operational impacts of this proposal are largely attributable to legislation. Expected costs include staff training, case management system updates, and the production of new forms.

### **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?
- Are there alternatives to requiring the personal presence of the defendant at the time the findings and order are made?

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 two 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-163, at page 6
2. Link A: Assem. Bill 455,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB455](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB455)
3. Link B: Sen. Bill 1002,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB1002](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1002)
4. Link C: Sen. Bill 1025,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB1025](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1025)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>  <b>03/14/2025</b> <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> v. DEFENDANT:	
<b>FINDINGS AND ORDERS REGARDING PROHIBITED ITEMS</b> <b>WHILE ON DIVERSION</b> <b>(Pen. Code, §§ 1001.36(m), 1001.80(p); Welf. &amp; Inst. Code, § 8103(i))</b>	CASE NUMBER:
*Name: *Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary    *Race:                      *Date of birth: Ht.:                      Wt.:                      Hair color:                      Eye color: Information that has a star (*) is required.	

1. This proceeding was heard on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_  
 Room: \_\_\_\_\_ by judicial officer *(name)*: \_\_\_\_\_
  
2. On *(date)*: \_\_\_\_\_ the count granted *(check one)*:     mental health diversion     military diversion
  
3. **Term of order**  
 This order remains in effect until the defendant has successfully completed either mental health diversion or military diversion, or their firearms rights are restored under Welfare and Institutions Code section 8103(g)(4).
  
4. **Court findings**
  - a. The court finds by clear and convincing evidence that both of the following are true:
    - (1) The defendant poses a significant danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm.
    - (2) The prohibition is necessary to prevent personal injury to the defendant or another person because less restrictive alternatives either have been tried and found to be ineffective or are inadequate or inappropriate for the circumstances of the defendant.
  - b. The court finds that the defendant was personally present when this order issued.
  
5. **No firearms (guns), firearm parts, other deadly weapons, ammunition, or body armor**  
 The court orders that:
  - a. The defendant must not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearms (guns), 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), other deadly weapon, or ammunition until they successfully complete diversion or their firearms rights are restored under Welfare and Institutions Code section 8103(g)(4). Possession of prohibited items while this order is in effect may subject the defendant to prosecution and may include a fine and jail or prison time.
  - b. The defendant is prohibited from owning, controlling, purchasing, possessing, or receiving the prohibited items because the defendant is a danger to themselves or others.
  - c. The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

Date: \_\_\_\_\_ JUDICIAL OFFICER \_\_\_\_\_

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Circulate for comment (January 1 cycle)**

**Title of proposal:** Family Law: Rules and Forms to Determine Parental Relationship Based on Gestational Carrier Agreement

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

Adopt Cal. Rules of Court, rule 5.78; amend rules 5.2, 5.7, 5.16, 5.50, 5.52, and 5.96; repeal rule 5.51; adopt forms SUR-100, SUR-100(J), SUR-110, SUR-120, SUR-165 and SUR-230; approve forms SUR-050-INFO, SUR-113, SUR 115, SUR-117, and SUR-230(A); revise forms FL-190, FL-211, and FL 250

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Gabrielle D.Selden, 415-865-8085 [gabrielle.selden@jud.ca.gov](mailto: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): October 22, 2024; Amended: November 26, 2024

Project description from annual agenda: Item 6. California has become a hub for surrogacy arrangements because of its abundance of fertility clinics, favorable court rulings, and clear-cut legislation for establishing parentage for the intended parents. Each court in California has had the burden of figuring out how to handle surrogacy parentage cases with little to no guidance or precedent, resulting in inconsistent approaches to the documents filed by the parties' attorneys and the documents required by court. This lack of uniform procedure has resulted in significant variations in processing time and created burdens on court staff and judges when reviewing the applications for a parentage judgment. A uniform statewide procedure in a rule of court and implementing forms could ease these burdens and prevent forum shopping.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 11/19/2024

approved by Office Director (or Designee) (name) Anna Maves, Principal Managing Attorney on (date) 2/24/25

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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

(11/1/24)



mandates translation: [Click or tap here to enter text.](#)

includes forms that staff will request be translated.

- **Form Descriptions** (for any report 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

### SPR25-15

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Title	Action Requested
Family Law: Rules and Forms to Determine Parental Relationship Based on Gestational Carrier Agreement	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 5.78; amend rules 5.2, 5.7, 5.16, 5.50, 5.52, and 5.96; repeal rule 5.51; adopt forms SUR-100, SUR-100(J), SUR-110, SUR-120, SUR-165, and SUR-230; approve forms SUR-050-INFO, SUR-113, SUR-115, SUR-117, and SUR-230(A); revise forms FL-190, FL-211, and FL-250	July 1, 2026
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Gabrielle D. Selden, 415-865-8085 <a href="mailto:gabrielle.selden@jud.ca.gov">gabrielle.selden@jud.ca.gov</a>
Hon. Tari L. Cody, Cochair	
Hon. Stephanie E. Hulsey, Cochair	

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes that the Judicial Council adopt six forms for mandatory use and approve five forms for optional use in a new form series for parties (intended parents) who conceive a child with a surrogate (a gestational carrier) under the terms of a gestational carrier agreement (also called “an assisted reproduction agreement for gestational carriers”) and then seek a judgment in family court determining a parental relationship under Family Code sections 7960–7962. The committee also proposes that the council adopt a new rule of court, amend several rules of court, repeal one rule, and revise three forms specific to gestational surrogacy cases. The proposal originates from judicial officers and attorneys who shared their ideas for uniform and streamlined rules and forms, specific to gestational surrogacy

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cases, that would increase efficiencies in processing these cases for the benefit of family court judges, court clerks, the parties, and their attorneys.

## **Background**

### **Assisted reproduction**

Assisted reproduction is conception by any means other than sexual intercourse.<sup>1</sup> It typically involves the use of technology to help increase the chance of conception and birth of a child and can include the use of donated genetic material (sperm, ova, or fertilized embryos) to conceive a child. Children conceived through assisted reproduction may be carried either by a person who intends to be a parent to the child (an “intended parent”) or by a surrogate.

Assisted reproduction often involves use of an “assisted reproduction agreement.” One type of agreement is a gestational carrier agreement used in surrogacy arrangements. There are also statutory agreements found in Family Code section 7613.5, in which the person who carries and gives birth to the child is the intended parent. The intended parent in statutory agreements may, but is not required, to use a statutory form to demonstrate their intent to be a legal parent of a child conceived in a manner described in section 7613.<sup>2</sup>

### **Surrogacy and surrogacy arrangements**

Surrogacy is the process by which a woman (known as a surrogate or gestational carrier) carries and gives birth to a child for another person or persons (called the intended parent(s)).<sup>3</sup> Family Code section 7960(f) identifies two types of surrogacy: (1) “traditional surrogacy,” in which a person carries an embryo that was formed with their own ova and donated semen, and (2) “gestational surrogacy,” in which a person who is not the intended parent agrees to gestate a genetically unrelated embryo pursuant to a gestational carrier agreement.

Section 7962 sets forth a specific process to be followed by parties to an “assisted reproduction agreement for gestational carriers” (referred to as a “gestational carrier agreement” in this proposal) to (1) establish a parent and child relationship between the intended parent or parents and the child conceived under the terms of that agreement and (2) rebut the presumptions of parentage of the gestational carrier and, if applicable, the gestational carrier’s spouse or domestic

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<sup>1</sup> Fam. Code, § 7606(a).

<sup>2</sup> This proposal does not encompass cases involving statutory forms under section 7613.5. A party to an arrangement addressed by a statutory form for assisted reproduction would, instead, use the existing Judicial Council forms (the FL-200 series of forms) to ask for a judgment under the Uniform Parentage Act (UPA), including *Confidential Cover Sheet—Parentage Actions Involving Assisted Reproduction* (form FL-211).

<sup>3</sup> Fam. Code, § 7960(f). A gestational carrier has no genetic relationship to the child or children because they do not provide any genetic material required to create the embryo or embryos used in the embryo transfer. (*Id.*, (f)(2).)

partner.<sup>4</sup> The committee proposes to formalize the process described in section 7962 in California Rules of Court and Judicial Council forms.

### **Cases and statutes involving a gestational carrier agreement**

In 2013, Family Code sections 7960–7962 (Link A) were enacted to codify a series of California cases which upheld the validity of surrogacy contacts involving disputes between the intended parents and the surrogate about legal parentage of the child conceived under the terms of the contract.<sup>5</sup> As amended in 2016, Family Code section 7620 established the requirements for subject matter jurisdiction and venue for parties who seek a judgment determining a parental relationship in family court under the Uniform Parentage Act (UPA). In 2020, section 7962 was amended to provide the requirements for a gestational carrier agreement.

### **Current procedures to begin parentage action involving a gestational carrier agreement**

Parties to a gestational carrier agreement are required to obtain a judgment in family court to establish that the intended parents named in the agreement are the legal parents of the child and that the gestational carrier and the spouse or domestic partner of the gestational carrier are not the legal parents.<sup>6</sup>

Currently there are no Judicial Council forms that address gestational surrogacy specifically. As a result, intended parents and gestational carriers must pursue a judgment of parentage using the existing family law forms to establish a parent and child relationship between the intended parent or parents and the child conceived under the terms of a gestational carrier agreement. To this end, one of the parties—usually but not always the intended parents—will commence an action in family court to determine a legal parental relationship by filing *Petition to Determine Parental Relationship* (form [FL-200](#)), which requires *Confidential Cover Sheet—Parentage Action Involving Assisted Reproduction* (form [FL-211](#)).

As reported to the committee by a group of attorneys who practice reproduction and fertility law and assisted reproduction technology law in this state and internationally, many petitions to determine parental relationship in cases of gestational surrogacy are uncontested because both sides want the same relief—a determination based on their written agreement that the intended parents are the child’s parents, and the gestational carrier and any spouse or partner are not. This often results in the parties working together. For example, it is common practice for the petitioner’s attorney to prepare the forms on behalf of the respondent or respondents for review and signature. It is also common practice for the petitioner to file the initial papers, the

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<sup>4</sup> The committee also proposes using “gestational carrier agreement” in the forms and rules of court instead of the statutory phrasing, an “assisted reproduction agreement for gestational carriers”.

<sup>5</sup> *Johnson v. Calvert* (1993) 5 Cal.4th 84, *In re Marriage of Buzzanca* (1998) 61 Cal.App.4th 1410, *C.M. v. M.C.* (2017) 7 Cal.App.5th 1188, and a series of three companion cases before the California Supreme Court in 2005: *Elisa B. v. Superior Court* (2005) 37 Cal.4th 108, *K.M. v. E.G.* (2005) 37 Cal.4th 130, and *Kristine H. v. Lisa R.* (2005) 37 Cal.4th 156.

<sup>6</sup> Fam. Code, § 7962(f)(2).

completed response to the petition, and all documents necessary on behalf of all parties to request that the court enter a judgment.

### **A new form series to increase efficiency in processing judgments**

A new series of Judicial Council forms for use in cases involving gestational carrier agreements would facilitate processing a judgment in these cases. Having statewide forms for actions involving gestational carrier agreements under the UPA would create more uniformity, standardize processes statewide, and reduce delay in establishing parent and child relationships. This could result in:

- The timely entry of the intended parents’ names on the initial birth certificate as the child’s legal parents;
- Enabling the intended parents to independently direct the medical staff with respect to the child’s care after birth;
- Allowing the intended parents to add the child to their own health insurance, and in some cases obtain travel documents and travel with the child, including travel to their home country as anticipated.
- Hospitals being able to register the live birth under Health and Safety Code section 102400 with the intended parents’ names on the birth certificate.<sup>7</sup>

### **The Proposal<sup>8</sup>**

To align with current practices and ensure that the process for obtaining a parentage judgment in gestational surrogacy cases is accessible, efficient, and uniform throughout the state, the committee proposes adopting a new rule of court, amending five rules of court, repealing one rule of court.

### **Rules of court**

#### ***Rule 5.2, Division title; definitions; application of rules and laws***

Among other things, this rule includes and defines terms that are not found in the Family Code but are commonly used by parties, law practitioners, and court professionals. For example, the rule includes and defines terms such as “attorney,” “divorce,” “local rules,” and “parenting

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<sup>7</sup> Under Health and Safety Code section 102400, “Each live birth shall be registered with the local registrar of births and deaths for the district in which the birth occurred within 21 days following the date of the event.”

<sup>8</sup> To help develop this proposal, the Family and Juvenile Law Advisory Committee (1) reviewed the few local rules and forms adopted by family courts in California relating to gestational carrier agreements; (2) In the 2022, rules cycle, sought public comment about whether it would be beneficial to family courts and litigants to create rules of court and forms specifically for cases involving assisted reproduction agreements (see report titled *Rules and Forms: Parentage Actions Under Assembly Bill 429* (SPR22-10, p. 3, at [www.courts.ca.gov/documents/spr22-10.pdf](http://www.courts.ca.gov/documents/spr22-10.pdf)), ); (3) reviewed a draft proposal for statewide forms developed by the Superior Court of Los Angeles County in collaboration with attorneys who practice this area of law; (4) developed the first draft of a proposal for statewide forms with a focus group that included judicial officers from several counties and attorneys who are educated in reproductive and fertility law and practice assisted-reproduction technology law in this state and internationally; (5) convened an internal working group of committee members to develop a proposal for the committee to consider; and (6) received feedback about the revised proposal from the focus group who tested the proposed new form series.

time.” Rule 5.2(b) would be amended to add the term “gestational carrier agreement” and specify that it refers to an assisted reproduction agreement for gestational carriers as defined in Family Code section 7962.

***Rule 5.7, Use of forms***

Rule 5.7(a) would be amended to include the new form series for gestational surrogacy, which would be identified by the prefix “SUR” among the other form series (ADOPT, DV, EJ, and FL) adopted by the Judicial Council for use in family law proceedings.

***Rule 5.16, Designation of parties***

Rule 5.16(b)(5) describes those parties who may take part in a proceeding to determine parentage. The text of subdivision (b)(5) would be reformatted as a list of such persons and expanded to include the intended or natural parents of a child conceived through assisted reproduction and the gestational carrier (and the gestational carrier’s spouse or domestic partner, if applicable).

In addition, the committee proposes amending the rule to replace “the minor child” with “the child, as described in Family Code section 7635(a).” Even though the term “minor child” is used throughout the Family Code relating to actions for dissolution, legal separation, and nullity, the UPA specifically uses the term “child.” Section 7635(a) specifies that the child under 12 years of age may and a child 12 years of age or older must be made a party to the action, and if the child is a minor, then the child must be represented by a guardian ad litem. This change would make the rule more legally accurate.

Please note that this proposal only relates to rule 5.16(b). However, it also reflects amendments proposed to rule 5.16(a), which are part of an invitation to comment that is circulating concurrently in this cycle titled “Family Law: Joint Petition for Dissolution or Legal Separation (SPR25-21).” Comments about rule 5.16(a) should be submitted separately in response to that proposal.

***Rule 5.50, Papers issued by the court***

The proposal includes a new summons for the SUR form series. Therefore, rule 5.50, which lists the summons forms that must be issued by the court in family law proceedings, would be amended to include *Summons* (Gestational Carrier Agreement) (form SUR-210) for cases under the UPA that involve a gestational carrier agreement.

Please note that this proposal only relates to rule 5.50(a)(1)(E). However, it also reflects amendments proposed to rule 5.50(a)(1)(F), which are part of an invitation to comment that is circulating concurrently in this cycle titled “Family Law: Joint Petition for Dissolution or Legal Separation (SPR25-21).” Comments about the proposed amendments to rule 5.50(a)(1)(F) should be submitted separately in response to that proposal.

***Rule 5.51, Confidential cover sheet for parentage actions or proceedings involving assisted reproduction; other requirements***

This rule, which mandates the filing of a cover sheet to specify that an action is being filed under Family Code sections relating to assisted reproduction agreements, would be repealed and incorporated in its entirety into proposed new rule 5.78.

***Rule 5.52, Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)***

This rule, which mandates filing *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105/GC-120](#)) in all child custody, support, and parentage cases, would be amended to include that, in actions involving an assisted reproduction agreement, form FL-105/GC-120 must be filed only when child custody or visitation (parenting time), or both, are at issue. Using the term “assisted reproduction agreement” in the rule would cover all such cases—not only those involving a gestational carrier agreement.

***Rule 5.78, Actions or proceedings to determine a parental relationship involving an assisted reproduction agreement***

This proposed, new rule sets out the forms needed to file a joint petition or petition (and respond to a petition) to determine a parental relationship for cases involving the statutory forms for assisted reproduction, as well as traditional surrogacy and gestational surrogacy actions.

The rule incorporates the language in current rule 5.51 in its entirety about the confidentiality of these actions. It also reflects the existing collaborative practice in which a petitioner commences the action by filing and serving initial papers for the petitioner in the case or by completing all forms, declarations, and other documents for *all* parties to request entry of judgment.

***Rule 5.96, Place and manner of filing***

The proposed amendments to this rule are modeled after [rule 3.1302](#) of the California Rules of Court, which also addresses place and manner of filing. Family Code section 7962 requires the gestational carrier agreement to be lodged with the court. The new subdivision in the rule would establish the procedures for handling material lodged physically or electronically with the clerk of the court after a determination is made. The committee believes that rule 5.96 needs to be amended to generally provide these procedures in family court because rule 3.1302 does not apply to causes arising under the Family Code, except to discovery proceedings in family law.<sup>9</sup>

**Forms proposal**

The committee proposes revising three mandatory forms in the family law series and creating a new forms series for gestational surrogacy cases, which will use the prefix “SUR.”

The proposal includes the forms needed to meet the filing and service requirements for gestational surrogacy cases that are uncontested, contested, or proceed by default. It includes both a joint petition form, which can be used when all parties to the arrangement are in

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<sup>9</sup> See Cal. Rules of Court, rules 3.1100, 3.1103.

agreement, and a summons and separate petition and response forms if the parties are not willing to sign a joint petition. The new form series also includes optional forms that parties file in support of a request to enter a judgment and an information sheet that describes several paths to obtain a judgment.

### ***Formatting and party references***

Each proposed new form would be specifically formatted to meet the needs of gestational surrogacy parentage cases. For example:

- Each form (except for the proposed information sheet, form SUR-050-INFO) would be marked “Confidential” because assisted reproduction cases are confidential cases under Family Code section 7643.5;
- The forms’ captions would include space to provide the names of multiple petitioners and respondents to account for cases in which there are more than two intended parents or the gestational carrier has a spouse or domestic partner;<sup>10</sup>
- Additional date and signature lines would be included for the parties and their attorneys; and
- Each form would use “(Gestational Carrier Agreement)” as a subtitle and state that a gestational carrier agreement is also called “assisted reproduction agreement for gestational carriers” in Family Code sections 7606 and 7962.

### ***Proposed new forms***

#### **How to Ask for a Judgment—Gestational Carrier Agreement (*form SUR-050-INFO*)**

This information sheet would serve as a resource for parties, attorneys, court clerks, and judicial officers. It lists the forms and documents required to be filed to commence an action in family court, as well as those required to ask for a judgment. The information sheet would include a list of resources to help connect parties to lawyers who specialize in assisted reproduction law and to free and low-cost legal help.

#### **Petition to Determine Parental Relationship (*Gestational Carrier Agreement*) (*form SUR-100*)**

This alternative form for mandatory use allows a party to petition the court to determine the parentage of a child or children conceived under the terms of a gestational carrier agreement if a joint petition (form SUR-100) cannot be filed.<sup>11</sup> It requires the petitioner to (1) specify the

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<sup>10</sup> The spouse or domestic partner is a required party to the action or proceeding under Family Code section 7962. Among other presumptions noted in Family Code sections 7540 and 7611, a gestational carrier who is married or in a domestic partnership is presumed to be the child’s natural mother if the child is born during the marriage or domestic partnership or within 300 days after the marriage or domestic partnership is terminated by death, annulment, divorce, declaration of invalidity, or a judgment of separation entered by a court.

<sup>11</sup> The Judicial Council has adopted mandatory forms as alternative forms, one of which must be used in a proceeding. For example, rule 7.101 of the California Rules of Court lists forms used in probate proceedings that have been adopted as alternative mandatory forms. Forms SUR-100 and SUR-100(J) would be the first petitions adopted for alternative mandatory use in family law proceedings.



names, birthdates, and ages of the children (or the expected date of delivery of a child who is not yet born, the anticipated place of birth, and the number of children expected to be born); (2) provide information relating to jurisdiction and venue; (3) identify statutory claims that the party wants to make in the case; (4) detail their request for specific orders; (5) state if they request other orders; and (6) date and sign the form.

Form SUR-100 also includes an item for the petitioner to declare that the gestational carrier agreement:

- Meets the requirements of section 7962 and thus supports the request that the court find that the intended parents are the parents of the child or children, and that the gestational carrier (and the gestational carrier's spouse or partner, if applicable) is not the parent of the child or children;
- Does not fully meet the requirements of section 7962 but, even so, the parties agree that parentage should be established in accordance with the agreement about legal parentage;
- Does not fully meet the requirements of section 7962 and thus a parental relationship should not be established according to the gestational carrier agreement; or
- Based on alternative reasons, should not be enforced and thus a parental relationship should not be established according to the gestational carrier agreement.

**Joint Petition to Determine Parental Relationship (*Gestational Carrier Agreement*)  
(form SUR-100(J))**

This form for alternative mandatory use permits parties to a gestational carrier agreement to jointly petition the court for a judgment under the UPA. Parties who are in agreement with the terms of their judgment would complete and sign the joint petition, attach a copy of their proposed judgment, lodge the gestational carrier agreement, file all declarations, and submit a judgment packet that includes *Judgment* (form [FL-250](#)), *Notice of Entry of Judgment* (form [FL-190](#)), and envelopes.

This joint petition process is patterned after the summary dissolution proceeding in dissolution of marriage or domestic partnership cases in which those parties who qualify for the proceeding complete one petition to request that the court enter a judgment. As in the summary dissolution proceeding, the court would not issue a summons with a joint petition. Further, the joint petition is a simplified form that incorporates several of the forms (listed in footnote 14) used to ask for a judgment. This form is intended to increase the overall efficiency in processing the parties' request for a judgment.

**Summons—Gestational Carrier Agreement (form SUR-110)**

Form SUR-210 for mandatory use is proposed as the summons for the new form series, mirroring *Summons* (form [FL-210](#)). This form includes the statutory content required for cases under the UPA. However, the summons references the proposed new petition (form SUR-100)

and response (form SUR-120) and includes a reference in the footer to both rule 5.50 and proposed new rule 5.78, which relate to assisted reproduction cases. The form's proposed title is intended to distinguish the action from other actions under the UPA.

**Notice of Lodging (*Gestational Carrier Agreement*) (form SUR-113)**

Family Code section 7962(e) requires that a copy of the gestational carrier agreement be lodged with the court. Form SUR-113 is an optional form that would help parties comply with that requirement.

The proposed form provides a check box to specify that a copy (not the original) of the agreement is being lodged. Additional space is provided for a party to specify the title of other documents that are being lodged with the court. Finally, it includes a section to notify the parties about how the lodged documents will be handled after the determination of the case or proceeding.

**Proof of Service of Summons (*Gestational Carrier Agreement*) (form SUR-115)**

Rule 5.66 (Proof of service) provides that “[p]arties must file with the court a completed form to prove that the other party received the petition or complaint or response to petition or complaint.” (Cal. Rules of Court, rule 5.66(a).) The rule specifically identifies *Proof of Service of Summons* (form FL-115) but also provides that the proof of service “may be on a form approved by the Judicial Council or a document ... containing the same information required in ... form FL-115.” (*Id.*, rule 5.66(b)(1).)

Proposed form SUR-115 for optional use contains the same information required in form FL-115; however, it has been expanded to reflect the content of proposed rule 5.78, which acknowledges the common practice for serving the initial papers in these cases. The proposed form reflects the collaborative practice among attorneys in these cases in which a petitioner's attorney completes all the paperwork for the petitioner *and* each respondent.

Proposed form SUR-115 identifies (in item 2) the initial forms in the SUR series that the petitioner or petitioner's attorney would complete and file before serving the respondent. Beyond the summons and petition, the initial documents include the declarations required by Family Code section 7962 (declarations of the parties, the parties' attorneys, and the fertility physician) and a notice of lodging of the assisted reproduction agreement. In addition, item 3 would be used by the petitioner to identify the forms and declarations, and other attachments prepared for each respondent and served along with the documents listed in item 2.

**Notice and Acknowledgment of Receipt (*Gestational Carrier Agreement*) (form SUR-117)**

This form for optional use is patterned after *Notice and Acknowledgment of Receipt* (form [FL-117](#)), which is used instead of a proof of service of summons form for cases in which the petitioner declares that the documents listed on the form were served by mail to the respondent. The respondent is required to complete part of the form to acknowledge receipt of each document by mail.

**Response to Petition to Determine Parental Relationship (*Gestational Carrier Agreement*) (form SUR-120)**

This proposed mandatory form allows respondents to indicate if they agree or disagree with the assertions in the petition about such matters as parentage and non-parentage, jurisdiction, venue, and whether the gestational carrier agreement complies with Family Code section 7962. If the parties are in agreement, but the respondent wishes to appear in the case and affirmatively respond to the claims and requests in the petition, the respondent may indicate their full agreement with the contents of the petition by checking item 2a, answering the question about primary language if applicable, and signing and dating the response. If the respondent disagrees with any of the assertions or claims in the petition, form SUR-120 allows the respondent to respond to each item in the petition, assert any claims, and seek any remedies available to the respondent under the Family Code relating to gestational carrier agreements.

**Request to Enter Default (*Gestational Carrier Agreement*) (form SUR-165)**

This proposed mandatory form would be filed by the petitioner to ask the court to issue a default judgment when the respondent has failed to enter a response to the petition within 30 days. As in the current family law parentage process, a default judgment could be entered as either (1) a “true” default (which describes cases in which no response is filed and there is no agreement with the respondent about a parental relationship) or (2) a “default with agreement” (which denotes that the parties have a separate stipulated agreement about a parental relationship that they will submit to the court despite the fact that the respondent did not file and serve a response to the petition).

**Declaration for Default or Uncontested Judgment (*Gestational Carrier Agreement*) (form SUR-230)**

To streamline the process of obtaining a judgment in gestational surrogacy cases, the committee proposes a single declaration form—based on the content of several forms in the current FL-200 series used to determine a parental relationship—for mandatory use, which would be used to ask that the court enter the judgment based on a respondent’s default or the agreement of the parties in an uncontested matter.<sup>12</sup> The new form would be titled *Declaration for Default or Uncontested Judgment (Gestational Carrier Agreement)* (form SUR-230).

Having one form that integrates the content of four forms would avoid redundant content, for example, by eliminating repeated references to advisement and waiver of rights and party appearances. For example, for uncontested cases, the relevant content of form SUR-230 would be incorporated into *Joint Petition to Determine Parental Relationship (Gestational Carrier Agreement)* (form SUR-100(J)).

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<sup>12</sup> Content from the following forms has been consolidated into the new form: *Appearance, Stipulations, and Waivers* (form FL-130); *Stipulation for Entry of Judgment Re: Determination of Parental Relationship* (form FL-240); *Advisement and Waiver of Rights Re: Determination of Parental Relationship* (form FL-235); and *Declaration for Default or Uncontested Judgment* (form FL-230).

### **Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act (form SUR-230(A))**

Finally, proposed form SUR-210(a) for optional use is based on form [FL-130\(A\)](#). Form SUR-210(A) would serve as the mandatory attachment to form SUR-210 if the respondent is a member of the military services of the United States of America, per item 1b of form SUR-210. The proposed form includes a cross-reference to form SUR-210 and has an additional signature line to accommodate cases in which both respondents are on active duty and want to permit the court to enter an uncontested judgment in the case.

### **Revised FL forms**

The committee proposes that parties in assisted reproduction cases be required to complete the two current forms used in nonconfidential parentage proceedings, *Notice of Entry of Judgment* (form FL-190) and *Judgment* (form FL-250), rather than recreating these forms with the prefix “SUR.” And because form FL-250 is not a confidential form in assisted reproduction cases, the committee proposes revisions that would maintain the confidential nature of the proceeding. For example, no content on the forms would specify that the case involves an assisted reproduction agreement. This protection is particularly important for some international intended parents who return to their home country to determine a legal parental relationship once there.<sup>13</sup>

### **Notice of Entry of Judgment (form FL-190)**

This form is used by court clerks to notify the parties and their attorneys that the court entered a judgment in the case. The caption of current form FL-190 would be revised to accommodate cases involving multiple parties. Items 1 through 8 would be reformatted to allow for more space at the bottom of the form to accommodate two additional mailing address boxes.

In addition, in response to requests from court professionals, the form would be updated to provide two separate fields for the effective date of a judgment of dissolution. The single field on the current form for “Effective date of termination of marital or domestic partnership status” does not accommodate situations in which a party has petitioned to dissolve both their marriage and domestic partnership in a single proceeding under Family Code section 299(e). To accommodate these situations, the revised form would include a field for “Effective date of termination of marital status” and another field for “Effective date of termination of domestic partnership status.”<sup>14</sup>

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<sup>13</sup> International laws on surrogacy are inconsistent, and some countries have banned all forms of surrogacy. More information on surrogacy laws is available at Surrogacy360, <https://surrogacy360.org/considering-surrogacy/current-law/>.

<sup>14</sup> The Judicial Council implemented the requirements of Family Code section 299, effective January 1, 2005. Judicial Council of Cal., Advisory Com. Rep., *Family Law: Privacy Notices and Domestic Partnership Dissolution, Legal Separation, and Annulment Procedures* (Sept. 20, 2004).

### **Confidential Cover Sheet—Parentage Actions Involving Assisted Reproduction (*form FL-211*)**

As mandated by Family Code section 7643.5, a party must use this form to identify that the party is initiating an action or proceeding involving assisted reproduction under Family Code sections 7613, 7630(f), or 7960–7962. The form would be revised to remove references to sections 7960–7962 and specify that the form is not used for cases involving gestational carrier agreements under sections 7960–7962.

### **Judgment (*form FL-250*)**

Various changes are proposed to form FL-250. Its caption would be revised to provide space to identify multiple parties. Several items in the form would be changed for the parties to specify that there are multiple petitioners and multiple respondents in the case.

Item 2 would require the most restructuring. The content would be reorganized under new headings to make the form easier to read. Items 2a through 2c would provide information relating to the type of proceeding, as well as the date, department, room, and judicial officer's name. A new item 3 would include the list of all persons present at the hearing, if there was a hearing. For greater clarity, the form would include blank space to write each party's name. A new item 4 would organize the declarations for each party that are at items 2f and 2g in the current form.

In items 4a(2) and 4b(2) of the proposed revised form, the parties' acknowledgment that they signed *Advisement and Waiver of Rights Re: Determination of Parental Relationship* (form FL-235) would be expanded to include "or its equivalent." This change would cover parties in assisted reproduction cases who filed the simplified forms that include the advisement and waiver of rights, without requiring them to reveal the SUR form that they signed and filed with the court. The committee is proposing language that is currently used in *Appearance, Stipulations, and Waivers* (form [FL-130](#)), which provides, in item 2f, that "both parties have signed an *Advisement of Waivers or Rights Re: Determination of Parental Relationship* (form FL-235) or its equivalent."

The committee proposes formatting and other technical changes to the second page of the form to accommodate the needs of parentage actions involving gestational carrier agreements in the areas specifically highlighted.

### **Alternatives Considered**

The committee considered the alternative of taking no action to adopt rules and forms for actions under the UPA involving gestational surrogacy but determined that courts, attorneys, and self-represented parties would benefit from a uniform statewide method of seeking a judgment in such cases that complies with the requirements of the Family Code. Without this action, existing resources for filing these cases would remain sparse in some counties and courts would not realize savings from efficiencies in case processing.

### **Discussions about forms to include in proposal**

The committee considered whether it was possible to revise the current petition, response, and the other FL series forms to include the statutory requirements for cases involving a gestational carrier agreement; however, the committee concluded that it was not feasible.

UPA cases involving a gestational carrier agreement have their own jurisdiction, venue, and other requirements. Further, they are confidential proceedings under Family Code section 7643.5, with limited public access to the court file. Cases not involving an assisted reproduction agreement under the UPA, filed on or after January 1, 2023, are not confidential proceedings under Family Code section 7643.

The committee recognizes that UPA cases involving a gestational carrier agreement are significantly different from other cases under the UPA. Separating these case types into two distinct form series (FL and SUR)—except as relates to the use of forms FL-190 and FL-250, for the reasons previously indicated— would help avoid confusion about which forms to use and would respond to the needs of the parties, attorneys, and court professionals.

### **Discussions about a party's primary language**

The committee deliberated about the items regarding primary language on the proposed petition (form SUR-100), joint petition (form SUR-100(J)), and response (form SUR-120). Courts in some counties include this content on local forms to help the judicial officer reviewing the judgment packet determine whether there may have been any barriers to the parties' comprehension of the forms they completed, and whether the parties received or should have received assistance from a registered interpreter or translator (or both) during the negotiation and execution of the judgment and other documents filed in the case. There is a concern that this information introduces bias into the proceedings. For this reason, the committee seeks specific input from the public on this question as it appears on the petition and response forms, in addition to the contents of the "Interpreter's Declaration" on form SUR-100(J) and form SUR-210.

### **Discussion about form FL-105/GC-120**

The committee discussed whether *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105/GC-120) was required to be filed with the joint petition, petition, and response to the petition in this proposal. In family law cases, the form is required to be filed when parties seek orders for child custody and visitation (parenting time).

The committee noted the issue of child custody does not arise in most gestational carrier cases. These cases are mostly filed during the surrogate's pregnancy with the intent of having a judgment of legal parentage (not child custody or visitation (parenting time)) entered before the child's birth. Therefore, these proceedings would not be considered "child custody proceedings" under section 3402(d) of the UCCJEA in the Family Code,<sup>15</sup> and would require the parties to file

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<sup>15</sup> Under Family Code section 3402(d), a " 'child custody proceeding' ... [i]ncludes a proceeding for ... paternity ... in which the issue may appear."

form FL-105/GC-120. For this reason, the committee decided that parties would only need to file a UCCJEA form if child custody and visitation (parenting time) are identified as issues in either the petition or response. Thus, the committee proposes that rule 5.52, rule 5.78, and relevant forms reflect this decision by specifying that the UCCJEA form is not a required attachment to the joint petition or petition and response in actions to establish a parental relationship involving a gestational carrier agreement unless the initial filings indicate that child custody or visitation (parenting time) are at issue in the case.

### **Discussion about titles of rules and forms**

The committee considered how to identify the forms in the new series to distinguish them for use in cases involving a gestational carrier agreement. Beyond the “SUR” identifier for the series, the committee considered whether to use “(Assisted Reproduction Agreement for Gestational Carriers)” or “(Gestational Carrier Agreement)” as a subtitle in the form titles and whether to use that same phrasing throughout the rules.

The committee considered that Family Code section 7962 uses the term “assisted reproduction agreement for gestational carriers.” The committee also considered input from subject matter experts that the term “gestational carrier agreement” (1) is the way in which these cases are commonly referred to by practitioners, court professionals, parties, and users of search engines; (2) would be a more efficient way to refer to an assisted reproduction agreement for gestational carriers across the rules and forms in the series; and (3) would likely not cause confusion, as it is readily understandable to the community of Californians who would use the forms. In addition, the committee considered that the forms would be translated into several languages. Therefore, it believed that the forms should be titled in a way that is succinct, easy to read, and would take less space on the page.

Finally, the committee considered Family Code section 211, which specifies that “[n]otwithstanding any other provision of law, the Judicial Council may provide by rule for the practice and procedure in proceedings under this code.” In light of this, the committee decided to propose circulating the rules and forms using “gestational carrier agreement” in place of the longer term used in Family Code section 7962. However, the committee also decided that each form would specifically indicate that “gestational carrier agreement” is also called “assisted reproduction agreement for gestational carriers” in Family Code sections 7606 and 7962.

### **Discussion about alternative mandatory forms**

The committee considered numbering the joint petition as form SUR-100 and numbering the petition as form SUR-200 based on the belief that the joint petition would be used more frequently for the initial filing. However, because each form would be mandatory, the committee decided to designate them as alternative mandatory petitions and number them as forms SUR-100 and SUR-100(J). As such, each form would include a specific reference in the footer to the other. The committee also decided to include in each form a description of both alternative mandatory forms to help parties choose the appropriate form to file. The committee believes that using SUR-100 and SUR-100(J) would make it easier for parties, their attorneys, and court

professionals to understand that one of the two forms must be used to file the action to determine a parental relationship in a case that involves a gestational carrier.

### **Discussion about implementation date**

The committee considered whether to propose a delay in implementing the proposal beyond the two months generally provided for implementing new Judicial Council forms. The committee considered that additional time would be beneficial for stakeholders to be trained in this specific area of law and become familiar with the new and amended rules as well as the new forms in the SUR series. It decided to propose that the rules and forms take effect on January 1, 2026, and ask for public comment about whether (and the reasons why) implementation should be delayed until July 1, 2026.

### **Fiscal and Operational Impacts**

Courts would incur costs to implement the proposed changes. Court resources would be needed to train court employees, revise internal procedures, revise local rules and forms, and update case management systems to incorporate the rules and a completely new form series. The committee, though, believes that the initial costs for implementation would be offset by the savings achieved through more efficient case processing once the rules are implemented and the forms are in use.



## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments from courts, stakeholders, subject matter experts, parties, and others on the following:

- Does the proposal appropriately address the stated purpose?
- Should the forms include questions requiring that parties disclose their primary language in the manner proposed? (*Please explain your answer.*)
- Should the forms take effect on January 1, 2026 (two months after the Judicial Council meeting)? Or should the implementation be delayed until July 1, 2026? (*Please explain your answer.*)

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 two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Or should implementation be delayed until July 1, 2026?
- How well would this proposal work in courts of different sizes?

## Attachments and Links

1. Cal. Rules of Court, rules 5.2, 5.7, 5.16, 5.50, 5.51, 5.52, 5.78, 5.96, at pages 17–23
2. Forms FL-190, FL-211, FL-250, SUR-050-INFO, SUR-100, SUR-100(J), SUR-110, SUR-113, SUR-115, SUR-117, SUR-120, SUR-165, SUR-230, SUR-230(A), at pages 24–53
3. Link A: Fam. Code, §§ 7960–7962,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=FAM&division=12.&title=&part=7.&chapter=&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FAM&division=12.&title=&part=7.&chapter=&article=)
4. Link B: Fam. Code, § 7643.5,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=FAM&sectionNum=7643.5](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&sectionNum=7643.5)

Rule 5.78 of the California Rules of Court would be adopted; rules 5.2, 5.7, 5.16, 5.50, 5.52, and 5.96 would be amended; and rule 5.51 would be repealed, effective January 1, 2026, to read:

1 **Rule 5.2. Division title; definitions; application of rules and laws**

2  
3 (a) \* \* \*

4  
5 (b) **Definitions and use of terms**

6  
7 As used in this division, unless the context or subject matter otherwise requires, the  
8 following definitions apply:

9  
10 (1)–(11) \* \* \*

11  
12 (12) “Gestational carrier agreement” refers to an assisted reproduction agreement  
13 for gestational carriers under Family Code sections 7606 and 7962.

14  
15 **Rule 5.7. Use of forms**

16  
17 (a) **Status of family law and domestic violence forms**

18  
19 All forms adopted or approved by the Judicial Council for use in any proceeding  
20 under the Family Code, ~~including any form in the FL, ADOPT, DV, and EJ, and~~ and  
21 SUR series, ~~are~~ adopted as rules of court under the authority of Family Code  
22 section 211; article VI, section 6 of the California Constitution; and other  
23 applicable law.

24  
25 (b)–(c) \* \* \*

26  
27 **Rule 5.16. Designation of parties**

28  
29 (a) **Designation of parties**

30  
31 (1) In cases filed under the Family Code, ~~the party starting the case is referred to~~  
32 ~~as the “petitioner,” and the other party is the “respondent.”~~

33  
34 (A) Except as otherwise specified herein, the party starting the case is  
35 referred to as the “petitioner,” and the other party is the “respondent.”

36  
37 (B) If the parties initiate the case by joint petition pursuant to Family Code  
38 sections 2330 and 2331 or section 2400:

39  
40 (i) The first joint petitioner is referred to as “petitioner 1” and the  
41 second joint petitioner is referred to as “petitioner 2.” The first

1 joint petitioner may identify as the “petitioner” on judicial  
2 council forms; the second joint petitioner may identify as the  
3 “respondent” on judicial council forms.  
4

5 (ii) If either party revokes the joint petition pursuant to Family Code  
6 section 2342.5(b), the first petitioner will thereafter be referred to  
7 as the “petitioner” and the second petitioner will thereafter be  
8 referred to as the “respondent.”  
9

10 (2) \* \* \*

11  
12 **(b) Parties to proceeding**

13  
14 (1)–(4) \* \* \*

15  
16 (5) The only persons or agencies permitted to be parties to a family law  
17 proceeding to ~~establish~~ determine parentage are the following: the presumed  
18 or putative parents of the minor child, the minor child, a third party who is  
19 joined in the case under rule 5.24, or a local child support agency that  
20 intervenes in the case.

21  
22 (A) The presumed or putative parents of the child;

23  
24 (B) The intended or natural parents of a child conceived through assisted  
25 reproduction as defined in Family Code section 7613 and sections  
26 7690–7692;

27  
28 (C) The gestational carrier and the gestational carrier’s spouse or domestic  
29 partner named in a gestational carrier agreement;

30  
31 (D) The child, as described in Family Code section 7635(a);

32  
33 (E) A third party who is joined in the case under rule 5.24; or

34  
35 (F) A local child support agency that intervenes in the case.  
36

37 **Rule 5.50. Papers issued by the court**

38  
39 **(a) Issuing the summons; form**

40  
41 If a summons is required to commence a family law case, the clerk of the court  
42 must issue the summons using the same procedure for issuing a summons in civil  
43 actions, generally.

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38

(1) The clerk of the court must:

- (A) Issue a *Summons (Family Law)* (form FL-110) for divorces, legal separations, or annulment cases involving married persons or domestic partnerships;
- (B) Issue a *Summons (Uniform Parentage—Petition for Custody and Support)* (form FL-210) for parentage or custody and support cases;
- (C) Issue a *Summons (UIFSA)* (form FL-510) when a party seeks to establish or enforce child support orders from other states; ~~and~~
- (D) Process a *Summons and Complaint or Supplemental Complaint Regarding Parental Obligations* (form FL-600) as specified in rule 5.325;
- (E) Issue *Summons—Gestational Carrier Agreement* (form SUR-110) for parentage cases involving a gestational carrier agreement; and
- (F) Issue *Joint Summons (Family Law)* (form FL-710) when parties file a joint petition for dissolution of marriage or domestic partnership or legal separation as specified in Family Code sections 2330 and 2331.

(2) \* \* \*

**(b) Automatic temporary family law restraining order in summons; handling by clerk**

Under Family Code section 233, in proceedings for dissolution, legal separation, or nullity of a marriage or domestic partnership and in all parentage proceedings, the clerk of the court must issue a summons that includes automatic temporary (standard) restraining orders.

(1)–(2) \* \* \*

**(c) \* \* \***

1 **Rule 5.51. Confidential cover sheet for parentage actions or proceedings involving**  
2 **assisted reproduction; other requirements [Repealed]**

3  
4 **(a) Application**

5  
6 This rule applies to actions or proceedings filed with the court after January 1,  
7 2023, involving assisted reproduction, in which the parties seek to determine a  
8 parental relationship under Family Code section 7613 or 7630, or sections 7960–  
9 7962.

10  
11 **(b) Filing Requirement**

12  
13 To comply with Family Code section 7643.5, for all actions in (a):

14  
15 (1) Petitioner must complete a *Confidential Cover Sheet—Parentage Action*  
16 *Involving Assisted Reproduction* (form FL-211) and attach it to the initial  
17 papers being filed with the court; and

18  
19 (2) The court clerk must maintain form FL-211, the initial papers, and all  
20 subsequent papers—other than the final judgment—in a confidential court  
21 file.

22  
23 **Rule 5.52. Declaration under Uniform Child Custody Jurisdiction and Enforcement**  
24 **Act (UCCJEA)**

25  
26 **(a) Filing requirements; application**

27  
28 (1) Petitioner and respondent must each complete, serve, and file a *Declaration*  
29 *Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)*  
30 (form FL-105/GC-120) if there are children of their relationship under the  
31 age of 18 years.

32  
33 (2) The form is a required attachment to the petition and response in actions for  
34 divorce; or to establish parentage (that do not involve a gestational carrier  
35 agreement); or actions for custody and support of minor children.

36  
37 (3) The form is not a required attachment to the petition and response in actions  
38 to establish a parental relationship involving a gestational carrier agreement  
39 unless the petition or response specifies that child custody or visitation  
40 (parenting time), or both, are at issue in the case.

41  
42 **(b) \* \* \***

1 **Rule 5.78. Actions or proceedings to determine a parental relationship involving an**  
2 **assisted reproduction agreement**

3  
4 **(a) Authority**

5  
6 This rule applies to actions or proceedings filed with the court involving an assisted  
7 reproduction agreement as defined by Family Code section 7606(b), in which the  
8 parties seek to determine a parental relationship under Family Code section 7613 or  
9 7630(f), or sections 7960–7962.

10  
11 **(b) Confidentiality**

12  
13 Actions or proceedings to determine a parental relationship involving an assisted  
14 reproduction agreement are confidential under the Uniform Parentage Act.

15  
16 **(c) Actions involving statutory forms and traditional surrogacy**

17  
18 (1) When parties use the assisted reproduction agreements found in Family Code  
19 section 7613.5 (including those involving the disposition of embryos), they  
20 may commence an action to seek a judgment determining a parental (and/or a  
21 nonparental) relationship by using:

22  
23 (A) *Confidential Cover Sheet—Parentage Action Involving Assisted*  
24 *Reproduction* (form FL-211);

25  
26 (B) *Summons (Parentage—Custody and Support)* (form FL-210);

27  
28 (C) *Petition to Determine Parental Relationship (Uniform Parentage)* (form  
29 FL-200);

30  
31 (D) *Declaration Under Uniform Child Custody Jurisdiction and*  
32 *Enforcement Act (UCCJEA)* (form FL-105), only if child custody or  
33 visitation (parenting time), or both, are at issue in the case; and

34  
35 (E) The FL series of forms required for all subsequent filings in actions  
36 under the Uniform Parentage Act.

37  
38 (2) For matters involving traditional surrogacy, as defined by Family Code  
39 section 7960(f)(1), parties must follow the same procedures in (c)(1) to seek a  
40 judgment to determine a parental (or nonparental) relationship in family  
41 court.

1 **(d) Actions involving a gestational carrier agreement**

2  
3 (1) Parties to a gestational carrier agreement must commence an action in family  
4 court to seek a judgment determining a parental (or nonparental) relationship  
5 to a child born or expected to be born by using either:

6  
7 (A) Petition to Determine Parental Relationship (Gestational Carrier  
8 Agreement) (form SUR-100); or

9  
10 (B) Joint Petition to Determine Parental Relationship (Gestational Carrier  
11 Agreement) (form SUR-100(J)).

12  
13 (2) Petitioner may:

14  
15 (A) Complete and file with the court all of the forms and documents  
16 required of all parties to initiate the case and request entry of judgment.

17  
18 (B) File the forms and documents for all parties at one time, but is not  
19 required to do so.

20  
21 (3) As required by Family Code section 7962:

22  
23 (A) The declarations of the parties to the gestational carrier agreement, the  
24 declarations of the separate, independent licensed attorneys, and the  
25 declaration of the physician must be filed with the clerk of the court;  
26 and

27  
28 (B) A true and correct copy of the gestational carrier agreement must be  
29 lodged with the clerk of the court.

30  
31 (4) Respondent must use *Response to Petition to Determine Parental*  
32 *Relationship (Gestational Carrier Agreement) (form SUR-120) if respondent*  
33 *wants to take action in response to *Petition to Determine Parental**  
34 *Relationship (Gestational Carrier Agreement) (form SUR-100).*

35  
36 **(e) Issuance of judgment**

37  
38 (1) In all assisted reproduction parentage proceedings, a judgment:

39  
40 (A) Must be issued on *Judgment (Uniform Parentage—Custody and*  
41 *Support) (form FL-250); and*

1 (B) Need not reference that the case involves a gestational carrier  
2 agreement.

3  
4 (2) The court must mail *Notice of Entry of Judgment* (form FL-190) to the parties  
5 or their attorneys, if the parties are represented, as specified in the Clerk’s  
6 Certificate of Mailing.

7  
8 **(f) Confidentiality in all actions to determine a parental relationship involving an**  
9 **assisted reproduction agreement**

10  
11 Other than the final judgment, the court clerk must maintain the following in a  
12 confidential court file subject only to access under Family Code section 7643.5:

13  
14 (1) *Confidential Cover Sheet—Parentage Action Involving Assisted*  
15 *Reproduction* (form FL-211);

16  
17 (2) *Petition to Determine Parental Relationship (Gestational Carrier Agreement)*  
18 (form SUR-100);

19  
20 (3) *Joint Petition to Determine Parental Relationship (Gestational Carrier*  
21 *Agreement)* (form SUR-100(J)); and

22  
23 (4) All subsequent papers filed in the case.  
24

25  
26 **Rule 5.96. Place and manner of filing**

27  
28 **(a) Papers filed in clerk’s office**

29  
30 All papers relating to a request for order proceeding must be filed in the clerk’s  
31 office, unless otherwise provided by local rule or court order.  
32

33 **(b)–(c)** \* \* \*

34  
35 **(d) Requirements for and maintenance of lodged materials**

36  
37 (1) Materials lodged physically with the court clerk must be accompanied by a  
38 self-addressed envelope with sufficient postage for mailing the material if the  
39 party requests that the clerk return the materials lodged physically. If a self-  
40 addressed, stamped envelope does not accompany materials lodged  
41 physically, the clerk may destroy the lodged materials after determination of  
42 the matter and after notice to the party who lodged the materials.  
43



- 1 (2) Materials lodged electronically with the court clerk must clearly specify an  
2 email address to which the notice of deletion may be sent. After  
3 determination of the matter, if the lodged materials are in electronic form, the  
4 clerk may delete them after sending electronic notice to the party who lodged  
5 the materials electronically.



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.:	<b>FOR COURT USE ONLY</b>  <b>Draft</b>  <b>Not Approved by the Judicial Council</b>  <b>v 2/24/25</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER: RESPONDENT:		
<b>CONFIDENTIAL COVER SHEET— PARENTAGE ACTION INVOLVING ASSISTED REPRODUCTION</b>		CASE NUMBER:

**TO THE COURT CLERK:** The papers filed with this *Confidential Cover Sheet* and all subsequent papers filed in the case—other than the final judgment—must be maintained in a confidential court file.

INSTRUCTIONS
<p>Petitioner must</p> <ol style="list-style-type: none"> <li><i>not</i> file this form if the parties have a gestational carrier agreement (also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7906 and 7962). For cases involving a gestational carrier agreement, read <i>How to Ask for a Judgment—Gestational Carrier Agreement</i> (form <a href="#">SUR-050-INFO</a>)</li> <li>complete items 1 and 2 to identify the matter as an action or proceeding to determine a parental relationship involving assisted reproduction under Family Code section 7613 or 7630(f).</li> <li>sign and date the form; and</li> <li>present the completed form as the cover sheet to the initial documents that are filed with the court clerk.</li> </ol>

LIMITATIONS ON INSPECTION AND COPYING OF RECORDS
<p>All papers and records, other than the final judgment, pertaining to the action or proceeding are confidential. They are subject to inspection and copying only by</p> <ol style="list-style-type: none"> <li>the parties to the action or their attorneys;</li> <li>agents acting on a written authorization from the parties to the action;</li> <li>agents acting on a written authorization of the attorneys for the parties (Note: The agent's written authorization must state that the attorney obtained the consent of the party before authorizing the agent to inspect and copy the permanent record);</li> <li>any local child support agency, as defined in Family Code section 17000(h), for purposes of establishing parentage and enforcing child support orders; and</li> <li>all others by court order for good cause shown.</li> </ol>

- This action or proceeding to determine a parental relationship involves assisted reproduction under Family Code section [7613](#) or [7630\(f\)](#).
- The following documents are being filed with this cover sheet (*specify*):
  - Petition to Determine Parental Relationship* (form FL-200)
  - Other (*specify below*):

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶  
\_\_\_\_\_  
(SIGNATURE OF PETITIONER OR PETITIONER'S ATTORNEY)



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

**5. PARENTAL RELATIONSHIP**

a. Name or names (specify):

is the parent (or are the parents) of:

Child's name

Date of birth

a child (or children) not yet born

Number of unborn children, if known:

Expected date of delivery:

Expected place of birth:

b. Name or names (specify):

is not the parent (or are not the parents) of the child or children:  listed in 5a.  not yet born.

**6.  CHILD CUSTODY ORDERS**

Child custody and visitation are as specified in one or more of the attached forms:

- a.  *Child Custody and Visitation (Parenting Time) Order Attachment* (form FL-341)
- b.  *Stipulation and Order for Custody and/or Visitation (Parenting Time)* (form FL-355)
- c.  Other (specify):

**7.  CHILD SUPPORT ORDERS**

a.  Child support is as stated in one or more of the attached forms:

- (1)  *Child Support Information and Order Attachment* (form FL-342)
- (2)  *Stipulation to Establish or Modify Child Support and Order* (form FL-350)
- (3)  Other (specify):

b. All parties must complete and file with the court *Child Support Case Registry Form* (form FL-191) within 10 days of the date of this judgment. Thereafter, the parents must notify the court of any change in the information submitted, within 10 days of the change.

c. The form *Notice of Rights and Responsibilities Regarding Child Support* (form FL-192) is attached.

**8.  THE COURT FURTHER ORDERS**

a.  The names of the children are changed to (specify):

b.  The birth certificates must be amended to conform to this court order by

- (1)  adding the following parent's name:
- (2)  changing the names of the children, as specified in item 8a.

c.  Attorney's fees and costs are as stated in the attached *Attorney's Fees and Costs Order Attachment* (form FL-346).

d.  Reasonable expenses of pregnancy and birth are as stated in the attachment.

e.  Other (specify):

f.  Continued on Attachment 8f.

9. Number of pages attached: \_\_\_\_\_

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

**SUR-050-INFO How to Ask for a Judgment—Gestational Carrier Agreement**

This form lists the documents that a court may require to request a judgment determining a parental relationship based on a gestational carrier agreement (also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7606 and 7962). For information that includes how to start your case, visit the online Self-Help Guide to the California Courts at [courts.ca.gov/tbd](https://courts.ca.gov/tbd).

The forms that you need to finalize the case will depend on how the case was started, whether the other party filed a response, and if the parties have an agreement about the judgment.

You may use this form to understand what forms you need to:

- ❗ ① Request a judgment by filing *Joint Petition to Determine Parental Relationship* (Gestational Carrier Agreement) (form SUR-100(J)); or
- ❗ ② Finalize your case after *Summons* (form SUR-110) and *Petition to Determine Parental Relationship* (Gestational Carrier Agreement) (form SUR-100) have been filed and served, a copy of the gestational carrier agreement has been lodged, the declarations mandated by statute have been filed, and the other party or parties:
  - a. Did not file a response after 30 days of being served with the petition;
  - b. Did not file a response after 30 days of being served with the petition because you have a written agreement with the other party or parties establishing a parental relationship;
  - c. Filed a response or made an appearance, and there is a written agreement establishing a parental relationship; or
  - d. Filed a response and there is no agreement establishing a parental relationship.



- ❗ For each type of proceeding ① through ⑤, you must provide the court clerk envelopes of sufficient size and with sufficient postage to mail the *Judgment* and *Notice of Entry of Judgment* to the parties. One stamped envelope you provide is for the court clerk to mail the documents to the intended parents (unless they are represented by two separate attorneys) and another envelope is for the court clerk to mail the documents to the gestational carrier and, if applicable, the gestational carrier's spouse or domestic partner (unless they are represented by two separate attorneys).

**① JOINT PETITION PROCESS**

- a.  *Joint Petition to Determine Parental Relationship* (Gestational Carrier Agreement) (form [SUR-100\(J\)](#)).
- b.  Lodge with the court clerk a true and correct copy of the gestational carrier agreement. If applicable, lodge the English translation of the agreement (*Notice of Lodging* (form [SUR-113](#)) may be used for this purpose).
- c.  File the following declarations with the clerk of the court, as required by Family Code section 7962:
  - (1) Declaration of each intended parent (individually or jointly).
  - (2) Declaration of the gestational carrier.
  - (3) Declaration of the gestational carrier's spouse or domestic partner, if applicable.
  - (4) Declaration of the attorney for the intended parent or parents.
  - (5) Declaration of the attorney for the gestational carrier and the gestational carrier's spouse or domestic partner.
  - (6) Declaration of the fertility physician.
- d.  *Judgment* (form [FL-250](#)), any attachments, and copies.
- e.  *Notice of Entry of Judgment* (form [FL-190](#)) and copies.

**2** DEFAULT PROCESS

(No *Response to Petition* was filed and served. The parties **do not** have a written agreement about the legal parental relationship. The gestational carrier agreement was lodged with the clerk of the court and the mandated declarations listed in item ①c were filed with the clerk of the court.)

- a.  *Proof of Service of Summons* (form [SUR-115](#)) or other proof of service.
- b.  *Request to Enter Default* (form [SUR-165](#)).
- c.  *Declaration for Default or Uncontested Judgment* (form [SUR-230](#)).
- d.  *Judgment* (form [FL-250](#)), any attachments, and copies.
- e.  *Notice of Entry of Judgment* (form [FL-190](#)) and copies.

**3** DEFAULT WITH AGREEMENT PROCESS

(No *Response to Petition* was filed and served. The parties have a written agreement about the legal parental relationship. The gestational carrier agreement was lodged with the clerk of the court, and the mandated declarations listed in item ①c were filed with the clerk of the court.)

- a.  *Proof of Service of Summons* (form [SUR-115](#)) or other proof of service.
- b.  *Request to Enter Default* (form [SUR-165](#)).
- c.  *Declaration for Default or Uncontested Judgment* (form [SUR-230](#))
  - (For members of the U.S. military entering active duty): *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act* (form [SUR-230\(A\)](#)).
  - Attach written agreement signed by the parties and their attorneys, if applicable. Respondent's signature must be notarized.
- d.  *Judgment* (form [FL-250](#)), any attachments, and copies.
- e.  *Notice of Entry of Judgment* (form [FL-190](#)) and copies.

**4** UNCONTESTED PROCESS

(*Response to Petition* was filed and served (or respondent made an appearance). The parties have a written agreement about the legal parental relationship. The gestational carrier agreement was lodged with the clerk of the court, and the mandated declarations listed in item ①c were filed with the clerk of the court.)

- a.  *Proof of Service of Summons* (form [SUR-115](#)) or other proof of service.
- b.  *Declaration for Default or Uncontested Judgment* (form [SUR-165](#)).
  - Attach written agreement signed by the parties and their attorneys, if applicable.
- c.  *Judgment* (form [FL-250](#)), any attachments, and copies.
- d.  *Notice of Entry of Judgment* (form [FL-190](#)) and copies.



**5 CONTESTED CASE**

(*Response to Petition* was filed and served. Parties do not agree about the parental relationship.)

If there is no agreement about who is (or is not) a child's parent, the case is contested. The parties will need to ask the court to make a decision about the legal relationship between the parties and the child or children.

**a. Genetic testing.**

In cases involving a gestational carrier agreement, the court can order genetic testing to resolve a dispute about whether the child was conceived through assisted reproduction (Family Code section 7551(b)(1)(B)). To ask the court to order genetic testing, you can:

- (1)  File *Request for Order* (form [FL-300](#)) and [ask the court](#) to order the testing allowed by law.
- (2)  If you and the other person agree to the limited genetic testing, write up your agreement and submit it to the judge to make a court order.

**b. Ask for a trial.**

If genetic testing does not answer who are the child's legal parents, then you can ask for a trial. Each court has its own process for how to set a case for trial. When you get a trial date, the court may set other court dates and give you tasks to complete, like file a trial brief.

Talk to your [Self-Help Center](#) or a [lawyer](#) to learn more about how to ask for and prepare for trial.

**c. Judgment.**

After genetic testing or after a trial, you will need to complete the final paperwork (a judgment) and submit it to the judge to sign. A party must prepare *Judgment* (form [FL-250](#)) and *Notice of Entry of Judgment* (form [FL-190](#)) and submit them as described on page 1 of this form.

**6 Will there be a hearing?**

- It is possible that parties may finalize their case and get a judgment without ever going court.
- Even if the parties file a joint petition, the judge may, but is not required to, set a hearing for the parties to answer questions before a decision is made about the judgment.
- The parties may also decide to request a hearing if they cannot agree on an important issue in the case.

To learn about how to ask for a hearing, read *Information Sheet for Request for Order* (form [FL-300-INFO](#)).

**7 What if I have questions or need help?**

This form provides only basic information about assisted reproduction parentage agreements. If you have questions or need help:

- Find a lawyer who specializes in assisted reproduction technology law and fertility law through the Academy of California Adoption-ART Lawyers at [www.acal.org/member-directory/](http://www.acal.org/member-directory/).
- Find a lawyer through your local bar association, the State Bar of California at [www.calbar.ca.gov](http://www.calbar.ca.gov), or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to [www.lawhelpca.org](http://www.lawhelpca.org).
- Contact your court's Family Law Facilitator or Self-Help Center for information and assistance, and referrals to local legal services providers. Go to [courts.ca.gov/selfhelp-courtresources.htm](http://courts.ca.gov/selfhelp-courtresources.htm).
- Find step-by-step instructions about how to start and finalize a parentage case on the California Courts Self-Help Guide at [selfhelp.courts.ca.gov/parentage](http://selfhelp.courts.ca.gov/parentage).



PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b>  <b>Not Approved by the Judicial Council</b>  <b>v. 2/24/2025</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER:  RESPONDENT:	
<b>PETITION TO DETERMINE PARENTAL RELATIONSHIP (Gestational Carrier Agreement)</b>	CASE NUMBER:

Use this petition form to ask the court to determine a parental relationship when there is a written gestational carrier agreement (also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7606 and 7962). Read *How to Ask for a Judgment—Gestational Carrier Agreement* (form [SUR-050-INFO](#)) for more information about this and other forms you need to complete this process. For more information, go to [courts.ca.gov/TBD](https://courts.ca.gov/TBD).

**Note:** You may use *Joint Petition to Determine Parental Relationship (Gestational Carrier Agreement)* (form [SUR-100](#)), instead of this form, if all parties to the gestational carrier agreement agree that:

- The gestational carrier agreement meets the requirements of Family Code section 7962;
- The intended parents named in the agreement should be determined to be the parents of the child or children; and
- They are willing to sign the same petition.

**TO THE COURT CLERK:** The papers filed with this petition and all subsequent papers filed in the case—other than the final judgment—must be maintained in a confidential court file.

**LIMITATIONS ON INSPECTION AND COPYING OF RECORDS**

All papers and records, other than the final judgment, pertaining to the action or proceeding are confidential. They are subject to inspection and copying only by

- a. the parties to the action or their attorneys;
- b. agents acting on a written authorization from the parties to the action;
- c. agents acting on a written authorization of the attorneys for the parties (Note: The agent's written authorization must state that the attorney obtained the consent of the party before authorizing the agent to inspect and copy the permanent record);
- d. any local child support agency, as defined in Family Code section 17000(h), for purposes of determining parentage and enforcing child support orders; and
- e. all others by court order for good cause shown.

1. Petitioner and respondent executed a gestational carrier agreement, as follows:

- a. Petitioner is or petitioners are:  the intended parent or parents.  
 the gestational carrier and/or the gestational carrier's spouse or domestic partner.
- b. Respondent is or respondents are:  the intended parent or parents.  
 the gestational carrier and/or the gestational carrier's spouse or domestic partner.

The gestational carrier agreement must be lodged with the court. You may use *Notice of Lodging* (form [SUR-113](#)) for this purpose.

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

2. **Petitioner claims or petitioners claim** (select a, b, or c.)

- a.  The gestational carrier agreement meets all of the following requirements of Family Code section 7962, and it should be enforced:
  - (1) The agreement includes the date or dates of execution.
  - (2) The agreement includes the identity of the person or persons from whom gametes originated, or if donated gametes were used, specifies whether the donated gamete or gametes were eggs, sperm, embryos, or all three.
  - (3) The agreement includes the identity of the intended parent or parents.
  - (4) The agreement includes disclosure regarding how the intended parents will cover the medical expenses of the gestational carrier and of the newborn or newborns. The disclosure includes a review of health-care policy provisions related to coverage for surrogate pregnancy, including any possible liability of the gestational carrier, third-party liability liens or other insurance coverage, and any notice requirements that could affect coverage or liability of the gestational carrier.
  - (5) Before executing the written agreement, both parties were represented by separate independent licensed attorneys of their choosing.
  - (6) All party signatures on the agreement have been notarized or witnessed by an equivalent method of affirmation.
  - (7) The agreement was fully executed before the parties underwent the embryo transfer procedure or commenced injectable medication in preparation for an embryo transfer for assisted reproduction purposes.
  
- b.  The gestational carrier agreement meets all the requirements of Family Code section 7962, but it should *not* be enforced. (If you checked item 2b, you must attach a declaration that specifies why the court should not enforce the terms of the gestational carrier agreement. Attached Declaration (form [MC-031](#)) may be used for this purpose.)
  
- c.  The gestational carrier agreement does not meet all of the requirements of Family Code section 7962, but it should still be enforced. (If you checked item 2c, you must (1) attach a declaration to identify the specific statutory requirement or requirements that the gestational carrier fails to meet (Attached Declaration (form [MC-031](#)) may be used for this purpose), and (2) submit sufficient proof to show that the gestational carrier agreement establishes the parental relationship of the intended parents and rebuts the presumption of a parental relationship of the gestational carrier even though the requirement is not met.)

3. **The child or children** conceived under the terms of the gestational carrier agreement:

- a.  has not (or have not) yet been born  
 Number of unborn children, if known:  
 Expected date of delivery:  
 Expected place of birth:

- b.  has (or have) been born

<u>Full Name</u>	<u>Date of Birth</u>	<u>Place of Birth</u>
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4. **Jurisdiction**

The court has jurisdiction under Family Code section 7620(b) because (check all that apply):

- a.  one or more of the parties to the gestational carrier agreement lives in this state. The parties are (specify each name):
  
- b.  one or more of the parties lived in this state when the gestational carrier agreement was executed. The parties are (specify each name):
  
- c.  the medical procedures leading to conception, including in vitro fertilization or embryo transfer, or both, were carried out in this state.
  
- d.  the child or children (select one)  was (or were) born  is (or are) anticipated to be born in this state.

PETITIONER: RESPONDENT:	CASE NUMBER:
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**5. Venue**

The action is brought in this county because *(you must check one or more to file in this county; check all that apply)*:

- a.  the child (or children) *(select one)*  was (or were) born  is (or are) anticipated to be born in this county.
- b.  the intended parent or parents live in this county.
- c.  the gestational carrier lives in this county.
- d.  the gestational carrier agreement was executed in this county.
- e.  the medical procedures under the gestational carrier agreement were performed in this county.
- f.  a parent is deceased and proceedings for administration of the estate have been or could be started in this county *(specify name of parent)*:

**6. Each petitioner asks that the court make the determinations indicated below**

- a.  Petitioner is or petitioners are
  - the legal parent or parents of the child or children listed in item 3.
  - not** the legal parent or parents of the child or children listed in item 3.
- b.  Respondent is or respondents are
  - the legal parent or parents of the child or children listed in item 3.
  - not** the legal parent or parents of the child or children listed in item 3.
- c.  Other *(specify)*:

Note: If the other court orders you request are about child custody and visitation (parenting time), you must fill out and attach *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105/GC-120](#)).

**7.  Petitioner's or petitioners' primary language is not English**

- a. The primary language of each petitioner is *(specify)*:
- b. Did petitioner or petitioners receive the assistance of a translator or interpreter, or both, in their primary language with the petition?  Yes  No
- c. Do all petitioners fully understand the documents written in English that were signed and are being filed with the court in support of this petition?  Yes  No

8. I have read the restraining order on page 2 of *Summons* (form [SUR-110](#)) and I understand that it applies to me when this Petition is filed and that it applies to each respondent when it is served on them.

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)

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

 \_\_\_\_\_  
 (SIGNATURE OF PETITIONER)



INTENDED PARENT OR PARENTS:  GESTATIONAL CARRIER: GESTATIONAL CARRIER'S SPOUSE OR DOMESTIC PARTNER:	CASE NUMBER:
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**We jointly petition for an uncontested judgment determining parental relationship** and declare that all the following conditions exist on the date that this joint petition is filed with the court:

**1. The child or children** conceived under the terms of a gestational carrier agreement:

- a.  has not (or have not) yet been born  
 Number of unborn children, if known:  
 Expected date of delivery:  
 Expected place of birth:

- b.  has (or have) been born

Full Name

Date of Birth

Place of Birth

**2. Gestational carrier agreement.** Petitioners jointly claim:

- a.  The gestational carrier agreement meets all of the following requirements of Family Code section 7962, and it should be enforced:
- (1) The agreement includes the date or dates of execution.
  - (2) The agreement includes the identity of person or persons from whom gametes originated, or if donated gametes were used, specifies whether the donated gamete or gametes were eggs, sperm, embryos, or all three.
  - (3) The agreement includes the identity of the intended parent or parents.
  - (4) The agreement includes a disclosure regarding how the intended parents will cover the medical expenses of the gestational carrier and of the newborn or newborns. The disclosure includes a review of health-care policy provisions related to coverage for surrogate pregnancy, including any possible liability of the gestational carrier, third-party liability liens or other insurance coverage, and any notice requirements that could affect coverage or liability of the gestational carrier.
  - (5) Before executing the written agreement, both parties were represented by separate independent licensed attorneys of their choosing.
  - (6) All party signatures on the agreement have been notarized or witnessed by an equivalent method of affirmation.
  - (7) The agreement was fully executed before the parties underwent the embryo transfer procedure or commenced injectable medication in preparation for an embryo transfer for assisted reproduction purposes.
- b.  The gestational carrier agreement does not meet all of the requirements of Family Code section 7962, but it should still be enforced.  
*(If you checked item 2b, you must (1) attach a declaration to identify the specific statutory requirement or requirements that the gestational carrier fails to meet (Attached Declaration (form [MC-031](#)) may be used for this purpose), and (2) submit sufficient proof to show that the gestational carrier agreement establishes the parental relationship of the intended parents and rebuts the presumption of a parental relationship of the gestational carrier even though the requirement is not met.)*
- c. The gestational carrier agreement is being lodged with the court in support of this joint petition. *(Note: Notice of Lodging (form [SUR-113](#)) may be used for this purpose.)*

**3. Request to determine parental relationship**

- a. The intended parent wants (or the intended parents want) to be determined to be the parent (or parents) of the child or children listed in item 1.
- b. The gestational carrier wants (and their spouse or domestic partner, if applicable, wants to be determined *not to be* a parent of the child or children listed in item 1.

INTENDED PARENT OR PARENTS:  GESTATIONAL CARRIER: GESTATIONAL CARRIER'S SPOUSE OR DOMESTIC PARTNER:	CASE NUMBER:
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#### 4. Jurisdiction

The court has jurisdiction under Family Code section 7620(b) because (*check all that apply*):

- a.  one or more of the parties to the gestational carrier agreement lives in this state. The parties are (*specify each name*):
- b.  one or more of the parties lived in this state when the gestational carrier agreement was executed. The parties are (*specify each name*):
- c.  the medical procedures leading to conception, including in vitro fertilization or embryo transfer, or both, were carried out in this state.
- d.  the child or children (*select one*)  was (or were) born  is (or are) anticipated to be born in this state.

#### 5. Venue

The action is brought in this county because (*you must check one or more to file in this county; check all that apply*):

- a.  the child (or children) (*select one*)  was (or were) born  is (or are) anticipated to be born in this county.
- b.  the intended parent or parents live in this county.
- c.  the gestational carrier lives in this county.
- d.  the gestational carrier agreement was executed in this county.
- e.  the medical procedures under the gestational carrier agreement were performed in this county.
- f.  a parent is deceased and proceedings for administration of the estate have been or could be started in this county.  
(*Specify name of parent*):

#### 6. Judgment of parental relationship

- a. We ask the court to approve the proposed *Judgment* (form FL-250) that is attached to this joint petition, and in which:
- (1) Each intended parent is identified as the (*specify*):  petitioner or petitioners.  respondent or respondents.
  - (2) The gestational carrier  and spouse or domestic partner  is (or are) identified as the (*specify*):  
 petitioner or petitioners.  respondent or respondents.
- b. With this joint petition, we are also submitting the original and copies of the proposed *Judgment* (form FL-250) and *Notice of Entry of Judgment* (form FL-190) for the court to sign, along with postage prepaid (stamped) envelopes. (*Note: Unless the parties are represented by two separate attorneys, one stamped envelope must be submitted to the court clerk for mailing to the intended parents and one stamped envelope must be submitted for the court clerk to mail to the gestational carrier and, if applicable, the gestational carrier's spouse or domestic partner.*)
- c. We will keep the court and each other informed of any change of mailing address or phone number occurring before the court enters a judgment in the case using the *Notice of Change of Address or Other Contact Information* (form [MC-040](#)).

#### 7. Waiver of Rights

- a. Each of us, individually, understands all of the following rights:
- (1) *Legal representation.* I have the right to be represented by a lawyer of my own choice at my own expense. If I cannot afford a lawyer, I can contact the lawyer referral association of the local bar association or the family law facilitator for assistance.
  - (2) *Trial and appeal.* I have a right to have a judge decide if I am the parent of the children named in this action. I also understand that I have the right to a notice of trial, a statement of decision, a motion for a new trial, and the right to appeal.
  - (3) *Confront and cross-examine witnesses.* In a trial, I have the right to confront and cross-examine the witnesses against me and to present evidence and witnesses in my own defense.
  - (4) *Genetic testing.* Under Family Code section 7551(b)(1)(B), genetic testing may be ordered to resolve a dispute about whether the child was conceived through assisted reproduction.
- b. Each intended parent further understands all of the following obligations:
- (1) *Obligations.* If I admit that I am the parent of the children in this action then those children will be my children for legal purposes. I will also have the duty to contribute to the support of the children named in this action; this duty of support will continue for each child until the obligation is terminated by law.
  - (2) *Criminal nonsupport.* If I willfully fail to support the child or children, criminal proceedings may be initiated against me.
- c. Each party agrees to all of the following:
- (1) I have read and understand *Judgment* (form FL-250) and the waiver of rights.

INTENDED PARENT OR PARENTS:  GESTATIONAL CARRIER: GESTATIONAL CARRIER'S SPOUSE OR DOMESTIC PARTNER:	CASE NUMBER:
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- (2) If I am represented by an attorney, my attorney has read and explained to me the contents of any and all stipulations, recitals, and waivers, and I acknowledge that I understand them.
- (3) I give up the rights that apply to me (except the right to an attorney, if I have an attorney) and freely agree that a judgment may be entered in accordance with the parties' agreements.
- (4) That none of the waivers or agreements included in the judgment will apply unless the court approves the judgment or incorporates the stipulation for judgment determining parental rights.

**8. Agreements and requests about party appearances and the proceeding** *(choose all that apply):*

- a.  By filing this form, I make a general appearance in this case.
- b.  This cause may be decided as an uncontested matter without notice.
- c.  If I appeared in court and were sworn, I would testify to the truth of the facts in this joint petition.
- d.  I waive the right to notice of trial, a statement of decision, a motion for new trial, and the right to appeal.
- e.  I agree that this joint petition may be decided by a commissioner sitting as a temporary judge who may determine whether to grant this request or require my appearance.
- f.  None of these agreements or waivers will apply unless the court approves *Judgment* (form FL-150).
- g.  I request that proof will be by this declaration and that I will not appear before the court unless I am ordered by the court to appear.
- h.  I request that the court issue a judgment forthwith and without further evidence under Family Code section 7962(f)(2).

9.  **Other** *(specify below):*  [Attachment 9.](#)

- 10.  English is not the primary language of one or more parties.
  - a. Specify the name and primary language of each party who was assisted by a translator, interpreter, or both.
  - b.  Each party whose primary language is not English was assisted by a translator or interpreter, or both, in their primary language with this joint petition and *Judgment* (form FL-250) and all attachments, and fully understands the documents written in English that were signed and are being filed and submitted with the court in support of this joint petition.

11. Number of pages attached: \_\_\_\_\_

12. 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: \_\_\_\_\_  
  
 \_\_\_\_\_  
 (SIGNATURE OF INTENDED PARENT OR PARENTS)

Date: \_\_\_\_\_  
  
 \_\_\_\_\_  
 (SIGNATURE OF INTENDED PARENT OR PARENTS)

Date: \_\_\_\_\_  
  
 \_\_\_\_\_  
 (SIGNATURE OF GESTATIONAL CARRIER)

Date: \_\_\_\_\_  
  
 \_\_\_\_\_  
 (SIGNATURE OF GESTATIONAL CARRIER'S SPOUSE OR DOMESTIC PARTNER)

**INTERPRETER'S DECLARATION**

I certify under penalty of perjury under the laws of the State of California that

- 1. I have, to the best of my ability, interpreted or translated this *Joint Petition* and *Judgment* (form FL-250) for each person listed in item 10a in that person's primary language.
- 2. Each person listed in item 10a stated to me that they understood the contents of this *Joint Petition* and *Judgment* (form FL-250) before signing them.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

  
 \_\_\_\_\_  
 (SIGNATURE OF INTERPRETER)

**SUMMONS—Gestational Carrier Agreement**

**CITACIÓN—Acuerdo de portadora gestacional**

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

NOTICE TO RESPONDENT (Name):

AVISO AL DEMANDADO (Nombre):

**DRAFT**

**NOT APPROVED BY THE  
JUDICIAL COUNCIL**

**v. 2/24/2025**

You have been sued. Read the information below and on the next page.  
*Lo han demandado. Lea la información a continuación y en la página siguiente.*

Petitioner's name:

El nombre del demandante:

CASE NUMBER: (Número de caso)

A "gestational carrier agreement" is also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7606 and 7962.	<i>Un «acuerdo de portadora gestacional» también se llama «un acuerdo de reproducción asistida para portadoras gestacionales» en las secciones 7606 y 7962 del Código de Familia.</i>
You have <b>30 calendar days</b> after this <i>Summons</i> and <i>Petition</i> (form SUR-100) are served on you to file a <i>Response</i> (form <a href="#">SUR-120</a> ) at the court and have a copy served on the petitioner. A letter, phone call, or court appearance will not protect you.	<i>Tiene 30 días calendario después de haber recibido la entrega legal de esta Citación y Petición (formulario SUR-100) para presentar una Respuesta (formulario <a href="#">SUR-120</a>) ante la corte y efectuar la entrega legal de una copia al demandante. Una carta o llamada telefónica o una audiencia de la corte no basta para protegerlo.</i>
If you do not file your <i>Response</i> on time, the court may make orders affecting your right to custody of your children. You may also be ordered to pay child support and attorney fees and costs.	<i>Si no presenta su Respuesta a tiempo, la corte puede hacer órdenes que afecten la custodia de sus hijos. La corte también le puede ordenar que pague manutención de los hijos, y honorarios y costos legales.</i>
For legal advice, contact a lawyer immediately. Get help finding a lawyer at the Self-Help Guide to the California Courts ( <a href="https://courts.ca.gov/selfhelp">courts.ca.gov/selfhelp</a> ), at the California Legal Services website ( <a href="http://www.lawhelpca.org">www.lawhelpca.org</a> ), or by contacting your local bar association.	<i>Para asesoramiento legal, póngase en contacto de inmediato con un abogado. Puede obtener información para encontrar un abogado en la Guía de Ayuda de las Cortes de California (<a href="https://sucorte.ca.gov">sucorte.ca.gov</a>), en el sitio web de los Servicios Legales de California (<a href="http://www.lawhelpca.org/es">www.lawhelpca.org/es</a>), o poniéndose en contacto con el colegio de abogados de su condado.</i>
<b>NOTICE: The restraining order on page 2 remains in effect against each parent until the petition is dismissed, a judgment is entered, or the court makes further orders. This order is enforceable anywhere in California by any law enforcement officer who has received or seen a copy of it.</b>	<b>AVISO: La orden de protección que aparece en la página 2 continuará en vigencia en cuanto a cada parte hasta que se emita un fallo final, se despidan la petición o la corte haga otras órdenes. Cualquier agencia del orden público que haya recibido o visto una copia de esta orden puede hacerla cumplir en cualquier lugar de California.</b>
<b>FEE WAIVER:</b> If you cannot pay the filing fee, ask the clerk for a fee waiver form. The court may order you to pay back all or part of the fees and costs that the court waived for you or the other party.	<b>EXENCIÓN DE CUOTAS:</b> Si no puede pagar la cuota de presentación, pida al secretario un formulario de exención de cuotas. La corte puede ordenar que usted pague, ya sea en parte o por completo, las cuotas y costos de la corte previamente exentos a petición de usted o de la otra parte.

[SEAL]

1. The name and address of the court are: *(El nombre y dirección de la corte son:)*
2. The name, address, and telephone number of petitioner's attorney, or petitioner without an attorney, are: *(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante si no tiene abogado, son:)*

Date (Fecha): \_\_\_\_\_ Clerk, by (Secretario, por) \_\_\_\_\_, Deputy (Asistente)



**STANDARD RESTRAINING ORDER**  
(Gestational Carrier Agreement)

**ORDEN DE RESTRICCIÓN ESTÁNDAR**  
(Acuerdo de Portadora Gestacional)

**Starting immediately, you and every other party are restrained from removing from the state, or applying for a passport for, the minor child or children for whom this action seeks to establish a parent-child relationship or a custody order without the prior written consent of every other party or an order of the court.**

This restraining order takes effect against the petitioner when the petitioner files the petition and against the respondent when the respondent is personally served with the *Summons* and *Petition* OR when the respondent waives and accepts service.

This restraining order remains in effect until the judgment is entered, the petition is dismissed, or the court makes other orders.

This order is enforceable anywhere in California by any law enforcement officer who has received or seen a copy of it.

***En forma inmediata, usted y cada otra parte tienen prohibido llevarse del estado a los hijos menores para quienes esta acción judicial procura establecer una relación entre hijos y padres o una orden de custodia, ni pueden solicitar un pasaporte para los mismos, sin el consentimiento previo por escrito de cada otra parte o sin una orden de la corte.***

*Esta orden de restricción entrará en vigencia para el demandante una vez presentada la petición, y para el demandado una vez que éste reciba la entrega legal en persona de la Citación y Petición, o una vez que renuncie a su derecho a la entrega legal y acepte la entrega de los dos documentos legales.*

*Esta orden de restricción continuará en vigencia hasta que se emita un fallo final, se despida la petición o la corte haga otras órdenes.*

*Cualquier agencia del orden público que haya recibido o visto una copia de esta orden puede hacerla cumplir en cualquier lugar de California.*

**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](http://www.coveredca.com). Or call Covered California at 1-800-300-1506.

**AVISO—ACCESO A SEGURO DE SALUD MÁS**

**ECONÓMICO** ¿Necesita seguro de salud a un costo asequible, ya sea para usted o alguien en su hogar? Si es así, puede solicitar cobertura con Covered California. Covered California puede ayudar a reducir lo que tiene que pagar por seguro de salud asequible y de alta calidad. Para obtener más información, visite [www.coveredca.com](http://www.coveredca.com). O llame a Covered California al 1-800-300-0213.





PETITIONER:  RESPONDENT:	CASE NUMBER:
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4. Address where each respondent was served:

Name and address:  
Name and address:

5. I served each respondent by the following means (check the appropriate boxes):

a.  **Personal service** (Code Civ. Proc., § 415.10). I personally delivered the copies on  
 Name: (date and time):  
 Name: (date and time):

b.  **Substituted service.** On (date and time): I left the copies with or in the presence of  
 (name): who is (title or relationship to respondent):  
 (name): who is (title or relationship to respondent):

(1)  **(Business)** a person at least 18 years of age who was apparently in charge at the office or usual place of business of each respondent. I informed the person of the general nature of the papers.

(2)  **(Home)** a competent member of the household (at least 18 years of age) at the home of each respondent. I informed the person of the general nature of the papers.

I thereafter mailed additional copies (by first class, postage prepaid) to each respondent at the place where the copies were left (Code Civ. Proc., § 415.20b) on (date):

A **declaration of diligence** is attached, stating the actions taken to first attempt personal service.

c.  **Mail and acknowledgment service.** I mailed the copies to each respondent, addressed as shown in item 2, by first-class mail, postage prepaid, on (date): from (city):

(1)  with two copies of the *Notice and Acknowledgment of Receipt* (form [SUR-117](#)) and a postage-paid return envelope addressed to me. (Code Civ. Proc., § 415.30.)

(2)  to an address outside California (by registered or certified mail with return receipt requested). **(Attach signed return receipt or other evidence of actual delivery to the respondent.)** (Code Civ. Proc., §§ 415.40, 417.20.)

6. **Person who served papers**

Name:  
Address:

Telephone number:

This person is

a.  exempt from registration under Business and Professions Code section 22350(b).

b.  not a registered California process server.

c.  a registered California process server:  an employee.  an independent contractor.

(1) Registration no.:

(2) County:

(3) **The fee** for service was (specify): \$

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

—or—

8.  **I am a California sheriff, marshal, or constable**, and I certify that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(NAME OF PERSON WHO SERVED PAPERS)

\_\_\_\_\_  
(SIGNATURE OF PERSON WHO SERVED PAPERS)



PETITIONER:  RESPONDENT:	CASE NUMBER:
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5.  I agree that I also received the following  blank forms:  
 forms prepared by petitioner's attorney to be reviewed and signed:  
 a.  *Response to Petition to Determine Parental Relationship (Gestational Carrier Agreement) (form SUR-120)*  
 b.  *Other (specify):*

6. Recipient signed this acknowledgment on *(specify date)*:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PERSON ACKNOWLEDGING RECEIPT)



\_\_\_\_\_  
(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT)

7. Recipient signed this acknowledgment on *(specify date)*:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PERSON ACKNOWLEDGING RECEIPT)



\_\_\_\_\_  
(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT)

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>          <b>DRAFT</b>  <b>Not Approved by the Judicial Council</b>  <b>v. 2/24/2025</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER:  RESPONDENT:	
<b>RESPONSE TO PETITION TO DETERMINE PARENTAL RELATIONSHIP (Gestational Carrier Agreement)</b>	CASE NUMBER:

Use this form to respond to *Petition to Determine Parental Relationship (Gestational Carrier Agreement)* (form SUR-100) when there is a written gestational carrier agreement (also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7606 and 7962). For more information, go to [courts.ca.gov/URL Placeholder](https://courts.ca.gov/URL Placeholder).

1. **The respondent (or each respondent)** (select a or b):
  - a.  agrees with all claims and requests in the petition.  
*(If you checked 1a, skip to item 7 and check the box, if it applies. Then sign and date this form on page 3.)*
  - b.  disagrees with one or more claims in the petition.  
*(If you checked 1b, indicate the items you agree and disagree with below. Follow the instructions to provide more information on the items you disagree with.)*
  
2. **Claims about the gestational carrier agreement**
  - a.  I agree with all the claims in item 2 of the petition.
  - b.  I disagree with some or all of the claims in item 2 of the petition and make the following claims (select (1), (2), or (3)):
    - (1)  The gestational carrier agreement meets all of the requirements of Family Code section 7962, and it should be enforced.
    - (2)  The gestational carrier agreement meets all of the requirements of Family Code section 7962, but it should *not* be enforced.  
*(If you checked item 2b(2), you must attach a declaration that specifies why the court should not enforce the terms of the gestational carrier agreement. Attached Declaration (form MC-031) may be used for this purpose.)*
    - (3)  The gestational carrier agreement does not meet all of the requirements of Family Code section 7962, but it should still be enforced.  
*(If you checked item 2b(3), you must (1) attach a declaration to identify the specific statutory requirement or requirements that the gestational carrier fails to meet (Attached Declaration (form MC-031) may be used for this purpose), and (2) submit sufficient proof to show that the gestational carrier agreement establishes the parental relationship of the intended parents and rebuts the presumption of a parental relationship of the gestational carrier even though the requirement is not met.)*
  
3. **The child or children** conceived under the terms of a gestational carrier agreement.
  - a.  I agree with the information in item 3 of the petition.
  - b.  I disagree with some or all of the information in item 3 of the petition and provide the following information:  
 The following child or children who was (or were) conceived based on a gestational carrier agreement:
    - (1)  has not (or have not) yet been born  
 Number of unborn children, if known:  
 Expected date of delivery:  
 Expected place of birth:

PETITIONER: RESPONDENT:	CASE NUMBER:
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3. b. (2)  has (or have) been born  
Full Name Date of Birth Place of Birth

4. **Jurisdiction**

- a.  The court has jurisdiction under Family Code section 7620, as stated in the petition.
- b.  The court does not have jurisdiction under Family Code section 7620 because all of the following apply:
  - (1) the medical procedures leading to conception, including in vitro fertilization or embryo transfer, or both, were not carried out in this state;
  - (2) none of the parties to the gestational carrier agreement lives in this state;
  - (3) none of the parties lived in this state when the gestational carrier agreement was executed; and
  - (4) the child or children (*select one*)  was (or were) not born  is (or are) not anticipated to be born in this state.
- c.  Other (*specify*):

5. **Venue**

- a.  Venue for this case is proper in the county where the petition was filed under Family Code section 7620.
- b.  Venue is not proper in the county where the petition was filed because all of the following apply:
  - (1) the child or children (*select one*)  was (or were) not born  is (or are) not anticipated to be born in this county;
  - (2) the intended parent does not (or the intended parents do not) live in this county;
  - (3) the gestational carrier does not live in this county;
  - (4) the gestational carrier agreement was not executed in this county;
  - (5) the medical procedures under the assisted reproduction agreement were not performed in this county; and
  - (6) no proceedings for administration of the estate of a deceased parent have been or could be started in this county.
- c.  Other (*specify*):

6. **Response to request for court determination regarding parental relationship**

- a.  I agree with the requests in item 6 of the petition.
- b.  I disagree with some or all of the claims in item 6 of the petition, and request that the court make the following determinations:
  - (1)  Petitioner is or petitioners are
    - the legal parent or parents of the child or children listed in item 3b(2).
    - not** the legal parent or parents of the child or children listed in item 3b(2).
  - (2)  Respondent is or respondents are
    - the legal parent or parents of the child or children listed in item 3b(2).
    - not** the legal parent or parents of the child or children listed in item 3b(2).
  - (3)  Other (*specify*):

Note: If the other court orders you request are about child custody and visitation (parenting time), you must fill out and attach *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105/GC-120](#)).



PETITIONER: RESPONDENT:	CASE NUMBER:
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7.  **Respondent's or respondents' primary language is not English**
- a. The primary language of each respondent is *(specify)*:
  - b. Did respondent or respondents receive the assistance of a translator or interpreter, or both, in their primary language with this response?  Yes  No
  - c. Does each respondent fully understand the documents written in English that were signed and are being filed with the court in support of their response to the petition?  Yes  No
8. I have read the restraining order on the back of the *Summons* (form [SUR-110](#)) and I understand that it applies to me.

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

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF RESPONDENT)

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF RESPONDENT)

PARTY WITHOUT ATTORNEY OR 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;"><b>DRAFT</b></p> <p style="text-align: center;"><b>NOT APPROVED BY THE JUDICIAL COUNCIL</b></p> <p style="text-align: center;"><b>v. 2/24/25</b></p>	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER:  RESPONDENT:		
<b>REQUEST TO ENTER DEFAULT (Gestational Carrier Agreement)</b>		CASE NUMBER:

1. **TO THE COURT CLERK:** Please enter the default of the respondent who has failed to respond to the *Petition to Determine Parental Relationship (Gestational Carrier Agreement)* (form SUR-100). A gestational carrier agreement is also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7606 and 7962.

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF [ATTORNEY FOR] PETITIONER)
(TYPE OR PRINT NAME)	▶	(SIGNATURE OF [ATTORNEY FOR] PETITIONER)

2. Declaration

- a.  No mailing is required because service was by publication or posting and the address of the respondent remains unknown.
- b.  A copy of this *Request to Enter Default*, including any attachments and an envelope with sufficient postage, was provided to the court clerk, with the envelope addressed as follows (*address of the respondent's attorney or, if none, the respondent's last known address*):
- c. I understand that *Request to Enter for Default* must be filed for each respondent who has failed to respond to the petition.

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)
(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DECLARANT)

FOR COURT USE ONLY
<input type="checkbox"/> <i>Request to Enter Default</i> mailed to the respondent or the respondent's attorney on (date): .
<input type="checkbox"/> Default entered as requested on (date): .
<input type="checkbox"/> Default <b>not</b> entered. Reason: .
Clerk, by _____, Deputy

PETITIONER:  RESPONDENT:	CASE NUMBER:
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**3. Memorandum of costs**

- a.  Costs and disbursements are waived.
- b. Costs and disbursements are listed as follows:
  - (1)  Clerk’s fees ..... \$
  - (2)  Process server’s fees ..... \$
  - (3)  Other (*specify*): ..... \$
  - ..... \$
  - ..... \$
  - ..... \$
  - TOTAL ..... \$
- c. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief, the foregoing items of cost are correct and have been necessarily incurred in this cause or proceeding.

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

Date: \_\_\_\_\_

\_\_\_\_\_ (TYPE OR PRINT NAME)
\_\_\_\_\_ (SIGNATURE OF DECLARANT)

**4. Declaration of nonmilitary status** (*required for a judgment*)

The respondent is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that the respondent is not in the U.S. military service because (*check all that apply*):

- a.  the search results that I received from [scra.dmdc.osd.mil/](http://scra.dmdc.osd.mil/) say the respondent is not in the U.S. military service.
- b.  I am in regular communication with the respondent and know that they are not in the U.S. military service.
- c.  I recently contacted the respondent, and they told me that they are not in the U.S. military service.
- d.  I know that the respondent was discharged from U.S. military service on or about (*date*):
- e.  the respondent is not eligible to serve in the U.S. military because they are incarcerated (in jail or prison).
- f.  Other (*specify*):

**Note**

- U.S. military status can be checked online at [scra.dmdc.osd.mil/](http://scra.dmdc.osd.mil/).
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [selfhelp.courts.ca.gov/military-defaults](http://selfhelp.courts.ca.gov/military-defaults).

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

Date: \_\_\_\_\_

\_\_\_\_\_ (TYPE OR PRINT NAME)
\_\_\_\_\_ (SIGNATURE OF DECLARANT)

**For 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

PARTY WITHOUT ATTORNEY OR 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;"><b>DRAFT</b></p> <p style="text-align: center;"><b>NOT APPROVED BY THE JUDICIAL COUNCIL</b></p> <p style="text-align: center;"><b>v. 2/24/2025</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER:  RESPONDENT:	
<b>DECLARATION FOR DEFAULT OR UNCONTESTED JUDGMENT (Gestational Carrier Agreement)</b>	CASE NUMBER:

I declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration. Further, I request that proof will be by this declaration and that I will not appear before the court unless I am ordered by the court to appear.

**1. Declaration about appearance by each respondent**

- a.  Respondent did not appear in the case. The default of each respondent was entered or is being requested.
- b.  Respondent (specify name): \_\_\_\_\_ declares (you must choose one):
  - (1)  By filing this form, I make a general appearance.
  - (2)  I have previously made a general appearance.
  - (3)  I am a member of the military services of the United States of America. I have completed and attached to this form *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act* (form SUR-230(A)).
- c.  Respondent (specify name): \_\_\_\_\_ declares (you must choose one):
  - (1)  By filing this form, I make a general appearance.
  - (2)  I have previously made a general appearance.
  - (3)  I am a member of the military services of the United States of America. I have completed and attached to this form *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act* (form SUR-230(A)).

**2. Declarations about the petition, response, and lodging of gestational carrier agreement**

- a.  Each petitioner declares that all the information in *Petition to Determine Parental Relationship* (Gestational Carrier Agreement) (form SUR-100) is true and correct.
- b.  Each respondent declares that all the information in *Response to Petition to Determine Parental Relationship* (Gestational Carrier Agreement) (form SUR-120) is true and correct.
- c.  A copy of the fully executed gestational carrier agreement (also called an "assisted reproduction agreement for gestational carriers" in Family Code sections 7606 and 7962) was lodged with the clerk of the court. In addition, the declarations by Family Code section 7962 were filed with the clerk of the court.

**3. Declarations about the parental relationship**

a. Name or names (specify):

is the parent (or are the parents) of:

Child's name

Date of birth

PETITIONER:  RESPONDENT:	CASE NUMBER:
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3. a.  a child (or children) not yet born. Number of unborn children, if known:  
 Expected date of delivery:  
 Expected place of birth:

b. Name or names (*specify*):

is not the parent (or are not the parents) of the child or children     listed in item 3a.     not yet born.

**4. Declarations and agreements about determination of parental relationship**

Each party:

- a. Declares that the parties have an agreement about the legal parental relationship of the child or children (conceived under the terms of a gestational carrier agreement) that is set forth in the proposed *Judgment* (form FL-250).
- b. Agrees that the legal parental relationship of the child or children should be ordered as set forth in the proposed *Judgment* (form FL-250).
- c. Asks the court to approve the proposed *Judgment* (form FL-250) that is attached to this *Declaration for Default or Uncontested Judgment*.
- d. Declares that the original and copies of the proposed *Judgment* (form FL-250) and *Notice of Entry of Judgment* (form FL-190) are also being submitted for the court to sign, along with the postage prepaid (stamped) envelopes. One stamped envelope is provided for each party in this case.
- e. Agrees to keep the court and each other informed of any change of mailing address or phone number occurring before the court enters a judgment in the case using the *Notice of Change of Address or Other Contact Information* (form [MC-040](#)).

**5. Advisement and waiver of rights as to determination of parental relationship**

a. I understand all of the following rights:

- (1) *Legal representation.* I have the right to be represented by a lawyer of my own choice at my own expense. If I cannot afford a lawyer, I can contact the lawyer referral association of the local bar association or the family law facilitator for assistance.
- (2) *Trial and appeal.* I have a right to have a judge decide if I am the parent of the children named in this action. I also understand that I have the right to a notice of trial, a statement of decision, a motion for a new trial, and the right to appeal.
- (3) *Confront and cross-examine witnesses.* In a trial, I have the right to confront and cross-examine the witnesses against me and to present evidence and witnesses in my own defense.
- (4) *Genetic testing.* Under Family Code section 7551(b)(1)(B), genetic testing may be ordered if there is a dispute about whether the child was conceived through assisted reproduction.

b. Each intended parent further understands all of the following obligations:

- (1) *Obligations.* If I admit that I am the parent of the children in this action then those children will be my children for legal purposes. I will also have the duty to contribute to the support of the children named in this action; this duty of support will continue for each child until the obligation is terminated by law.
- (2) *Criminal nonsupport.* If I willfully fail to support the child or children, criminal proceedings may be initiated against me.

c. Understanding

- (1) I have read and understand the contents of this *Declaration for Default or Uncontested Judgment*, including the advisement and waiver of rights as to a determination of parental relationship.
- (2) If I am represented by an attorney, my attorney has read and explained to me the contents of this *Declaration for Default or Uncontested Judgment* and the proposed *Judgment* (form FL-250) and I acknowledge that I understand them.
- (3) I give up the rights that apply to me (except the right to an attorney, if I have an attorney) and freely agree that the court may enter the proposed *Judgment* (form FL-250).
- (4) I understand that none of the waivers or recitals in this *Declaration for Default or Uncontested Judgment* and *Judgment* (form FL-250) will apply unless the court approves the judgment.

PETITIONER:  RESPONDENT:	CASE NUMBER:
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6. **Agreements about the proceeding and requests** (choose all that apply):
- a.  In this *Declaration for Default or Uncontested Judgment*, I am not seeking any relief not requested in the petition.
  - b.  This cause may be decided as an uncontested matter without notice.
  - c.  I waive the right to notice of trial, a statement of decision, and a motion for new trial.
  - d.  I agree that this matter may be decided by a commissioner sitting as a temporary judge who may determine whether to grant this request or require my appearance.
  - e.  None of these agreements or waivers will apply unless the court approves *Judgment* (form FL-250).
  - f.  I request that the court issue a judgment forthwith and without further evidence under Family Code section 7962(f)(2).

7.  Other (specify):  [Attachment 7.](#)

8. Number of pages attached: \_\_\_\_\_

9. 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:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF EACH PETITIONER)

\_\_\_\_\_  
(SIGNATURE OF EACH PETITIONER)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF ATTORNEY FOR EACH PETITIONER)

\_\_\_\_\_  
(SIGNATURE OF ATTORNEY FOR EACH PETITIONER)



**STOP SIGNING HERE** if a *Response* (form SUR-120) was *not* filed AND *no* person is using this form to make a general appearance in the case.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF EACH RESPONDENT)

\_\_\_\_\_  
(SIGNATURE OF EACH RESPONDENT)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF ATTORNEY FOR EACH RESPONDENT )

\_\_\_\_\_  
(SIGNATURE OF ATTORNEY FOR EACH RESPONDENT)

**INTERPRETER'S DECLARATION**

I certify under penalty of perjury under the laws of the State of California that:

1. I have, to the best of my ability, interpreted or translated this *Declaration for Default or Uncontested Judgment* and *Judgment* (form FL-250) for (specify name or names below):

in the primary language of each party (specify):

2. Each person listed above stated to me that they understood the contents of this *Declaration for Default or Uncontested Judgment* and *Judgment* (form FL-250) before signing them.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF INTERPRETER)

PETITIONER:	CASE NUMBER:
RESPONDENT:	

**DECLARATION AND CONDITIONAL WAIVER OF RIGHTS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT**  
*Attachment to Declaration for Default or Uncontested Judgment (form SUR-230)*

**Notice to Servicemember**

The Servicemembers Civil Relief Act (50 U.S.C. §§ 3901–4043) is a federal law that provides protections for military members when they enter active duty. You may obtain a copy of the act from the public law library or from the website of the United States Department of Justice at [www.justice.gov](http://www.justice.gov).

By signing this conditional waiver and attaching it to *Declaration for Default or Uncontested Judgment* (form SUR-230), I declare that I am entitled to the benefits of the Servicemembers Civil Relief Act (SCRA).

1. To permit the court to decide this cause as an uncontested matter and enter a judgment that incorporates the terms of the written agreement made between the petitioner and me (a copy of which is attached to this form), I make a knowing, intelligent, and voluntary conditional waiver of the right to seek to set aside a default judgment entered against me in this matter, as provided by section 3918 of the SCRA.
2. This waiver is conditioned as follows:
  - a. The waiver applies only to a default judgment that incorporates the terms and conditions of the written agreement between the petitioner and me that is titled
    - Judgment* (form FL-250)
    - other (*specify*):
  - b. The court must enter a judgment that incorporates only the terms and conditions of the above written agreement without any change; and
  - c. Should the court enter a judgment that changes the above written agreement in any way, then I do not waive any of my rights under the SCRA, including my right to seek to set aside the judgment at any time.
3. This conditional waiver was executed during or after a period of military service.

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF RESPONDENT)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF RESPONDENT)

**Attention: Clerk of the Court**  
**By law, a servicemember must not be charged a fee to file *Declaration for Default or Uncontested Judgment* (form SUR-230).**

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Family Law: Standards for Computer Software to Assist in Determining Support

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Amend rule 5.275

*Committee or other entity submitting the proposal:*  
Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Marina Soto, (916) 643-6906, marina.soto@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): October 22, 2024; Amended: November 26, 2024

Project description from annual agenda: Item 11. The committee will develop a recommendation to amend California Rules of Court, rule 5.275, to implement recent changes made by Senate Bill 343 (Stats. 2023, ch. 213, § 9), which amended the provisions of Family Code section 4061 related to the method for apportioning additional child support between parents. The amendment to Family Code section 4061, which took effect on September 1, 2024, changed the presumption for apportionment of additional child support from one-half to each parent to an allocation in proportion to the parents' net incomes. Rule 5.275 provides the standards for computer software used to determine child support including additional support for children under Family Code sections 4061 and 4062. Rule 5.275 must be revised to require that the standards for computer software used to assist courts and parents in determining child support obligations default to allocate the expenses for additional items of child support in proportion to the parents' net incomes. The committee will also develop a recommendation to clarify language in rule 5.275 regarding the standards that the Judicial Council uses to test the computer software to resolve confusion expressed by developers inquiring about the testing and certification requirements.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

- reviewed by EGG on (date) January 6 and January 9, 2025
- approved by Office Director (or Designee) (name) Anna Maves on (date) January 10, 2024

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

SPR25-16

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Title	Action Requested
Family Law: Standards for Computer Software Used to Assist in Determining Support	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.275	January 1, 2026
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Marina Soto, 916-643-6906
Hon. Tari L. Cody, Cochair	<a href="mailto:marina.soto@jud.ca.gov">marina.soto@jud.ca.gov</a>
Hon. Stephanie E. Hulse, Cochair	

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending California Rules of Court, rule 5.275, which provides standards for computer software used to assist in determining child support and spousal support. The action is necessary to bring the rule into conformity with existing law as well as with Family Code provisions related to additional child support that were amended, effective September 1, 2024, by Senate Bill 343 (Stats. 2023, ch. 213). This proposal would also update terminology and clarify language relating to (1) computer hardware and software and (2) guideline calculator software testing and certification.

### Background

The complexity of California's child support guidelines necessitates the use of computer software to assist in calculating child support in accordance with the mathematical formula set by statute.<sup>1</sup> Computer software that incorporates guidelines provided for by local rules can also assist with calculating temporary spousal support.<sup>2</sup> As a result, the Legislature enacted former

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<sup>1</sup> *In re Marriage of Cheriton* (2001) 92 Cal.App.4th 269, 284.

<sup>2</sup> It is appropriate for courts to use computer programs to assist with setting temporary spousal support as the purpose of temporary spousal support is to maintain the financial status quo of the parties pending trial. (*In re*

*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.*

Civil Code section 4395 in 1992.<sup>3</sup> This statute prohibited the court, effective January 1, 1994, from using any computer software to assist in determining the appropriate amount of child support or spousal support, unless the software met standards set by the Judicial Council in the rules of court to ensure that the software performed in a manner consistent with applicable statutes and rules of court for determination of child support or spousal support.<sup>4</sup> A year later, the Legislature repealed Civil Code section 4395 and recast the provision as Family Code section 3830.<sup>5</sup>

In response to the mandate that the court use only software that meets the standards prescribed by the Judicial Council for determining child and spousal support, the council adopted standards in 1993. Under rule 5.275 (former rule 1258), the Judicial Council is required to test the software submitted by developers for certification to ensure it accurately calculates support and otherwise meets the standards set. Once software has been certified for use by the court, developers must annually apply to renew the certification. As part of the renewal process, the Judicial Council reviews and tests the software to ensure it continues to comply with the standards set forth in the rule.

SB 343 amended the provisions of Family Code section 4061 related to the method for apportioning additional child support between parents. The amendment to Family Code section 4061, which took effect on September 1, 2024, changed the presumption for apportionment of additional child support from one-half to each parent to an allocation in proportion to the parents' net incomes. Because of the change in the presumption for apportioning child support expenses, the standards for software that assists with calculating child and spousal support must now be updated to bring the rule into conformity with current law.

## **The Proposal**

Rule 5.275(b) provides the standards for software used to assist the court in determining child and spousal support to ensure such software conforms with applicable statutes and rules of court. To bring the standards into conformity with existing law and recent changes made to Family Code section 4061 by SB 343, the committee proposes amending rule 5.275(b)(4), and (5) of the California Rules of Court, effective January 1, 2026. The committee also proposes amending rule 5.275(b)(2) to update terminology related to the technology necessary for the Judicial Council to

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*Marriage of Olson* (1993) 14 Cal.App.4th 1, fn. 3.) Courts cannot, however, rely on a computer program to set or modify a permanent spousal support order as such an order requires an exercise of the court's discretion after considering and weighing factors enumerated in Family Code section 4320 (formerly Civil Code section 4801(a)). (*In re Marriage of Olson*, *supra*, 14 Cal.App.4th at fn. 3.)

<sup>3</sup> Stats. 1992, ch. 1157, § 1.

<sup>4</sup> *Ibid.*

<sup>5</sup> Stats. 1993, ch. 219, § 46 (repealing Civ. Code provision); Stats. 1993, ch. 219, § 129 (enacting Fam. Code, § 3830). Aside from restructuring the provision into two subdivisions, the language recast in section 3830 has remained substantively the same.

use software submitted for certification, and resolve confusion expressed by developers concerning the certification process.

**Rule 5.275(b)(2)**

Rule 5.275(b)(2) explains the process used by the Judicial Council to determine whether software to calculate child support is accurate to within 1 percent of the correct amount in its default setting. This paragraph would be amended to (1) remove the introductory phrase “Using examples provided by the Judicial Council” from the first sentence, (2) substitute the word “scenario” for “example” in the second sentence, and (3) add language to clarify that the scenarios developed by the Judicial Council are for the purpose of testing software submitted for certification.

The proposed amendment to rule 5.275(b)(2) is necessary because, in recent years, Judicial Council staff have received requests from developers for copies of the “examples” that are to be provided by the Judicial Council under the rule to assist them in programing their software to calculate support within 1 percent of the correct amount. The proposed amendment would make clear that the scenarios developed by the Judicial Council are for the purpose of testing software that developers submit for certification, and not for distribution to developers to assist them in programing their software. Substituting the word “scenario” for “example” and deleting any reference to examples being “provided by the Judicial Council” will further assist in resolving the confusion caused by the current language of the rule.

The committee also proposes updating the language in the fourth sentence of rule 5.275(b)(2) by removing any reference to a specific operating system or computer platform to avoid the need for future updates as technology changes. Instead, the rule would require a person seeking certification of software to provide the Judicial Council with any hardware or operating system required to use the software “[i]f the Judicial Council does not have the computer hardware or operating system necessary to use and test the software.”

**Rule 5.275(b)(4)**

Rule 5.275(b)(4) requires that software used to calculate support contain, either on the screen or in written form, instructions for the entry of each figure required for the computation of child support and provides a list of four items that must be included in the instructions. Rule 5.275(b)(4)(D) currently provides that software must contain written instructions for entry of two factors rebutting the presumptive guideline amount. The committee proposes deleting the second factor, “4057(b)(3) (income of subsequent partner),” because it is no longer a factor that may rebut the guideline child support amount.

In July 1993, Assembly Bill 1500 (Stats. 1993, ch. 219) added section 4057 to the Family Code, which included a provision providing that one of the factors for rebutting the presumption that the guideline amount of child support is correct was that “a parent’s subsequent spouse or nonmarital partner has income that helps meet that parent’s basic living expenses, thus increasing

the parent’s disposable income available to spend on the children.”<sup>6</sup> A few months later, and before section 4057 became operative on January 1, 1994, the Legislature amended subdivision (b) of section 4057, to remove the income of a subsequent spouse or nonmarital partner as a factor for rebutting the amount of child support calculated under the guideline.<sup>7</sup> At that time, a new provision, section 4057.5, was also added to the Family Code prohibiting the consideration of the income of a parent’s subsequent spouse or nonmarital partner when determining or modifying child support, except in “an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award.”<sup>8</sup>

Rule 5.275 as originally adopted in 1993 incorporated the “income of subsequent partner” language originally contained in section 4057(b)(3), rather than conforming with the amendment that removed the language from 4057(b) a few months later that same year. Deleting reference to the income of a subsequent partner from rule 5.275(b)(4)(D) will correct this oversight and bring the rule up to date with the law.

Although the income of a parent’s subsequent partner is no longer grounds for rebutting guideline support, Family Code section 4057.5 does allow the court to consider such income when determining or modifying child support in an extraordinary case. The committee is, therefore, also proposing adding a subparagraph (E) to rule 5.275(b)(4) to require instructions be provided for entry of “the income of a subsequent partner as provided for in Family Code section 4057.5.” Adding the new subparagraph would ensure software continues to provide instructions for entry of this income into support calculators when necessary to compute child support.

#### **Rule 5.275(b)(5)**

Rule 5.275(b)(5) would be amended to change the standard that support calculator software must follow, in its default setting, for the apportionment of expenses for additional child support. Currently the rule requires software allocate additional items of child support, one-half to each parent. The software must also provide, in an easily selected option, for the alternative allocation of the expenses as provided for by Family Code section 4061(b).

SB 343 amended Family Code section 4061, effective September 1, 2024, by changing the method for apportioning expenses for additional child support from one-half to each parent to dividing the expenses in proportion to the net incomes of each parent, unless a party requests or the court finds on its own motion that expenses should be divided in a different manner.<sup>9</sup> To conform the standard in rule 5.275(b)(5) to current law, the committee proposes amending the rule to provide that expenses for each additional item of child support must be allocated in

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<sup>6</sup> This provision was carried over from former Civil Code section 4721(e), when the section was repealed and reenacted under the Family Code as section 4057(b). (Stats. 1992, ch. 46, § 9 [adding former Civ. Code, § 4721]; Stats. 1993, ch. 219, § 50 [repealing former Civ. Code, § 4721]; *id.*, § 138 [adding Fam. Code, § 4057]).

<sup>7</sup> Stats. 1993, ch. 935, § 1; Stats. 1993, ch. 1156, § 3.

<sup>8</sup> Stats. 1993, ch. 935, § 2.

<sup>9</sup> Fam. Code, § 4061(a); Stats. 2023, ch. 213, §§ 8, 9.

proportion to the parents' net incomes, as adjusted under Family Code section 4061(c) and (d).<sup>10</sup> The rule would also be amended to reflect that the software must provide an option for an alternative allocation of expenses as provided for by Family Code section 4061(a), rather than under section 4061(b).

### **Alternatives Considered**

The committee considered whether action to amend rule 5.275 is necessary. The committee concluded that, because the existing rule's standards for computer software that assists with calculating support do not accurately reflect the requirements of Family Code sections 4057 and 4061, it is essential that action be taken to amend the rule at this time.

The committee considered making only the changes needed to bring rule 5.275(b)(4)(D) and (5) into conformity with the law. However, after being made aware of inquiries received from developers and reviewing the rule, the committee concluded that developers and the public would benefit from clarifying the language in rule 5.275(b)(2) related to "examples provided by the Judicial Council" to ensure software calculating child support is accurate to within 1 percent of the correct amount. The committee proposes amending rule 5.275(b)(2) to clarify the responsibilities of both the Judicial Council and software developers. The proposed amendment would also provide greater transparency and promote trust regarding the procedures used by the Judicial Council to ensure software certified for use by the court accurately calculates child support amounts.

The committee further recognized that the terms related to the technology necessary for the Judicial Council to use software submitted for certification were outdated. Accordingly, the committee proposes removing any reference to a specific operating system or computer platform.

### **Fiscal and Operational Impacts**

The committee anticipates that courts will incur some costs to train court staff on the updates made to the software used by the court. However, the committee notes that most of the changes proposed are necessary to conform rule 5.275 to new or existing law and are, therefore, the result of legislative action.

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<sup>10</sup> Family Code section 4061(c) and (d) provide:

(c) In cases when spousal support is or has been ordered to be paid by one parent to the other, for purposes of allocating additional expenses pursuant to Section 4062, the gross income of the parent paying spousal support shall be decreased by the amount of the spousal support paid and the gross income of the parent receiving the spousal support shall be increased by the amount of the spousal support received for as long as the spousal support order is in effect and is paid.

(d) For purposes of computing the adjusted net disposable income of the parent paying child support for allocating any additional expenses pursuant to Section 4062, the net disposable income of the parent paying child support shall be reduced by the amount of any basic child support ordered to be paid under subdivision (a) of Section 4055. However, the net disposable income of the parent receiving child support shall not be increased by any amount of child support received.

## 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 two 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 5.275 at pages 7-11
2. Link A: Fam. Code, § 3830,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=FAM&division=9.&title=&part=1.&chapter=9.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FAM&division=9.&title=&part=1.&chapter=9.&article=)
3. Link B: Fam. Code, § 4057,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=4057](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4057)
4. Link C: Fam. Code, § 4057.5,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=FAM&sectionNum=4057.5](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&sectionNum=4057.5)
5. Link D: Fam. Code, § 4061,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=FAM&sectionNum=4061](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&sectionNum=4061)

Rule 5.275 of the California Rules of Court would be amended, effective January 1, 2026, to read:

1 **Rule 5.275. Standards for computer software to assist in determining support**

2  
3 **(a) Authority**

4  
5 This rule is adopted under Family Code section 3830.

6  
7 **(b) Standards**

8  
9 The standards for computer software to assist in determining the appropriate  
10 amount of child or spousal support are:

- 11  
12 (1) The software must accurately compute the net disposable income of each  
13 parent as follows:
- 14  
15 (A) Permit entry of the “gross income” of each parent as defined by Family  
16 Code section 4058;
  - 17  
18 (B) Either accurately compute the state and federal income tax liability  
19 under Family Code section 4059(a) or permit the entry of a figure for  
20 this amount; this figure, in the default state of the program, must not  
21 include the tax consequences of any spousal support to be ordered;  
22
  - 23 (C) Ensure that any deduction for contributions to the Federal Insurance  
24 Contributions Act or as otherwise permitted by Family Code section  
25 4059(b) does not exceed the allowable amount;
  - 26  
27 (D) Permit the entry of deductions authorized by Family Code sections  
28 4059(c) through (f); and
  - 29  
30 (E) Permit the entry of deductions authorized by Family Code section  
31 4059(g) (hardship) while ensuring that any deduction subject to the  
32 limitation in Family Code section 4071(b) does not exceed that  
33 limitation.
- 34  
35 (2) ~~Using examples provided by the Judicial Council,~~ The software must  
36 calculate a child support amount, using its default settings, that is accurate to  
37 within 1 percent of the correct amount. ~~In making this determination To~~  
38 determine the accuracy of the software, the Judicial Council ~~must will~~  
39 develop scenarios to test the software, calculate the correct amount of support  
40 for each ~~example scenario,~~ and ~~must~~ then calculate the amount for each  
41 example scenario using the software program. Each person seeking  
42 certification of software must supply a copy of the software to the Judicial



1 Council. If the software does not operate on a standard Windows 95 or later  
2 ~~compatible or Macintosh computer~~, Judicial Council does not have the  
3 computer hardware or operating system necessary to use and test the  
4 software, the person seeking certification of the software must make available  
5 to the Judicial Council any hardware or operating system required to use and  
6 test the software. The Judicial Council may delegate the responsibility for the  
7 calculation and determinations required by this rule.  
8

- 9 (3) The software must contain, either on the screen or in written form, a glossary  
10 defining each term used on the computer screen or in printed hard copy  
11 produced by the software.  
12
- 13 (4) The software must contain, either on the screen or in written form,  
14 instructions for the entry of each figure that is required for computation of  
15 child support using the default setting of the software. These instructions  
16 must include but not be limited to the following:  
17
- 18 (A) The gross income of each party as provided for by Family Code section  
19 4058;  
20
- 21 (B) The deductions from gross income of each party as provided for by  
22 Family Code section 4059 and subdivision (b)(1) of this rule;  
23
- 24 (C) The additional items of child support provided for in Family Code  
25 section 4062; ~~and~~  
26
- 27 (D) ~~The following factors~~ factor rebutting the presumptive guideline  
28 amount under Family Code section 4057(b)(2) (deferred sale of  
29 residence) ~~and 4057(b)(3) (income of subsequent partner); and~~  
30
- 31 (E) The income of a subsequent partner as provided for in Family Code  
32 section 4057.5.  
33
- 34 (5) In making an allocation of the additional items of child support under  
35 subdivision (b)(4)(C) of this rule, the software must, as its default setting,  
36 allocate the expenses ~~one half for each additional item of child support~~ to  
37 each parent in proportion to the parents' net incomes, as adjusted under  
38 Family Code section 4061(c) and (d). The software must also provide, in an  
39 easily selected option, ~~the an~~ alternative allocation of the expenses as  
40 provided for by Family Code section ~~4061(b)~~ 4061(a).  
41
- 42 (6) The printout of the calculator results must display, on the first page of the  
43 results, the range of the low-income adjustment as permitted by Family Code

1 section 4055(b)(7), if the low-income adjustment applies. If the software  
2 generates more than one report of the calculator results, the range of the low-  
3 income adjustment only must be displayed on the report that includes the user  
4 inputs.  
5

6 (7) The software or a license to use the software must be available to persons  
7 without restriction based on profession or occupation.  
8

9 (8) The sale or donation of software or a license to use the software to a court or  
10 a judicial officer must include a license, without additional charge, to the  
11 court or judicial officer to permit an additional copy of the software to be  
12 installed on a computer to be made available by the court or judicial officer to  
13 members of the public.  
14

15 **(c) Expiration of certification**  
16

17 Any certification provided by the Judicial Council under Family Code section 3830  
18 and this rule must expire one year from the date of its issuance unless another  
19 expiration date is set forth in the certification. The Judicial Council may provide for  
20 earlier expiration of a certification if (1) the provisions involving the calculation of  
21 tax consequences change or (2) other provisions involving the calculation of  
22 support change.  
23

24 **(d) Statement of certified public accountant**  
25

26 If the software computes the state and federal income tax liability as provided in  
27 subdivision (b)(1)(B) of this rule, the application for certification, whether for  
28 original certification or for renewal, must be accompanied by a statement from a  
29 certified public accountant that:  
30

31 (1) The accountant is familiar with the operation of the software;  
32

33 (2) The accountant has carefully examined, in a variety of situations, the  
34 operation of the software in regard to the computation of tax liability;  
35

36 (3) In the opinion of the accountant the software accurately calculates the  
37 estimated actual state and federal income tax liability consistent with Internal  
38 Revenue Service and Franchise Tax Board procedures;  
39

40 (4) In the opinion of the accountant the software accurately calculates the  
41 deductions under the Federal Insurance Contributions Act (FICA), including  
42 the amount for social security and for Medicare, and the deductions for

1 California State Disability Insurance and properly annualizes these amounts;  
2 and

- 3  
4 (5) States which calendar year the statement includes and must clearly indicate  
5 any limitations on the statement. The Judicial Council may request a new  
6 statement as often as it determines necessary to ensure accuracy of the tax  
7 computation.  
8

9 **(e) Renewal of certification**

10  
11 At least three months prior to the expiration of a certification, a person may apply  
12 for renewal of the certification. The renewal must include a statement of any  
13 changes made to the software since the last application for certification. Upon  
14 request, the Judicial Council will keep the information concerning changes  
15 confidential.  
16

17 **(f) Modifications to the software**

18  
19 The certification issued by the Judicial Council under Family Code section 3830  
20 and this rule imposes a duty upon the person applying for the certification to  
21 promptly notify the Judicial Council of all changes made to the software during the  
22 period of certification. Upon request, the Judicial Council will keep the information  
23 concerning changes confidential. The Judicial Council may, after receipt of  
24 information concerning changes, require that the software be recertified under this  
25 rule.  
26

27 **(g) Definitions**

28  
29 As used in this chapter:

- 30  
31 (1) “Software” refers to any program or digital application used to calculate the  
32 appropriate amount of child or spousal support.  
33  
34 (2) “Default settings” refers to the status in which the software first starts when it  
35 is installed on a computer system. The software may permit the default  
36 settings to be changed by the user, either on a temporary or a permanent  
37 basis, if (1) the user is permitted to change the settings back to the default  
38 without reinstalling the software, (2) the computer screen prominently  
39 indicates whether the software is set to the default settings, and (3) any  
40 printout from the software prominently indicates whether the software is set  
41 to the default settings.  
42

1 (3) “Contains” means, with reference to software, that the material is either  
2 displayed by the program code itself or is found in written documents  
3 supplied with the software.  
4

5 **(h) Explanation of discrepancies**

6  
7 Before the Judicial Council denies a certificate because of failure to comply with  
8 the standards in paragraph (b)(1) or (b)(2) of this rule, the Judicial Council may  
9 request the person seeking certification to explain the differences in results.  
10

11 **(i) Application**

12  
13 A person seeking certification of software must apply in writing to the Judicial  
14 Council.  
15

16 **(j) Acceptability in the courts**

17  
18 (1) In all actions for child or family support brought by or otherwise involving  
19 the local child support agency under title IV-D of the Social Security Act, the  
20 Department of Child Support Services’ California Guideline Child Support  
21 Calculator software program must be used by:

22 (A) Parties and attorneys to present support calculations to the court; and

23 (B) The court to prepare support calculations.  
24

25  
26 (2) In all non-title IV-D proceedings, the court may use and must permit parties  
27 or attorneys to use any software certified by the Judicial Council under this  
28 rule.  
29

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children

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

Adopt Cal. Rules of Court, rule 5.551; amend rules 5.510, 5.552, and 5.553; adopt forms JV-576, JV-583, JV-584, JV-585, JV-586, JV-587, JV-588; approve forms JV-576, revise forms JV-569, JV-570, JV-571, JV 572, JV 573, and JV-574

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Stephanie Lacambra, 415-865-7564, [stephanie.lacambra@jud.ca.gov](mailto:stephanie.lacambra@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): 10/22/24; Amended: 11/26/24

Project description from annual agenda: One Time Project Item # 3 to implement AB 1756 (Stats. of 2023, Ch. 478) Allows a juvenile court to retain jurisdiction of a case when a minor or dependent adult in foster care dies in order to receive documents and information related to the death. Differentiate rules and forms for requesting disclosure of the juvenile case file of a living versus a deceased child.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

- reviewed by EGG on (date) 2/4/25-2/11/25, 3/21/25-3/25/25
- approved by Office Director (or Designee) (name) Audrey Fancy on (date) 2/26/25 and 3/26/25

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

### SPR25-17

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Title	Action Requested
Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children	Review and submit comments by May 30, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 5.551; amend rules 5.510, 5.552, and 5.553; approve form JV-576; adopt forms JV-576, JV-583, JV-584, JV-585, JV-586, JV-587, and JV-588; revise forms JV-569, JV-570, JV-571, JV-572, JV-573, and JV-574	January 1, 2026
	Contact
	Stephanie Lacambra, 415-865-7564 stephanie.lacambra@jud.ca.gov
Proposed by	
Family and Juvenile Law Advisory Committee	
Hon. Tari L. Cody, Cochair	
Hon. Stephanie E. Hulsey, Cochair	

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### Executive Summary and Origin

To implement Assembly Bill 1756 (Stats. 2023, ch. 478, § 62) and Senate Bill 1161 (Stats. 2024, ch. 782, § 12), and to clarify the different legal standards for petitions seeking release of a delinquency file or living child's juvenile dependency case file under Welfare and Institutions Code section 827(a)(1)(Q) and a deceased child's juvenile dependency case file under section 827(a)(2), the Family and Juvenile Law Advisory Committee proposes adopting one rule of the California Rules of Court, amending three rules of court, approving one form, adopting six forms, and revising six forms.

### Background

This proposal addresses three different issues related to juvenile case files.

*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 1756 and Welfare and Institutions Code section 10850.4(q)**

AB 1756 amended Welfare and Institutions Code<sup>1</sup> section 10850.4(q) to provide that the court may retain jurisdiction if a child or nonminor dependent dies while subject to the jurisdiction of juvenile court, and there is a reasonable suspicion that the death was caused by abuse or neglect for the purpose of receiving documents and information related to the circumstances of the death. Rule 5.510 of the California Rules of Court<sup>2</sup> needs to be amended accordingly to incorporate this revised statutory language.

**SB 1161 and Welfare and Institutions Code section 827(e)**

SB 1161 amended the definition of a “juvenile case file” in section 827(e) to include “any writing as defined in Section 250 of the Evidence Code, or electronically stored information relating to the minor.” The definition of “juvenile case file” now in rule 5.552, which the committee proposes be moved to proposed new rule 5.551, needs to be amended to incorporate this revised statutory language.

**Different procedures and standards for release of juvenile dependency case files of deceased children**

Access to juvenile case files is governed by section 827. This statute establishes different procedures and standards for access to all juvenile delinquency case files and juvenile dependency case files of living children, versus public disclosure of juvenile dependency case files of deceased children.

Section 827(a)(1) governs access to juvenile dependency case files of living children and all delinquency case files of both living and deceased children. It generally restricts access to specifically enumerated individuals and organizations. Any party not statutorily entitled to access under that paragraph must petition the juvenile court for access to and disclosure of juvenile court records under subparagraph (a)(1)(Q).

Section 827(a)(2)<sup>3</sup> governs access to juvenile dependency case files of deceased children and, in contrast to section (a)(1), carries a presumption of public disclosure. Petitioners seeking the juvenile dependency case files of deceased children are statutorily entitled to the release of the records because there is a presumptive public right of access. The presumption is only overcome if the objecting party shows, by a preponderance of the evidence, that release of the juvenile case file, or any portion thereof, is detrimental to the safety, protection, or physical or emotional well-being of a surviving child or nonminor dependent who is directly or indirectly connected to the

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>2</sup> All further unspecified rule references are to the California Rules of Court.

<sup>3</sup> See § 827(a)(2): “(A) [J]uvenile case files ... that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. ...

(B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist.

(C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.”



juvenile case that is the subject of the petition.<sup>4</sup> In codifying the presumptive public right of access in section 827(a)(2), the Legislature intended to promote prompt access to the records of children who die while in the custody of the state and recognized that delays in accessing the juvenile dependency case files of deceased children reduce the likelihood that disclosure of those files will bring public attention to problems in the juvenile court system and result in corresponding reforms.<sup>5</sup>

Rules 5.552 and 5.553 implement section 827(a)(1)(Q) and (2), addressing the confidentiality of juvenile dependency case files for living children and delinquency case files, and juvenile dependency case files of deceased children, respectively, and provide guidance on requests for access to and release of juvenile case files. Currently, rule 5.552 contains detailed procedures for petitions seeking the dependency files of living children and delinquency case files, including requiring that the petitioner (1) establish good cause, (2) demonstrate that the need for access outweighs the policy considerations favoring confidentiality of juvenile case files, and (3) show by a preponderance of the evidence that the records requested are necessary and have substantial relevance to a legitimate need.<sup>6</sup>

In contrast, rule 5.553 simply contains cross-references to statutes addressing access to the juvenile dependency case files of deceased children. It does not set out detailed procedures for requesting such files, nor does it explicitly include the presumptive public right of access for the juvenile dependency case files of deceased children. In addition, neither rule 5.552 nor rule 5.553 currently recognize that under section 827(a)(3), surviving<sup>7</sup> adults who have an interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof are also entitled to notice and an opportunity to object to a petition requesting release under either section 827(a)(1)(Q) or section 827(a)(2).

To better reflect the different procedures and standards for the release of juvenile delinquency case files and juvenile dependency case files for living children versus juvenile dependency case files of deceased children under section 827, subdivisions (a)(1) and (2), and to recognize the

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<sup>4</sup> § 827(a)(2)(A): “Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.”

<sup>5</sup> Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill 199 (1999–2000 Reg. Sess.), as amended May 6, 1999, p. 5 (stating a delay in the process harms the statute’s purpose because “the community’s reaction would have died down, and the opportunity to effect positive change may have passed”).

<sup>6</sup> Cal. Rules of Court, rule 5.552(d)(1), (5), and (6).

<sup>7</sup> The limiting factor of “surviving” was added because it has long been recognized that privacy rights expire upon death. *See Flynn v. Higham* (1983), 149 Cal.App.3d 677, at 683. (“It is well settled that the right of privacy is purely a personal one; it cannot be asserted by anyone other than the person whose privacy has been invaded, that is, plaintiff must plead and prove that *his* privacy has been invaded. [citations omitted] Further, the *right does not survive but dies with the person.*”(Emphasis added.))

rights of surviving adults under subdivision (a)(3), rules 5.552 and 5.553 and related forms need to be modified.

## **Prior Circulation**

An earlier version of this proposal<sup>8</sup> circulated for public comment between March 29 and May 3, 2024, as part of the regular spring 2024 rules cycle. Last year's proposal only addressed AB 1756's amendments to section 10850.4 to extend the juvenile court's jurisdiction in cases involving the death of a child or nonminor dependent and the different standards for requesting a juvenile case file for living versus deceased children.

The committee received 10 comments on this prior proposal. Some of these comments raised substantive issues regarding the proposal, including whether "interested parties" should include categories of parties without a personal privacy interest in the juvenile case file of the deceased child. The committee took additional time to consider these comments and is now recirculating a modified proposal.

## **The Proposal**

As discussed in detail below, the Family and Juvenile Law Advisory Committee proposes adopting rule 5.551; amending rules 5.510, 5.552, and 5.553; approving one form and adopting six forms; and revising six forms used in juvenile case file requests. The proposed changes are needed to (1) conform to the law; (2) benefit the judicial branch, justice partners, attorneys, and litigants; and (3) be responsive to identified concerns and problems raised by stakeholders.

### **Implementation of AB 1756–Rule 5.510**

The committee proposes adding a new subdivision (d) to rule 5.510 to incorporate AB 1756's statutory revision of section 10850.4. New subdivision (d) would incorporate the discretionary extension of the juvenile court's jurisdiction for the limited purpose of receiving documents and information related to the circumstances of the death of a child while under the jurisdiction of the juvenile court.

### **Implementation of SB 1161–Rule 5.551**

The committee proposes adopting new rule 5.551 to implement SB 1161's amendment to the definition of a "juvenile case file" in section 827(e). The committee proposes moving the definition of a juvenile case file from rule 5.552(a) to proposed new rule 5.551(a), and relettering the remaining subdivisions of rule 5.552 accordingly. Proposed new rule 5.551(a) would clarify that a juvenile case file has the same meaning as defined in section 827(e) and includes the specific items enumerated in current rule 5.552(a).<sup>9</sup> In addition, the committee proposes moving the applicability of other confidentiality laws from rule 5.552(g) to proposed new rule 5.551(b).

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<sup>8</sup> Judicial Council of Cal., Invitation to Comment SPR 24-20, *Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children* (posted Mar. 29, 2024), <https://courts.ca.gov/system/files?file=itc/spr24-20.pdf>.

<sup>9</sup> There are several definitions of a juvenile case file in statute, rule of court, and case law. A "juvenile case file" is defined in section 827(e), and a "juvenile court file" is defined in section 825. Current rule 5.552(a) incorporates the definition from section 827(e), but includes additional items not enumerated in statute. In case law, some courts

### **Clarifying the different standards for release of juvenile case records**

To clarify the differences between the process for releasing a delinquency case file and living child's juvenile dependency case file versus a deceased child's juvenile dependency case file, particularly the presumption in favor of public disclosure of a deceased child's juvenile dependency case file, the committee proposes the following changes to the rules of court and accompanying Judicial Council forms.

#### ***Rule 5.552***

Rule 5.552 sets forth the process for petitioning for release of a delinquency case file or living child's juvenile dependency case file under section 827(a)(1)(Q). The committee proposes amending the rule to clarify its application and the procedures for release of these files:

- Retitle the rule: “Procedure for requesting a juvenile delinquency case file or a living child's juvenile dependency case file.”
- Add specific language to clarify that the rule only applies to petitions requesting the delinquency case files and a living child's juvenile dependency case files by adding the words “delinquency case file(s) and a living child's juvenile dependency” to subdivisions (b), (d)(1), (d)(3)–(8), and (e), which will be relettered.
- Amend subdivision (a) to add that “the information in the file may not be disclosed in testimony” to prevent a party from attempting to obtain juvenile case file information without a court order in keeping with the reasoning of recent case law.<sup>10</sup>
- Amend subdivision (b) to add to the notice requirements individuals with an interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof, who are entitled to notice and an opportunity to object under section 827(a)(3), and their representatives. The committee determined that specifically calling out the recognized representatives of this class of individuals would be helpful to petitioners and the courts.
- In the interests of consistency, amend subdivision (b) to add language highlighting the additional duty of the custodian of records to serve parties if they possess information indicating that service by the petitioner on any of those parties may have been ineffective, in the interests of parity with the statutory requirements incorporated in rule 5.553 pursuant to section 827(a)(2)(D).

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have interpreted the definition of “juvenile case file” in section 827(e) broadly to include any documents and other information housed in a county child welfare agency file regarding a child who has suffered or is at serious risk of suffering abuse or neglect that brings the child within the jurisdiction of the juvenile court under section 300. This includes information in agency files where no juvenile court proceedings have been instituted and the matter is handled informally. See *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767, 780–781; *In re Elijah S.* (2005) 125 Cal.App.4th 1532; and 87 Ops.Cal.Atty.Gen. 72, 75 (2004).

<sup>10</sup> See *City of San Diego v. Superior Court* (1981) 136 Cal.App.3d 236, 239 (reasoning that “a litigant may not obtain indirectly what is directly privileged and immune from discovery” in a police personnel records context).

### **Rule 5.553**

Rule 5.553 governs the process for petitioning for public disclosure of the juvenile dependency case files of deceased children under section 827(a)(2). The committee proposes amending the rule to do the following:

- Title the rule: “Procedure for requesting a deceased child’s juvenile dependency case file”;
- Add language to clarify that the rule specifically applies to the disclosure of the juvenile dependency case files of deceased children;
- Add the presumption of public access to and procedural timelines for section 827(a)(2) petitions requesting the juvenile dependency case files of deceased children; and
- Expand the rule to mirror the structure of rule 5.552, including adding the following:
  - New subdivision (a) (Petition for requesting a deceased child’s juvenile dependency case file). This subdivision would retain the language of current rule 5.553, but reverse the order of paragraphs (1) and (2), and clarify that a member of the public seeking to disclose the juvenile case files of deceased children under section 827(a)(2) must petition the presiding judge of the juvenile court for authorization using *Petition for Public Disclosure of a Deceased Child’s Juvenile Dependency Case File* (form JV-584).
  - New subdivision (b) (Notice of petition requesting a deceased child’s juvenile dependency case file) would instruct petitioners seeking the juvenile dependency case file of a deceased child on the proper procedure for filing and serving the petition, and instruct the custodian of records on the proper procedure for serving interested parties. Parties responsible for the maintenance of the deceased child’s juvenile dependency case file, interested parties, and their respective representatives would be served with a copy of the *Petition for Public Disclosure of a Deceased Child’s Juvenile Dependency Case File* (form JV-584) that was filed with the court, *Notice of Petition for Public Disclosure of a Deceased Child’s Juvenile Dependency Case File* (form JV-585), and a blank copy of *Objection to Public Disclosure of a Deceased Child’s Juvenile Dependency Case File* (form JV-586) under subdivision (b)(1). The committee determined that specifically calling out the recognized representatives of individuals entitled to notice would be helpful to petitioners and the courts. In addition, to reflect the requirements of section 827(a)(2)(D), this subdivision would require the custodian of records to serve parties if the petitioner or the petitioner’s counsel does not know or cannot reasonably determine the identity or address of any of the parties in (b)(1) or if the custodian possesses information indicating that service by the petitioner on any of those parties may have been ineffective.
  - New subdivision (c) (Procedure for evaluating a request for a deceased child’s juvenile dependency case file) would refer petitioners to the procedures and timelines governing objections, replies to objections, and hearings on a petition

for public disclosure of a deceased child’s juvenile dependency case file set forth in section 827(a)(2)(A)–(C) and (E)–(F) and, subject to section 827(a)(3)(A), the standards for granting or denying such a petition. Under these statutory provisions, objections filed by form JV-586 would trigger the need for the juvenile court to hold a hearing no more than 60 calendar days from the date the petition is served on the custodian of records. If an objection is not filed to the petition, the court would only need to review the petition and issue its decision within 10 calendar days of the final day for filing an objection.

***Defining “interested parties” for purposes of service under section 827(a)(2)***

Section 827(a)(2) requires service of a copy of any petition to release the juvenile dependency case file of a deceased child on “interested parties” and gives those parties a right to object to the release of all or part of the file.<sup>11</sup> The statute does not, however, define the term “interested parties.” The committee proposes a narrow construction of “interested parties” because it is most consistent with the overall purpose of the juvenile dependency scheme generally—the promotion of a child’s best interest (see section 202)—and the purpose of section 827(a)(2), which is to compel release of a deceased child’s juvenile dependency case file and subject the child welfare system to public scrutiny when a child dies while in state care.

Accordingly, the committee proposes that “interested parties” for purposes of serving 827(a)(2) petitions be defined to include only the following persons who have a cognizable privacy interest in the deceased child’s juvenile dependency case file:

- Surviving siblings, children, or nonminor dependents whose information is directly or indirectly included in the deceased child’s juvenile dependency case file or who may be identified by information in the deceased child’s juvenile dependency case file;
- Anyone with a surviving interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof under section 827(a)(3);
- The custodian of records who has custody of the juvenile case file; and
- The representatives of these classes of individuals.

The committee seeks specific input on whether this proposed definition appropriately identifies those who should be considered interested parties.

***Creating new forms for section 827(a)(2) petitions***

As discussed above, there are important substantive differences between the procedures for release of the juvenile delinquency case file and a living child’s juvenile dependency case file versus a deceased child’s juvenile dependency file. These differences include the statutory presumption of public disclosure for the juvenile dependency case files of deceased children, the

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<sup>11</sup> § 827(a)(2)(D)–(E).

timelines for noticing and objecting to a petition requesting a deceased child's versus a living child's juvenile dependency case file, and the committee's proposed definition of "interested parties," which will result in differences in who must be served with a petition seeking access or disclosure.

The previous proposal circulated for comment had proposed merely revising existing council forms to create joint forms with separate subsections for petitions requesting release of a living child's juvenile case file and petitions requesting public disclosure of a deceased child's juvenile case file to minimize possible disruption of existing court workflows. However, in light of the substantive differences in procedures and based on the public comments received in the prior circulation, the committee concluded that this approach of having a single set of forms was overly confusing and untenable.

The committee is now proposing (1) revising the set of existing forms (JV-569 through JV-574) to clarify that they apply to petitions requesting access to a delinquency file or a living child's juvenile dependency case file, (2) creating a second set of new forms (numbered JV-583 to JV-588) limited to section 827(a)(2) petitions requesting public disclosure of a deceased child's juvenile dependency case file, and (3) creating a new optional form attachment (JV-576) for orders granting disclosure of all or portions of the juvenile case file pursuant to section 827 petitions, and enumerating the most common redactions required by federal and state privacy laws and regulations in addition to redactions required under section 827.

***Existing form series revisions to limit to 827(a)(1)(Q) petitions***

The committee proposes revising the following existing set of mandatory forms to clearly indicate their use for requesting the juvenile delinquency case file or a living child's juvenile dependency case file. These revisions include modifying the form titles as indicated below, updating all references to other forms to reflect the proposed revisions to the form titles, and removing all references to requests for a juvenile dependency case file of a deceased child:

- *Proof of Service—Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (form JV-569).
- *Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (form JV-570). In addition to the revisions described above, the committee is proposing the following revisions to this form:
  - Item 1 would be updated to include a space for the petitioner's email.
  - Item 4 would be revised to remove subdivision b. and letter the subparts of subdivision a.
  - Item 7 would be revised to state, "I need the records of "a juvenile delinquency case file or a living child's juvenile dependency case file" because (describe in detail; attach more pages if you need more space)."
- *Notice of Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (form JV-571).

- *Objection to Release of Delinquency Case File or a Living Child's Juvenile Dependency Case File* (form JV-572).
- *Order on Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (form JV-573).
- *Order After Judicial Review on Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (form JV-574). Items 2 and 3 would be revised to state, "After review of the juvenile case file of a living child ... ."

#### ***New form series for 827(a)(2) petitions***

The following new mandatory forms would be created exclusively for use in requesting public disclosure of a deceased child's juvenile dependency case file under section 827(a)(2):

- *Proof of Service—Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-583);
- *Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-584);
- *Notice of Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-585);
- *Objection to Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-586);
- *Order on Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-587); and
- *Order After Judicial Review on Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-588).

#### ***Creating a new attachment for court orders granting section 827 petitions***

A new optional form entitled *Order Granting Section 827 Petition Attachment: Required Redactions* (form JV-576) is proposed to help guide courts on the information that must be redacted from the juvenile case file as required by some of the most common overlapping federal and state privacy laws and regulations in addition to section 827, prior to release or disclosure of all or portions of the juvenile case file. Section 827 also generally prohibits testimony regarding information in the juvenile case file; form JV-576 provides an option for the court to authorize testimony regarding the released information, as necessary.

#### **Alternatives Considered**

The committee considered several alternatives to aspects of this proposal.

### **Taking no action**

The committee rejected the alternative of taking no action because amendments to rule 5.510 and 5.552 are legislatively mandated.

### **Proposing amendments only to rule 5.510 to implement AB 1756 and SB 1161**

The committee considered only proposing amendments to rule 5.510 to reflect the recently enacted legislation. However, the committee noted that the definition of a juvenile case file in rule 5.552 would still need to be revised to comply with SB 1161's amendment of section 827(e), and there is confusion around the different standards governing requests for access to the juvenile dependency case file of a living child and requests for disclosure of a juvenile dependency case file of a deceased child. Based on this, the committee concluded that the additional proposed amendments to the rules and revisions to forms would be helpful to courts, litigants, and the public by providing clarification and better guidance on the proper standards and procedures for access to and disclosure of juvenile case files.

### **Proposing that existing forms continue to be used for petitions to access juvenile dependency case files of deceased children**

As noted above, the committee considered revising the existing forms to clearly articulate the standards for release of juvenile case files of both living and deceased children so that they could continue to be used in both types of cases. However, for the reasons discussed above, the committee ultimately decided to propose a separate series of forms for section 827(a)(2) petitions seeking access to the juvenile dependency case files of deceased children.

### **Interested parties definition**

The committee considered multiple ways of defining "interested parties" who must be served with notice of 827(a)(2) petitions seeking public disclosure of a deceased child's juvenile dependency case file. The following options were considered and ultimately rejected by the committee:

#### ***Mirroring rule 5.552***

"Interested parties" could be defined to be the same parties identified in rule 5.552(c)(1) who must be served with notice of a petition requesting juvenile delinquency case files or the juvenile dependency case file of a living child. The committee declined to adopt this option because it would include persons who do not have a cognizable privacy interest in the personal information contained within the deceased child's juvenile dependency case file, and because there is no statutory authority for this broad construction. In addition, expanding the class of individuals with the ability to object to and obstruct release of a deceased child's juvenile dependency case



file would run counter to the legislative intent<sup>12</sup> of section 827(a)(2).<sup>13</sup> For these reasons, this option was discarded.

***Requiring notice to the deceased child’s attorney because such notice is required for the release of specific records under section 10850.4***

Section 10850 pertains to the confidentiality of public welfare records. Section 10850.4 creates an exception that requires the custodian of records to disclose specific information and records when a child dies due to abuse or neglect.<sup>14</sup> It was noted that under section 10850.4(f)<sup>15</sup> the attorney for the deceased child can object to release of the records required to be disclosed under this code section by filing a section 827(a)(2) petition. Thus, a deceased child’s attorney is given express authority to object to disclosure of a limited number of specific juvenile case file records under section 10850.4(f).

The suggestion was made that the deceased child’s attorney should also be able to object to the release of records sought by a petition filed under section 827(a)(2). However, the committee received public comment from a children’s advocacy organization that it does not seem to serve a purpose to include the attorney of the deceased child on the service list since the deceased child has no privacy interest to protect, nor does the attorney have any client direction.

The committee ultimately rejected the suggestion to notice a deceased child’s attorney because unlike section 10850.4(f), there is no express authority in section 827(a)(2) for the deceased child’s attorney to object. Instead, the statute requires that “interested parties” have the right to

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<sup>12</sup> Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill 199 (1999–2000 Reg. Sess.), as amended May 6, 1999, p. 5. (Section 827(a)(2) was meant to increase governmental transparency by compelling public disclosure of the deceased child’s juvenile case file when a child dies while in the custody and care of the state to promote prompt access to the records and to recognize that delays in disclosure reduce the likelihood that public attention will be paid to problems within the juvenile court system and result in corresponding reforms because “the community’s reaction would have died down, and the opportunity to effect positive change may have passed.”)

<sup>13</sup> Section 827(a)(2): “Juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, *shall be released to the public* pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection.” (Emphasis added.)

<sup>14</sup> Section 10850.4(c)(2) requires that upon completion of the child abuse investigation, and if the child died while living with a parent or guardian, the custodian of records shall release, upon request, certain described juvenile case file documents. Those documents include prior referrals of abuse or neglect, risk and safety assessments, the child’s health care records reflective of a pattern of abuse or neglect, police reports, and a description of services provided and actions taken by the child welfare agency. Subdivision (c)(3) describes additional records that must be disclosed if the child died while in foster care.

<sup>15</sup> Section 10850.4(f) states: “If counsel for a child, *including the deceased child or any sibling of the deceased child*, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.” (Emphasis added.)

object. Since a deceased child no longer has a privacy right,<sup>16</sup> there is no basis upon which the child's attorney could object to a section 827(a)(2) request for these juvenile case file records.

And although a section 827(a)(2) request might seek the same records as those the custodian is required to disclose under section 10850.4(c)(2) and (3), the deceased child's attorney could object to disclosure of those specific records under the procedure available in section 10850.4(f). Using that process, however, does not give the attorney a right to object to records other than those described in section 10850.4(c)(2) and (3). In fact, section 10850.4(g) makes clear that disclosure of any records not described in (c)(2) and (3) requires the filing of a section 827(a)(2) petition. To the extent there is any conflict between sections 827(a)(2) and 10850.4, a legislative fix would be necessary to harmonize them.

### ***Providing courtesy notice to persons other than interested parties***

The committee considered a rule dividing the parties who receive notice of a 827(a)(2) petition into two classes: (1) "interested parties" who are statutorily entitled to notice and an opportunity to object; and (2) persons who did not have a right to notice or to object, but who might have useful input to provide to the court in deciding whether a deceased child's juvenile dependency case file or any portion thereof should be withheld from public disclosure. However, after further legal review, the committee discarded this option for exceeding the scope of the legislative mandate.

### ***Refraining from defining "interested parties" altogether***

The committee considered the option of not defining "interested parties" at all. The committee concluded, however, that it would be helpful to petitioners who must serve interested parties and to courts to specifically identify the parties with a cognizable privacy interest in personal information contained within the deceased child's juvenile dependency case file, while still leaving the juvenile court discretion to make its own determination of the meaning of "interested party."

## **Fiscal and Operational Impacts**

Implementation of AB 1756, SB 1161, and clarification of the standards and process for disclosure of the juvenile case files of deceased children may create additional costs for courts to update their case management systems to track relevant information and hearing and decision deadlines, as well as to integrate the new mandatory forms into current court workflows. Education or training on the legal standard and procedural requirements processing 827(a)(2) petitions may be required for courts, social welfare agencies, probation departments, county counsel, prosecutors, and defense counsel.

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<sup>16</sup> See *Flynn v. Higham* (1983) 149 Cal.App.3d 677, at 683. (The right of privacy does not survive but dies with the person.)

## 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?
- Does proposed rule 5.553(b)(1) appropriately identify those who should be considered interested parties who are served with a copy of a petition under this rule?
- Are the new proposed form titles sufficiently clear? If not, please provide suggestions on how to make the form titles clearer.
- What, if any, other categories of information should be enumerated in item 1 of proposed form JV-576?
- What, if any, other information should be listed in item 2 of proposed form JV-576 as protected by another state or federal law or regulation? Please provide the citation to any state or federal law or regulation that protects such information.
- What, if any, other parties should be listed in item 4 of proposed form JV-576 as potential witnesses?

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 two 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 5.510, 5.551, 5.552, and 5.553, at pages 14–23
2. Forms JV-569, JV-570, JV-571, JV-572, JV-573, JV-574, JV-576, JV-583, JV-584, JV-585, JV-586, JV-587, JV-588, at pages 24–45
3. Link A: Judicial Council of Cal., Invitation to Comment SPR 24-20, *Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children* (posted March 29, 2024), <https://courts.ca.gov/system/files?file=itc/spr24-20.pdf>
4. Link B: Welf. & Inst. Code, § 10850.4(q), [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=10850.4.&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=10850.4.&lawCode=WIC)  
Link C: Welf. & Inst. Code, § 827(e), [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=827&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=827&lawCode=WIC)

Rule 5.551 of the California Rules of Court would be adopted, and rules 5.510, 5.552, and 5.553 would be amended, effective January 1, 2026, to read:

1 **Rule 5.510. Proper court; determination of child’s residence; exclusive jurisdiction**

2  
3 (a)–(c) \* \* \*

4  
5 **(d) Retention of jurisdiction (§ 10850.4(q)(1))**

6  
7 (1) If the death of a child or nonminor dependent occurs while the child or  
8 nonminor dependent is within the jurisdiction of the court, whether or not a  
9 petition was filed, the court may retain jurisdiction on its own motion or at  
10 the request of a party for the exclusive purpose of receiving documents and  
11 information related to the circumstances of the death, including but not  
12 limited to medical records, police reports, and autopsy reports.

13  
14 (2) If the court retains jurisdiction, the case must remain open until the court  
15 receives the documents and information related to the circumstances of death.  
16 The court may order the placing agency to request that the documents and  
17 information related to the circumstances of death be sent to the court.

18  
19 (3) The court must terminate jurisdiction upon receipt of the documents and  
20 information.

21  
22  
23 **Rule 5.551. Confidentiality of juvenile records (§ 827)**

24  
25 This rule applies to the confidentiality of juvenile records of living and deceased children  
26 and nonminor dependents generally, and for the purposes of rules 5.552 and 5.553.

27  
28 **(a) Definitions of a juvenile case file**

29  
30 For the purposes of this rule, A “juvenile case file” has the same meaning as  
31 defined in Welfare and Institutions Code section 827(e) and includes:

32  
33 (1) All records and information filed in a juvenile court case or made available to  
34 the court;

35  
36 (2) Reports to the court by probation officers, social workers of child welfare  
37 services programs, and CASA volunteers;

38  
39 (3) Records and information made available to probation officers, social workers  
40 of child welfare services programs, and CASA volunteers in preparation of  
41 reports to the court;

1           (4) Records and information relating to a child within the jurisdiction of the  
2           juvenile court, whether or not a petition has been filed, that are maintained in  
3           the office files of probation officers, social workers of child welfare services  
4           programs, and CASA volunteers;

5  
6           (5) Transcripts, records, or reports relating to matters prepared or released by the  
7           court, probation department, or child welfare services program; and

8  
9           (6) Records and information, including but not limited to video or audio  
10          recordings, photographs, digital images and recordings, and exhibits admitted  
11          into evidence at juvenile court hearings.

12  
13       **(b) Other applicable law (§ 827(a)(3))**

14  
15       Under no circumstances may this rule, rule 5.552, rule 5.553, or any subdivision of  
16       these rules be interpreted to permit access to or release of records protected under  
17       any other federal or state law, including Penal Code section 11165 et seq., except as  
18       provided in those laws, or to limit access to or release of records permitted under  
19       any other federal or state law.

20  
21  
22       **Rule 5.552. Confidentiality of records Procedure for requesting a juvenile**  
23       **delinquency case file and a living child’s juvenile dependency case file**  
24       **(§§ 827(a)(1), 827.12, 828)**

25  
26       **(a) Definitions**

27  
28       ~~For purposes of this rule, “juvenile case file” includes:~~

29  
30       ~~(1) All documents filed in a juvenile court case;~~

31  
32       ~~(2) Reports to the court by probation officers, social workers of child welfare~~  
33       ~~services programs, and CASA volunteers;~~

34  
35       ~~(3) Documents made available to probation officers, social workers of child~~  
36       ~~welfare services programs, and CASA volunteers in preparation of reports to~~  
37       ~~the court;~~

38  
39       ~~(4) Documents relating to a child concerning whom a petition has been filed in~~  
40       ~~juvenile court that are maintained in the office files of probation officers,~~  
41       ~~social workers of child welfare services programs, and CASA volunteers;~~  
42

- 1 (5) ~~Transcripts, records, or reports relating to matters prepared or released by the~~  
2 ~~court, probation department, or child welfare services program; and~~  
3  
4 (6) ~~Documents, video or audio recordings, photographs, and exhibits admitted~~  
5 ~~into evidence at juvenile court hearings.~~  
6

7 ~~(b)~~ **(a) Petition for access to a juvenile delinquency case file and a living child's**  
8 **juvenile dependency case file**  
9

10 Juvenile delinquency case files and a living child's juvenile dependency case files  
11 may be obtained or inspected, and information in the file may be disclosed, only in  
12 accordance with sections 827, 827.12, and 828. ~~They~~ The file may not be obtained  
13 or inspected by civil or criminal subpoena, and the information in the file may not  
14 be disclosed in testimony. With the exception of those persons permitted to inspect  
15 juvenile case files without court authorization under sections 827 and 828, and the  
16 specific requirements for accessing juvenile case files provided in section  
17 827.12(a)(1), every person or agency seeking to inspect or obtain the juvenile  
18 delinquency case file or a living child's dependency case files must petition the  
19 court for authorization using *Petition for Access to Delinquency Case File or a*  
20 *Living Child's Juvenile Dependency Case File* (form JV-570). A chief probation  
21 officer seeking juvenile court authorization to access and provide data from case  
22 files in the possession of the probation department under section 827.12(a)(2) must  
23 comply with the requirements in ~~(e)~~ (d) of this rule.  
24

- 25 (1) The specific files sought must be identified in the petition based on  
26 knowledge, information, and belief that such a files exists and ~~are~~ is relevant  
27 to the purpose for which ~~they are~~ it is being sought.  
28  
29 (2) Petitioner must describe in detail the reasons the files ~~are~~ is being sought and  
30 ~~their~~ its ~~relevaney~~ relevance to the proceeding or other purpose for which  
31 petitioner wishes to inspect or obtain the files.  
32

33 ~~(e)~~ **(b) Notice of petition for access to a delinquency case file and a living child's**  
34 **juvenile dependency case file**  
35

- 36 (1) At least 10 days before the petition is submitted to the court, the petitioner  
37 must personally or by first-class mail serve *Petition for Access to*  
38 *Delinquency Case File or a Living Child's Juvenile Dependency Case File*  
39 *(form JV-570), Notice of Petition for Access to Delinquency Case File or a*  
40 *Living Child's Juvenile Dependency Case File* (form JV-571), and a blank  
41 copy of *Objection to Release of Delinquency Case File or a Living Child's*  
42 *Juvenile Dependency Case File* (form JV-572) on the following:  
43

- 1 (A) The county counsel, city attorney, or any other attorney representing  
2 the petitioning agency in a dependency action if the child's is or was  
3 the subject of a petition was filed under section 300;  
4
- 5 (B) The district attorney if the child's is or was the subject of a petition  
6 filed under section 601 or 602;  
7
- 8 (C) The child if the child is 10 years of age or older;  
9
- 10 (D) The attorney of record for the child who was or remains a ward or  
11 dependent of the court;  
12
- 13 (E) The parents of the child if:  
14
- 15 (i) The child is under 18 years of age; or  
16
- 17 (ii) The child's is the subject of a petition filed under section 300;  
18
- 19 (F) The guardians of the child if:  
20
- 21 (i) The child is under 18 years of age; or  
22
- 23 (ii) The child's is the subject of a petition filed under section 300;  
24
- 25 (G) The probation department or child welfare agency, or both, if  
26 applicable;  
27
- 28 ~~(H)~~ (H) The child's CASA volunteer, if applicable;  
29
- 30 (I) Anyone with a surviving interest protected by another state or federal  
31 law prohibiting or limiting the release of the juvenile case file or any  
32 portions thereof under section 827(a)(3);  
33
- 34 (J) The attorney of record or legal representative of the individual  
35 protected under section 827(a)(3); and  
36
- 37 ~~(H)~~ (K) The Indian child's tribe—and, if applicable, the Indian custodian—if  
38 the child or individual protected under section 827(a)(3) is or was an  
39 Indian child as defined in section 224.1(b).  
40
- 41 (2) The petitioner must complete *Proof of Service—Petition for Access to*  
42 *Delinquency Case File or a Living Child's Juvenile Dependency Case File*  
43 (form JV-569) and file it with the court.

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- (3) If the petitioner or the petitioner’s counsel does not know or cannot reasonably determine the identity or address of any of the parties in ~~(e)~~(b)(1) above or the clerk possesses information indicating that service by the petitioner on any of those parties may have been ineffective, the clerk must:
  - (A) Serve personally or by first-class mail to the last known address a copy of *Petition for Access to Delinquency Case File or a Living Child’s Juvenile Dependency Case File* (form JV-570), *Notice of Petition for Access to Delinquency Case File or a Living Child’s Juvenile Dependency Case File* (form JV-571), and a blank copy of *Objection to Release of Delinquency Case File or a Living Child’s Juvenile Dependency Case File* (form JV-572); and
  - (B) Complete *Proof of Service—Petition for Access to Delinquency Case File or a Living Child’s Juvenile Dependency Case File* (form JV-569) and file it ~~with the court~~ in the court’s case file.
- (4) For good cause, the court may, on the motion of the person seeking the order or on its own motion, shorten the time for service of the *Petition for Access to Delinquency Case File or a Living Child’s Juvenile Dependency Case File* (form JV-570).

**(d) (c) Procedure for evaluating a petition for access to delinquency case file and a living child’s juvenile dependency case file**

- (1) The court must review the petition for access to a delinquency case file or a living child’s juvenile dependency case file and, if petitioner does not show good cause, deny it summarily.
- (2) If petitioner shows good cause, the court may set a hearing. The clerk must give notice of the hearing to the persons and entities listed in ~~(e)~~(b)(1) above.
- (3) Whether or not the court holds a hearing, if the court determines that there may be information or documents in the records sought to which the petitioner may be entitled, the juvenile court judicial officer must conduct an in camera review of the juvenile delinquency case file or a living child’s juvenile dependency case files and any objections and assume that all legal claims of privilege are asserted.
- (4) In determining whether to authorize inspection or release of the juvenile delinquency case file or a living child’s juvenile dependency case files, in whole or in part, the court must balance the interests of the child and other



1 parties to the juvenile court proceedings, the interests of the petitioner, and  
2 the interests of the public.

3  
4 (5) If the court grants the petition, the court must find that the need for access  
5 outweighs the policy considerations favoring confidentiality of the juvenile  
6 delinquency case file or a living child's juvenile dependency case files. The  
7 confidentiality of the juvenile case files is intended to protect the privacy  
8 rights of the child.

9  
10 (6) The court may permit access to the juvenile delinquency case file or a living  
11 child's juvenile dependency case files only insofar as is necessary, and only if  
12 petitioner shows by a preponderance of the evidence that the records  
13 requested are necessary and have substantial relevance to the legitimate need  
14 of the petitioner.

15  
16 (7) If, after in camera review and review of any objections, the court determines  
17 that all or a portion of the juvenile delinquency case file or a living child's  
18 juvenile dependency case file may be accessed, the court must make  
19 appropriate orders, specifying the information that may be accessed or  
20 disclosed and the procedure for providing access to or disclosure of it.

21  
22 (8) The court may issue redaction and protective orders such as *Order Granting*  
23 *Section 827 Petition Attachment: Required Redactions* (form JV-576) to  
24 accompany authorized disclosure, discovery, or access to the juvenile  
25 delinquency case file or a living child's juvenile dependency case file.

26  
27 **(e) (d) Release of delinquency case file and a living child's juvenile dependency case**  
28 **file information for research (§ 872.12(a)(2))**

29  
30 (1) The court may authorize a chief probation officer to access and provide data  
31 contained in juvenile delinquency case files and related juvenile records in  
32 the possession of the probation department for the purpose of data sharing or  
33 conducting or facilitating research on juvenile justice populations, practices,  
34 policies, or trends if the court finds the following:

35  
36 ~~(A)~~ (A) The research, evaluation, or study includes a sound method for the  
37 appropriate protection of the confidentiality of an individual whose juvenile  
38 delinquency case file is accessed for this purpose. In considering whether a  
39 method is sound, the court must have information on:

40  
41 ~~(A)~~ (i) The names and qualifications of any nonprobation personnel  
42 who will have access to personally identifying information as defined  
43 in Civil Code section 1798.79.8(b);

1  
2           ~~(B)~~ (ii) Procedures to mask personally identifying information that is  
3 shared electronically; and  
4

5           ~~(C)~~ (iii) Data security protocols to ensure that access to the information  
6 is limited to those people authorized by the court.  
7

8           ~~(2)~~ (B) No further release, dissemination, or publication of personally  
9 identifying information by the probation department or a program evaluator,  
10 researcher, or research organization that is retained by the probation  
11 department will take place for research or evaluation purposes.  
12

13           ~~(3)~~ (C) The disclosure requirements of section 10850 are met if any  
14 dependency information in a delinquency file may be disclosed.  
15

16           ~~(4)~~ (D) A date for destruction of records containing personally identifying  
17 information in the possession of nonprobation department personnel has been  
18 set to prevent inappropriate disclosure of the records.  
19

20           (2) If the information is being released for human subject research as defined in  
21 45 Code of Federal Regulations part 46, the probation department must  
22 provide notice to the office of the public defender 30 days before the court  
23 authorizes the release of the information so that the office has an opportunity  
24 to file an objection to the release with the court.  
25

26           (A) If such an objection is filed within the 30 day period the court must set  
27 a hearing on the objection within 30 days of the filing of the objection  
28 to consider the objection and make a determination on whether and  
29 how release of information should be accomplished.  
30

31           (B) Upon receiving authorization, but prior to the release of information,  
32 the probation department must enter into a formal agreement with the  
33 entity or entities conducting the research that specifies what may and  
34 may not be done with the information disclosed.  
35

36           ~~(f)~~ (e) **Reports of law enforcement agencies (§ 828)**  
37

38           Except as authorized under section 828, all others seeking to inspect or obtain  
39 information gathered and retained by a law enforcement agency regarding the  
40 taking of a living child into custody must petition the juvenile court for  
41 authorization using *Petition to Obtain Report of Law Enforcement Agency* (form  
42 JV-575).  
43

1 ~~(g) Other applicable statutes~~

2  
3 Under no circumstances must this rule or any section of it be interpreted to permit  
4 access to or release of records protected under any other federal or state law,  
5 including Penal Code section 11165 et seq., except as provided in those statutes, or  
6 to limit access to or release of records permitted under any other federal or state  
7 statute.

8  
9  
10 **Rule 5.553. Juvenile case file of a deceased child Procedure for requesting a**  
11 **deceased child's juvenile dependency case file (§ 827(a)(2))**

12  
13 **(a) Petition for requesting a deceased child's juvenile dependency case file**

14  
15 When the juvenile dependency case file of a deceased child is sought, the court  
16 must proceed as follows:

- 17  
18 (1) Under section 16502.5 if the request is made by a county board of  
19 supervisors; or  
20  
21 (2) Under section 827(a)(2) if the request is made by a member of the public.  
22 The remainder of this rule applies to the release of the juvenile dependency  
23 case file of a deceased child under section 827(a)(2). It does not apply to  
24 review of records relating to the deceased child by the county board of  
25 supervisors under section 16502.5.  
26  
27 (3) Except to the extent that the file has been released to the public by court order  
28 under section 827(a)(2) and this rule, the file may not be obtained by civil or  
29 criminal subpoena, and the information in the file may not be disclosed by  
30 testimony.  
31  
32 (4) Any person or agency seeking the release or disclosure of the juvenile  
33 dependency case file of a deceased child must petition the court under section  
34 827(a)(2) using *Petition for Public Disclosure of a Deceased Child's Juvenile*  
35 *Dependency Case File* (form JV-584).

36  
37 **(b) Notice of petition requesting a deceased child's juvenile dependency case file**  
38 **(§ 827(a)(2))**

- 39  
40 (1) Upon filing a petition under section 827(a)(2), the petitioner must personally  
41 or by first-class mail serve a copy of the *Petition for Public Disclosure of a*  
42 *Deceased Child's Juvenile Dependency Case File* (form JV-584) that was  
43 filed with the court, *Notice of Petition for Public Disclosure of a Deceased*

1 Child's Juvenile Dependency Case File (form JV-585), and a blank copy of  
2 Objection to Public Disclosure of a Deceased Child's Juvenile Dependency  
3 Case File (form JV-586) on the following, to the extent that their identity and  
4 contact information is known by the petitioner:  
5

6 (A) The custodian of records, as defined in section 10850.4(k)(2);  
7

8 (B) The county counsel, city attorney, or any other attorney representing  
9 the custodian of records;  
10

11 (C) Any surviving sibling, child, or nonminor dependent whose  
12 information is directly or indirectly included in the deceased child's  
13 juvenile case file or who may be identified by information in the  
14 deceased child's juvenile case file;  
15

16 (D) Any of the following who is authorized to represent the interest of a  
17 surviving sibling, child, or nonminor dependent described in (C):  
18

19 (i) The parent or guardian of any surviving minor sibling or child;  
20 and  
21

22 (iii) The attorney of record or legal representative of any surviving  
23 sibling, child, or nonminor dependent;  
24

25 (E) Anyone with a surviving interest protected by another state or federal  
26 law prohibiting or limiting the release of the juvenile case file or any  
27 portions thereof under section 827(a)(3);  
28

29 (F) The attorney of record or legal representative of the individual  
30 protected under section 827(a)(3);  
31

32 (G) The Indian tribe—and, if applicable, the Indian custodian—of any  
33 surviving sibling, child, nonminor dependent, or individual protected  
34 under section 827(a)(3), who is or was an Indian child as defined in  
35 section 224.1(b); and  
36

37 (H) Any other interested party as determined by the court.  
38

39 (2) The petitioner must complete *Proof of Service—Petition for Public*  
40 *Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-  
41 583) and file it with the court.  
42

1 (3) If the petitioner or the petitioner’s counsel does not know or cannot  
2 reasonably determine the identity or address of any of the interested parties in  
3 (b)(1) or the custodian of records possesses information indicating that  
4 service by the petitioner on any of those interested parties may have been  
5 ineffective, the custodian of records must, within 10 days of receipt of the  
6 petition:

7  
8 (A) Serve on those parties, personally or by first-class mail to the last  
9 known address, a copy of *Petition for Public Disclosure of a Deceased*  
10 *Child’s Juvenile Dependency Case File (JV-584)*, *Notice of Petition for*  
11 *Public Disclosure of a Deceased Child’s Juvenile Dependency Case*  
12 *File (JV-585)*, and a blank copy of *Objection to Public Disclosure of a*  
13 *Deceased Child’s Juvenile Dependency Case File* (form JV-586); and

14  
15 (B) Complete *Proof of Service—Petition for Public Disclosure of a*  
16 *Deceased Child’s Juvenile Dependency Case File* (form JV-582) and  
17 file it with the court.

18  
19 (4) For good cause, the court may, on the motion of the person seeking the order  
20 or on its own motion, shorten the time for service of the *Petition for Public*  
21 *Disclosure of a Deceased Child’s Juvenile Dependency Case File*.

22  
23 (c) **Procedure for evaluating a request for a deceased child’s juvenile dependency**  
24 **case file**

25  
26 Section 827(a)(2)(A)–(C), (E), and (F) sets forth the procedures and timelines  
27 governing objections, replies to objections, and hearings on a *Petition for Public*  
28 *Disclosure of a Deceased Child’s Juvenile Dependency Case File* and, subject to  
29 section 827(a)(3)(A), the standards for granting or denying such a petition. The  
30 court may issue redaction and protective orders such as *Order Granting Section*  
31 *827 Petition Attachment: Required Redactions* (form JV-576) to limit public  
32 disclosure of a deceased child’s juvenile dependency case file, as necessary.

33  
34 **Advisory Committee Comment**

35  
36 Consistent with rule 5.165, which requires reasonable and good faith efforts to give notice to the  
37 other party, if petitioner in good faith attempted to inform the interested parties but was unable to  
38 do so, petitioner should specify in the proof of service their efforts made to inform the interested  
39 parties.

**Proof of Service—Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

**1** a. Your Name:

Relationship to child (if any): \_\_\_\_\_  
Your Lawyer (if you have one for this case):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

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 case number if known.

**Case Number:**

**2**  I was not able to provide notice of this petition to the following because I did not know their names or addresses. The clerk must serve a copy of the petition.

- a.  County counsel or other attorney representing the child welfare agency if petition filed under section 300
- b.  District attorney if petition filed under section 601 or 602
- c.  Child
- d.  Attorney of record for the child
- e.  Child's parent
- f.  Child's legal guardian
- g.  Probation department if petition filed under section 601 or 602
- h.  Child welfare agency/custodian of records if petition filed under section 300
- i.  Child's identified Indian tribe
- j.  Child's CASA volunteer
- k.  An individual with an interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof under section 827(a)(3)
- l.  The Indian tribe of the individual protected under section 827(a)(3) who was an Indian child as defined in section 224.1(b)
- m.  The attorney of record or legal representative of the individual protected under section 827(a)(3)

**3** If you checked box 2a, 2b, 2g, or 2h, describe the efforts made to locate those addresses and explain why you are unable to locate the addresses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Your name: \_\_\_\_\_

Case Number: _____
--------------------

- 4  Copies of *Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (JV-570), *Notice of Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File* (JV-571), and a blank *Objection to Release of Delinquency Case File or a Living Child's Juvenile Dependency Case File* (JV-572) have been served personally or placed in a sealed envelope with postage paid and deposited in the United States mail addressed to the following:
- a.  County counsel or other attorney representing the child welfare agency if petition filed under section 300 (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- b.  District attorney if petition filed under section 601 or 602 (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- c.  Child (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- d.  Attorney of record for the child (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- e.  Child's parent (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- f.  Child's parent (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- g.  Child's legal guardian (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_
- h.  Probation department if petition filed under section 601 or 602 (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_



Your name: \_\_\_\_\_


Case Number: \_\_\_\_\_

- 4 i.  Child welfare agency/custodian of records if petition filed under section 300 (name and address): \_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_
- j.  The Indian child's tribal representative (name and address): \_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_
- k.  The child's CASA volunteer (name and address): \_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_
- l.  Anyone with an interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof under section 827(a)(3) (name and address): \_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_
- m.  The Indian tribe of the individual protected under section 827(a)(3) who was an Indian child as defined in section 224.1(b) (name and address): \_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_
- n.  The attorney of record or legal representative of the individual protected under section 827(a)(3) (name and address): \_\_\_\_\_  
 Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

5 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I may be guilty of a crime.

Date:

\_\_\_\_\_  
Type or print your name

  
Sign your name



**Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

If you are requesting a court order to obtain access to the juvenile delinquency case file or a living child's juvenile dependency case file, fill out all items on this form, and file it with the juvenile court. You must also fill out and file Proof of Service—Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File (form JV-569).

1 a. Your Name:

Relationship to child (if any): \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

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 case number, if known:

**Case Number:**

2 Name of child: \_\_\_\_\_

3 Child's date of birth (if known): \_\_\_\_\_

4  A petition regarding the child in 2 has been filed under (check all that apply):

a.  Welfare and Institutions Code section 300

b.  Welfare and Institutions Code section 601

c.  Welfare and Institutions Code section 602

5 The records I want are: (Describe in detail. Attach more pages if you need more space. If you are involved in a pending proceeding in an appellate court or you are preparing to participate in such a proceeding, you should describe here the transcripts, reports, and any other evidence considered by the juvenile court at hearings related to the subject of the appeal or writ proceeding. For example, you should describe a report by providing its title (such as "status review report," "jurisdiction/disposition report," or "CASA report") and the date of the hearing when the document was considered.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you have additional information to provide. Attach a separate sheet of paper or papers and write "Attachment 5 to form JV-570, item 5" for a title.



Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 6 The reasons for this petition are:
- a.  Civil court case pending in (name of county): \_\_\_\_\_  
 Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_
  - b.  Criminal court case pending in (name of county): \_\_\_\_\_  
 Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_
  - c.  Juvenile court case pending in (name of county): \_\_\_\_\_  
 Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_
  - d.  Family law court case pending in (name of county): \_\_\_\_\_  
 Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_
  - e.  Writ or appeal case pending in (name of district): \_\_\_\_\_  
 Case number (if available): \_\_\_\_\_  
 Hearing dates related to the juvenile court order being challenged or to be challenged on appeal or by writ:  
 \_\_\_\_\_
  - f.  Other (specify): \_\_\_\_\_  
 Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_

7 I need the records of a juvenile delinquency case file or a living child's juvenile dependency case file because (describe in detail; attach more pages if you need more space):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Check here if you have additional information to provide. Attach a separate sheet of paper or papers and write "Attachment 7 to form JV-570, item 7" for a title.

8 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I am guilty of a crime.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 Type or print your name

\_\_\_\_\_  
 Sign your name

**Note: You must provide a copy of this completed form to all interested parties if you know their names and addresses.**

**Notice of Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

**RE: Release of Juvenile Case File and Right to File an Objection**

You must provide notice to all those listed in item 2 on Proof of Service—Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File (form JV-569).

TO (names):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

① Child's name: \_\_\_\_\_

② Information relating to the child named in item ① is being sought by (name): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:**

③ The requested information is described in the attached Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File (form JV-570).

④ If you object to the release of these records and information, you must fill out Objection to Release of Delinquency Case File or a Living Child's Juvenile Dependency Case File (form JV-572) and return it to the court listed at the address above within 10 days of service of this notice.

Date:

\_\_\_\_\_  
Type or print your name



\_\_\_\_\_  
Sign your name

**Warning: If you do not object, the court may grant access to the child's case file.**

**Objection to Release of Delinquency Case File or a Living Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

Objections to the release of information and records described in the attached Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File (form JV-570) must be filed with the juvenile court.

1 a. Your Name:

Relationship to child (if any): \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

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: \_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:**

2 Name of child: \_\_\_\_\_

3 My relationship to the child, if any, is: \_\_\_\_\_

4 I object to the release of information and records relating to the child named in item 2


5 I do not want the juvenile court to release the records because (describe in detail, attach additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you have additional information to provide. Attach a separate sheet of paper or papers and write "Attachment 5 to form JV-572, item 5" for a title.

Date:

\_\_\_\_\_  
Type or print your name

  
\_\_\_\_\_  
Sign your name

**Warning: If you do not object, the court may grant access to the child's case file.**

**Order on Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File**

*Clerk stamps date here when form is filed.*

**DRAFT  
Not approved by  
the Judicial Council**

**The court finds and orders:**

- 1  The request is denied.
  - a.  Petitioner has not shown good cause for the release of the requested records.
  - b.  Petitioner has not met the notice requirements of rule 5.552(b) of the California Rules of Court.
  - c.  Request for records is overbroad or records sought are insufficiently identified.
  - d.  Other:  
\_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in child's name and date of birth:*

**Child's Name:**

**Date of Birth:**

*Court fills in case number when form is filed.*

**Case Number:**

- 2  The court sets a hearing on the request. Applicant has shown good cause for release of the juvenile case file, but the court must balance the interests of the applicant, the child, other parties to the juvenile delinquency or a living child's juvenile dependency court proceedings, and the public. Clerk to send notice under rule 5.552 of the California Rules of Court.  
  
Date of hearing: \_\_\_\_\_  
Time of hearing: \_\_\_\_\_  
Location: \_\_\_\_\_

- 3  The court will conduct a review of the juvenile case file and any filed objections.

- 4  Other:  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judicial Officer*

**Order After Judicial Review on  
Petition for Access to Delinquency  
Case File or a Living Child's  
Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

1 Name of petitioner: \_\_\_\_\_

**The court finds and orders:**

2  After a review of the juvenile delinquency case file or a living child's juvenile dependency case file and any filed objections  and a noticed hearing, the court denies the request.

Reason(s) for denial:

- a.  Access is not in the child's best interests.
- b.  The need for access does not outweigh the privacy rights of the child and the policy considerations favoring confidentiality of the juvenile case file.
- c.  Petitioner has not shown by a preponderance of the evidence that the records requested are necessary and have substantial relevance to the legitimate need of the petitioner.
- d.  There are no responsive records.
- e.  Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name and date of birth:

**Child's Name:**

**Date of Birth:**

Court fills in case number when form is filed.

**Case Number:**

3  After a review of the juvenile delinquency case file or a living child's juvenile dependency case file and any filed objections  and a noticed hearing, the court grants the request.

The petitioner has shown by a preponderance of the evidence that access to records is necessary and that records have substantial relevance to the legitimate needs of the petitioner. The court has balanced these needs with the child's best interest. The court finds that the need for access outweighs the policy considerations favoring confidentiality of juvenile records.

a.  The following records may be disclosed:  with redactions

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b.  The procedure for providing access is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c.  Any information that relates to another child or could identify another child, who is not the subject of the petition, must be redacted. The court orders required redactions as specified in *Order Granting Section 827 Petition Attachment: Required Redactions* (form JV-576).

d.  See attached.



Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

- 4 a.  Petitioner may not disseminate the information to anyone who is not specified in Welfare and Institutions Code section 827 or 827.10.
- b.  Petitioner may disseminate the disclosed records listed in item 3a only to: \_\_\_\_\_  
 as redacted     subject to protective order     additional orders attached

5  Disclosure subject to protective order (*list orders*): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

6  Other: \_\_\_\_\_  
 \_\_\_\_\_

7  See attached.

Date:

\_\_\_\_\_  
*Judicial Officer*

PETITIONER:  
MINOR'S NAME:

Date petition filed:  
Case No.:

**ORDER GRANTING SECTION 827 PETITION ATTACHMENT: REQUIRED REDACTIONS**

(Welf. and Inst. Code, § 827)

- TO  *Order After Judicial Review on Petition for Access to Delinquency Case File or a Living Child's Juvenile Dependency Case File (form JV-574)*  
 *Order After Judicial Review on Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File (form JV-588)*

Use this form to identify required redaction(s) to the juvenile case file when granting the 827 petition, and to authorize testimony related to the released juvenile case file information, as necessary.

1. After an in-camera review, the court determines that (*check one*):  all  portions of the juvenile case file may be disclosed. The court releases the documents specified below. (*check all that apply*):

a.  **Court File**

- (1)  Minute orders  
(2)  Petitions  
(3)  Reports by Social Workers  
(4)  Reports by Court Appointed Special Advocates (CASA)  
(5)  Psychological/Psychiatric Reports  
(6)  Other (*Please specify additional documents or information.*):

b.  **Agency File**

- (1)  Emergency Response Referrals  
(2)  Delivered Service Logs  
(3)  Investigative Narratives  
(4)  Relative Home Assessments  
(5)  Other (*Please specify additional documents or information.*):



PETITIONER:	Date 827 filed:
MINOR'S NAME:	Case No.:

2.  The following information must be removed or redacted before the documents are released (*check all that apply*):
- a.  Any information relating to or that could identify other minors or nonminor dependents pursuant to Welfare and Institutions Code section 827(a)(2), California Consumer Privacy Act (CCPA), Civil Code section 1798.100, et seq.
  - b.  Names, addresses, and telephone numbers of reporting parties pursuant to the Child Abuse and Neglect Reporting Act (CANRA), Penal Code section 11167(d).
  - c.  Social security numbers pursuant to California Civil Code section 1798.85.
  - d.  Dates of birth pursuant to Privacy Act of 1974, 5 U.S.C. § 552a, Driver's Privacy Protection Act (DPPA), 18 U.S.C. § 2721, California Public Records Act (CPRA), Government Code section 7927.410.
  - e.  Driver's license numbers pursuant to Driver's Privacy Protection Act (DPPA), 18 U.S.C. § 2721, Vehicle Code section 1808.21.
  - f.  Protected health information pursuant to the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-191 (1996), California Confidentiality of Medical Information Act (CMIA), Civil Code section 56, et seq., Health and Safety Code sections 12097–121020.
  - g.  Mental health information pursuant to the Lanterman-Petris-Short Act (LPS), Welfare and Institutions Code section 5000, et seq., Health and Safety Code section 11845, Civil Code section 56.103.
  - h.  Substance abuse treatment information pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (CAAAPTR), 42 U.S.C. § 4541, et seq., Public Health Service Act, 42 U.S.C. § 290dd -2, Health and Safety Code section 11845.5.
  - i.  Psychotherapy notes pursuant to Civil Code section 56.10(c)(1).
  - j.  Education information pursuant to Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g, 34 C.F.R. part 99, California Student Records Act, Education Code sections 49060–49085.
  - k.  Privileged information pursuant to Evidence Code sections 954, 994, 1014, 1035.8, 1037.5, 1038.
  - l.  Other information:

3.  The court releases the foregoing documents upon the petitioner submitting a signed protective order.

4.  The court further authorizes the testimony of  social workers  probation officers  Other: in the upcoming  criminal  civil proceedings.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judicial Officer

**Proof of Service—Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File**

*Clerk stamps date here when form is filed.*

**DRAFT  
Not approved by  
the Judicial Council**

① a. Your Name: \_\_\_\_\_

Relationship to child (if any): \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

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 case number if known.*

**Case Number:**

②  I was not able to provide notice of this petition to the following because I did not know their names or addresses. The custodian of records must serve a copy of the petition.

- a.  The custodian of records, as defined in section 10850.4(k)(2);
- b.  The county counsel, city attorney, or any other attorney representing the custodian of records;
- c.  Any surviving sibling, child, or nonminor dependent whose information is directly or indirectly included in the deceased child's juvenile case file or who may be identified by information in the deceased child's juvenile case file;
- d.  Any of the following who is authorized to represent the interest of a surviving sibling, child, or nonminor dependent described in item 2.c. above:
  - (i)  The parent or guardian of any surviving minor sibling or child;
  - (ii)  The Indian tribe—and, if applicable, the Indian custodian—of any surviving sibling, child, or nonminor dependent who is an Indian child as defined in section 224.1(b); and
  - (iii)  The attorney of record or legal representative of any surviving sibling, child, or nonminor dependent;
- e.  Any surviving adult who has an interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof under section 827(a)(3);
- f.  Any of the following who is authorized to represent the interest of any surviving adult who has an interest protected by another state or federal law described in item 2.e. above:
  - (i)  The Indian tribe of any surviving adult who was an Indian child as defined in section 224.1(b); and
  - (ii)  The attorney of record or legal representative of any surviving adult; and
- g.  Any other interested party as determined by the court.
- h.  Other (describe): \_\_\_\_\_



Your name: \_\_\_\_\_

Case Number: _____
--------------------

3 If you checked box 2.a. or 2.b., describe the efforts made to locate those addresses and explain why you are unable to locate the addresses: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4  Copies of *Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File (JV-584)*, *Notice of Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File (JV-585)*, and a blank *Objection to Public Disclosure of a Deceased Child's Juvenile Dependency Case File (JV-586)* have been served personally or placed in a sealed envelope with postage paid and deposited in the United States mail addressed to the following:

a.  The custodian of records, as defined in section 10850.4(k)(2) (*name and address*): \_\_\_\_\_  
\_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_

b.  The county counsel, city attorney, or any other attorney representing the custodian of records (*name and address*): \_\_\_\_\_  
\_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_

c.  Any surviving sibling, child, or nonminor dependent whose information is directly or indirectly included in the deceased child's juvenile case file or who may be identified by information in the deceased child's juvenile case file (*name and address*): \_\_\_\_\_  
\_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_

d.  Any of the following who is authorized to represent the interest of a surviving sibling, child, or nonminor dependent described in item 4.c. above:

(i)  The parent or guardian of any surviving minor sibling or child (*name and address*): \_\_\_\_\_  
\_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_

(ii)  The Indian tribe—and, if applicable, the Indian custodian—of any surviving sibling, child, or nonminor dependent who is an Indian child as defined in section 224.1(b) (*name and address*): \_\_\_\_\_  
\_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (*date*): \_\_\_\_\_



Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

4 d. (iii)  The attorney of record or legal representative of any surviving sibling, child, or nonminor dependent (name and address): \_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

e.  Any surviving adult who has an interest protected by another state or federal law prohibiting or limiting the release of the juvenile case file or any portions thereof under section 827(a)(3) (name and address): \_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

f.  Any of the following who is authorized to represent the interest of any surviving adult who has an interest protected by another state or federal law described in item 4.e. above:

(i)  The Indian tribe of any surviving adult who was an Indian child as defined in section 224.1(b) (name and address): \_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

(ii)  The attorney of record or legal representative of any surviving adult (name and address): \_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

g.  Any other interested party as determined by the court (name and address): \_\_\_\_\_

Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

h.  Other (name and address): \_\_\_\_\_


Date mailed: \_\_\_\_\_ or  Personally served on (date): \_\_\_\_\_

Check here if you have additional information to provide. Attach a separate sheet of paper or papers and write "Attachment 4 to form JV-583, item 4" for a title.

5 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I may be guilty of a crime.

Date:

\_\_\_\_\_  
Type or print your name

  
\_\_\_\_\_  
Sign your name

**Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

If you are a member of the public requesting public disclosure of the juvenile dependency case file of a deceased child, you can:

a. Fill out this form and file it with the juvenile court. You must then provide a copy of this form to the custodian of records of the county child welfare agency, who will then provide notice of this petition. You must also fill out and file Proof of Service—Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File (form JV-583).

**Or**

b. Do not complete the form, and instead request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 10850.4.

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number, if known:

**Case Number:****1** a. Your Name: \_\_\_\_\_

Relationship to child (if any): \_\_\_\_\_

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** Name of child: \_\_\_\_\_**3** Child's date of birth (if known): \_\_\_\_\_**4** a.  A petition regarding the child in **2** has been filed under (check all that apply):(i)  Welfare and Institutions Code section 300(ii)  Welfare and Institutions Code section 601(iii)  Welfare and Institutions Code section 602

b.  A petition has not been filed, but the deceased child was within the jurisdiction of the juvenile court. An investigation is believed to have been conducted, and records are within the care and custody of the agency.



Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 5 a.  The child in 2 is deceased. Approximate date of death: \_\_\_\_\_
- b.  I believe the child in 2 died as a result of abuse or neglect.

- 6 Petitioner requests (check one):
  - a.  The entire juvenile case file
  - b.  Part of the juvenile case file described below:
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_


Check here if you have additional information to provide. Attach a separate sheet of paper or papers and write "Attachment 6 to form JV-584, item 6" for a title.

7 The reason for this petition is the presumptive public right of access to the file of a deceased child.

8 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I am guilty of a crime.

Date:

\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Sign your name*

**Note: You must provide a copy of this completed form to all interested parties if you know their names and addresses.**

**Notice of Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

**RE: Release of Juvenile Case File and Right to File an Objection**

*For a deceased child, you must provide notice to all those listed in POS-Petition for Public Disclosure of a Deceased Child's Juvenile Case File (form-583).*

TO (names):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

① Child's name: \_\_\_\_\_

② Information relating to the child named in item ① is being sought by (name): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:**

- ③ The requested information is described in the attached *Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-584).
- ④ If you object to the release of these records and information, you must fill out *Objection to Public Disclosure of a Deceased Child's Juvenile Dependency Case File* (form JV-586) and return it to the court listed at the address above within 15 days of service of this notice of a petition for public disclosure of a deceased child's juvenile case file.

Date:

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**Warning: If you do not object, the court may grant access to the child's case file.**

**Objection to Public Disclosure of a Deceased Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

Objections to the release of information and records described in the attached Petition for Public Disclosure of a Deceased Child's Juvenile Case File (form JV-584) must be filed with the juvenile court.

1 a. Your Name: \_\_\_\_\_  
Relationship to child (if any): \_\_\_\_\_  
Your Lawyer (if you have one for this case):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

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: \_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:**

2 Child's name: \_\_\_\_\_


3 I object to the release of information and records relating to the child named in item 2.

4 I do not want the juvenile court to release the records because (check all that apply):  
a.  I can show by a preponderance of evidence that the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another surviving child who is directly or indirectly connected to the juvenile case that is the subject of the petition for the following reason(s): (identify the surviving child and describe how public disclosure is detrimental):  
\_\_\_\_\_  
\_\_\_\_\_  
b.  The juvenile case file, or any portion thereof, is privileged or confidential pursuant to another state law or federal law or regulation, which prohibits or limits release of the juvenile case file or any portions thereof for the following reason(s): (provide the name and citation of the state law or federal law or regulation on which you base your objection and what information in the juvenile case file is protected):  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you have additional information to provide. Attach a separate sheet of paper or papers and write "Attachment 4 to form JV-586, item 4" for a title.

Date:

\_\_\_\_\_  
Type or print your name

  
\_\_\_\_\_  
Sign your name

**Warning: If you do not object, the court may grant access to the child's case file.**



**Order on Petition for Public Disclosure of a Deceased Child's Juvenile Dependency Case File**

Clerk stamps date here when form is filed.

**DRAFT**  
**Not approved by**  
**the Judicial Council**

**The court finds and orders:**

①  The child is deceased, an objection to the request has been filed, and the court sets a hearing on the request within 60 calendar days from the date the petition was served on the custodian of records.  
Date of hearing: \_\_\_\_\_  
Time of hearing: \_\_\_\_\_  
Location: \_\_\_\_\_

②  The child is deceased, and the court will (1) conduct a review of the juvenile case file without a hearing because no objections were filed, and (2) issue its decision within 10 calendar days of the final day for filing an objection.

③  Other:  
\_\_\_\_\_  
\_\_\_\_\_

Fill in court name and street address:  
**Superior Court of California, County of**

Fill in child's name and date of birth:  
**Child's Name:**  
  
**Date of Birth:**

Court fills in case number when form is filed.  
**Case Number:**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judicial Officer*

**Order After Judicial Review on  
Petition for Public Disclosure of a  
Deceased Child's Juvenile  
Dependency Case File**

*Clerk stamps date here when form is filed.*

**DRAFT  
Not approved by  
the Judicial Council**

① Name of petitioner: \_\_\_\_\_

**The court finds and orders:**

②  This child is deceased, and the request is granted.

a.  The court has read and considered the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b.  There is a presumption under Welfare and Institutions Code section 827(a)(2)(B) in favor of the release of the documents unless a statutory reason for confidentiality is shown to exist. The court has balanced only the interests of the surviving children, siblings, and nonminor dependents who may be named in the file with the deceased child.

c.  The following records may be disclosed:  with redactions

\_\_\_\_\_  
\_\_\_\_\_

d.  The procedure for providing access is:

\_\_\_\_\_  
\_\_\_\_\_

e. Any information that relates to another surviving child or could identify another surviving child, except for information about the deceased, must be redacted.

f.  Any information that is privileged or confidential pursuant to another state or federal law or regulation must be redacted. The court orders required redactions as specified in *Order Granting Section 827 Petition Attachment: Required Redactions* (form JV-576).

g.  See attached.

h.  Disclosure subject to protective order (*list orders*): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in child's name and date of birth:*

**Child's Name:**

**Date of Birth:**

*Court fills in case number when form is filed.*

**Case Number:**



Case Number:

Your name: \_\_\_\_\_

- 3  The child is deceased and the request is denied because *(check all that apply)*:
- a.  The court finds by a preponderance of the evidence that access to the juvenile case file or of any portion of it is detrimental to the safety, protection, or physical or emotional well-being of another surviving child, sibling, or nonminor dependent who is directly or indirectly connected to the juvenile case that is the subject of the request.
- b.  The juvenile case file, or a portion thereof, is privileged or confidential pursuant to another state law or federal law or regulation, which prohibits or limits release of the juvenile case file or any portions thereof for the following reason(s) *(provide the name and citation of the state law or federal law or regulation and what information in the juvenile case file is protected)*:  
\_\_\_\_\_  
\_\_\_\_\_
- c.  Other:  
\_\_\_\_\_  
\_\_\_\_\_
- d.  See attached.

Date:

\_\_\_\_\_  
*Judicial Officer*

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Juvenile Law: Racial Justice Act Forms

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723

*Committee or other entity submitting the proposal:*  
Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Tony Cheng, 415-865-4268, tony.cheng@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): October 22, 2024 and November 26, 2024

Project description from annual agenda: Develop a proposal to implement the Racial Justice Act (RJA), Penal Code section 745 and 1473(f), in juvenile delinquency matters. To implement the RJA in criminal and appellate matters, a joint proposal drafted by the Criminal Law Advisory Committee and the Appellate Advisory Committee was approved, effective September 1, 2024. A proposal to implement the RJA in juvenile court circulated for public comment in Spring 2024. Based on comments received, the proposal is being revised and is expected to circulate for public comment in Spring 2025.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 1/28/25

approved by Office Director (or Designee) (name) Audrey Fancy  
on (date) 3/4/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

**SPR25-18**

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Title	Action Requested
Juvenile Law: Racial Justice Act Forms	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723	January 1, 2026
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Tony Cheng, 415-865-4268 <a href="mailto:tony.cheng@jud.ca.gov">tony.cheng@jud.ca.gov</a>
Hon. Tari L. Cody, Cochair	
Hon. Stephanie E. Hulsey, Cochair	

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### Executive Summary and Origin

Juvenile courts expect more claims under the Racial Justice Act to be filed since recent legislation expanded the retroactive application of the act, enabling more individuals to file claims for relief. The Family and Juvenile Law Advisory Committee proposes five new forms to assist litigants and juvenile courts with claims under the act.

### Background

The Racial Justice Act of 2020 (Assem. Bill 2542 (Kalra); Stats. 2020, ch. 317) prohibits the state from seeking or obtaining a criminal conviction or sentence on the basis of race, ethnicity, or national origin. The act also applies explicitly to wardship adjudications (the equivalent of a conviction) and dispositions (the equivalent of a sentence) in juvenile court and to motions to transfer a juvenile case to adult criminal court. (Pen. Code, § 745(f).)<sup>1</sup>

The act, which added section 745 and amended sections 1473 and 1473.7, enables individuals to file claims for relief based on violations of its provisions. The act specifies four different violations that can be alleged: (1) the exhibition of racial bias or animus against the individual by

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<sup>1</sup> Unless otherwise specified, all further statutory references are to the Penal Code.

a judge, attorney, law enforcement officer, or expert witness; (2) the use of racially discriminatory language by a judge, attorney, law enforcement officer, or expert witness; (3) the existence of a racial disparity in the seriousness of offenses charged or dispositions sought or obtained; and/or (4) the existence of a racial disparity in the severity of dispositions imposed. (§ 745(a)(1)–(4).)

If a claim under the act is sustained, a juvenile court may (1) declare a mistrial, (2) dismiss sentencing enhancements and/or special allegations, (3) reduce the charges, (4) vacate a previously imposed judgment and order new proceedings, (5) modify a previously imposed judgment, (6) modify a previously imposed disposition, and/or (7) grant additional relief that the court finds appropriate. (§ 745(e)(1)–(2).)

When initially enacted, the act applied prospectively to all cases in which judgment had not yet become final as of January 1, 2021.

The Racial Justice for All Act (Assem. Bill 256 (Kalra); Stats. 2022, ch. 739) subsequently authorized the retroactive application of the act in certain cases. Specifically, as of January 1, 2023, an individual facing actual or potential immigration consequences could file a claim regardless of when their judgment became final. (§ 745(j)(2).) As of January 1, 2024, retroactive eligibility expanded to individuals currently in the Division of Juvenile Justice (DJJ).<sup>2</sup> (§ 745(j)(3).) On January 1, 2025, eligibility expanded to individuals with a judgment that resulted in a DJJ commitment that became final on or after January 1, 2015. (§ 745(j)(4).) Finally, on January 1, 2026, eligibility expands to all cases resulting in a DJJ commitment, regardless of when the judgment or disposition became final. (§ 745(j)(5).)

Section 745 was recently further amended effective January 1, 2024, to allow an individual to raise a claim under the act for the first time on direct appeal. (Assem. Bill 1118 (Kalra); Stats. 2023, ch. 464.) An individual may also now move to stay an appeal and request remand to the trial court to file a claim under the act. (§ 745(b).)

Procedurally, a claim under the act may be filed at any time during a case. If judgment in a case has not yet been entered, an individual may file a claim under the act in a pending case under section 745. (*Ibid.*) If judgment has already become final, an individual may file a claim under the act by seeking a writ of habeas corpus under section 1473(f) or filing a motion to vacate under section 1473.7. (*Ibid.*) Once an applicant files a claim under the act, the court must determine whether the applicant has established a prima facie case. If so, the court sets a hearing. The court may appoint counsel and may order discovery. (Welf. & Inst. Code, § 634; § 745(b).)

To implement the act in criminal cases, the Appellate Advisory Committee and the Criminal Law Advisory Committee jointly proposed amendments to California Rules of Court, rules

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<sup>2</sup> Because all Division of Juvenile Justice (DJJ) facilities were ordered closed as of July 1, 2023 (Sen. Bill 823; Stats. 2020, ch. 337), there are no longer any individuals incarcerated there. As a result, the committee expects few, if any, claims to be filed under this paragraph.

4.551, 8.385, and 8.386 and revisions to *Petition for Writ of Habeas Corpus* (form HC-001), *Motion to Vacate Conviction or Sentence* (form CR-187), and *Order on Motion to Vacate Conviction or Sentence* (form CR-188), all of which became effective September 1, 2024. However, because there are no equivalent juvenile rules or forms, the committee proposes five new forms to implement the act in juvenile court.

## **Prior Circulation**

An earlier version of this proposal circulated for public comment in Spring 2024. The proposal consisted of a request form, an information sheet, and two findings and orders forms, one for use at the prima facie stage of the case and the other for use after a prima facie case has been established. The committee received many comments regarding the content and organization of the forms, and decided to make a number of changes before circulating the proposal for comment again. Among the comments, some noted that the prior version of forms did not address situations in which a case started in juvenile court but was transferred to adult criminal court or in which a case may have initiated in one county but transferred to a different county. In response, the committee added instructions to the proposed information sheet to address these situations.

Commenters also requested more information regarding discovery and appeals. The committee added content on these topics to the information sheet and revised one of the proposed findings and orders forms to include space for the court to grant or deny a discovery request, order redaction, or impose protective orders.

Finally, commenters suggested some format changes to the prior version of the forms. These suggestions led to the creation of a new proposed form for the court to make preliminary findings and orders as appropriate including regarding eligibility for relief, appointment of counsel, and discovery. The form for findings and orders after an initial hearing was reorganized and now includes space to order a further hearing on a prima facie case.

## **The Proposal**

The Family and Juvenile Law Advisory Committee proposes five new forms for optional use for claims in juvenile court under the Racial Justice Act: a request form and an information sheet and three optional forms for findings and orders under the act.

### ***Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-720)***

Form JV-720 would be an optional form to request relief from a juvenile court based on a violation of the act, in either pending or closed juvenile court cases. The committee expects that the form will most commonly be used by self-represented litigants to request retroactive relief in closed cases because youth in pending proceedings are represented by appointed counsel until their cases are ultimately dismissed. (Welf. & Inst. Code, §§ 633, 634; Cal. Rules of Court, rules 5.534(d)(2)(A), 5.663(c).) The form is recommended as optional so that counsel in pending cases may choose to raise claims through written motions rather than by filing the form.



In cases no longer pending, retroactive claims under the act may be filed under section 1473(f) (for habeas corpus petitions) or 1473.7 (for motions to vacate). A writ of habeas corpus is used to file a claim when an individual is under some form of judicial restraint (i.e., physical custody or postrelease supervision), whereas a motion to vacate is used when an individual is no longer under any form of judicial restraint. Retroactive claims in juvenile cases are limited to those in which a juvenile disposition resulted in a DJJ commitment. Because the number of individuals who suffered a DJJ commitment and are still either in custody or on postrelease supervision is exceedingly small, the committee expects that retroactive claims under the act in juvenile court will generally not be raised through habeas corpus petitions. As a result, the committee has not included such procedures in this proposal.

Item 1 on form JV-720 asks the applicant to indicate the procedural posture of their juvenile case to determine whether they are eligible to file a claim under the act (i.e., whether their juvenile case is either still pending or meets the criteria for a retroactive claim).

Item 2 allows an unrepresented applicant to request that the juvenile court appoint counsel to assist them in pursuing a claim under the act. The statute itself is silent regarding appointment of counsel, but unrepresented youth in juvenile delinquency proceedings have the right to appointed counsel, regardless of indigency. (Welf. & Inst. Code, §§ 633, 634; Cal. Rules of Court, rules 5.534(d)(2)(A), 5.663(c).) These claims will be heard in juvenile court and implicate an individual's substantial rights. In the committee's view, appointing counsel for unrepresented applicants would serve the purpose of the act.

Item 3 asks the applicant to indicate which categories of violations their claim falls under. (§ 745(a)(1)–(4).) The act specifies four different violations that can be alleged: (1) the exhibition of racial bias or animus against the individual by a judge, attorney, law enforcement officer, or expert witness; (2) the use of racially discriminatory language by a judge, attorney, law enforcement officer, or expert witness; (3) the existence of a racial disparity in the seriousness of offenses charged or dispositions sought or obtained; and/or (4) the existence of a racial disparity in the severity of dispositions imposed. (*Ibid.*)

Item 4 asks the applicant to indicate when they learned of the violation they are claiming. For violations alleged to have been committed during trial, the act requires that requests for relief be filed “as soon as practicable” upon the applicant “learning of the alleged violation.” (§ 745(c).) A motion that is not timely may be deemed waived, in the discretion of the court. (*Ibid.*) For motions to vacate, the act requires that they be filed “without undue delay from the date the moving party discovered or could have discovered with the exercise of due diligence” the basis of the violation. (§ 1473.7(c).)

Item 5 asks the applicant to explain their claim in detail and to indicate what facts support their allegations. Item 5 also asks the applicant whether their claim is based on a statement or conduct by a judge. If so, that judge must recuse themselves from the matter. (§ 745(b).)

Item 6 allows the applicant to request discovery to support their claim. (§ 745(d).) An applicant may file a motion requesting disclosure to the defense of “all evidence relevant to a potential violation of [the act] in the possession or control of the state.” (*Ibid.*)

Item 7 allows an applicant to request the assistance of an interpreter at any hearings regarding their claim, as is common practice in juvenile and criminal courts.

Because the act itself is silent regarding service, the committee discussed whether applicants should be required to serve these requests themselves. Consistent with other forms designed for self-represented litigants (such as *Request to Vacate Disposition and Dismiss Penal Code Section 647f* (form JV-742), *Request to Reduce Juvenile Marijuana Offense* (form JV-744), and *Request to Expunge Arrest or Vacate Adjudication (Human Trafficking Victim)* (Penal Code, § 236.14) (form JV-748)), this form is designed to be sent by the court clerk to the probation department and prosecuting attorney after filing. The committee decided that facilitating this process will assist unrepresented applicants in these proceedings, consistent with juvenile court practice in other cases (such as juvenile record sealing).

#### ***The Racial Justice Act in Juvenile Court (form JV-720-INFO)***

Form JV-720-INFO would be an information sheet to supplement form JV-720. In addition to providing instructions on how to complete form JV-720, form JV-720-INFO includes background information about the act and explains how and when a claim under the act may be filed and what happens after a claim is filed.

#### **Three New Findings and Orders Forms**

To assist the juvenile court, the committee proposes three optional forms for findings and orders on these claims. The act itself contemplates a three-part process: first, the court must determine whether the applicant is eligible for relief (i.e., their case is still pending and/or they were committed to DJJ as a result of their case) and whether they should be appointed counsel. Second, the court must determine whether the applicant has established good cause for release of discovery and/or made a prima facie showing of a violation under the act. If the applicant establishes a prima facie showing, the court must then hold an evidentiary hearing. Finally, if an evidentiary hearing is held, the court must make findings and orders, including the final adjudication of the matter.

#### ***Preliminary Findings and Orders After Request for Relief Under the Racial Justice Act— Juvenile Adjudication (form JV-721)***

Form JV-721 would be an optional form for a juvenile court to use in making preliminary findings and orders after the initial submission of a claim. The form can also be used to order a further hearing on discovery or a prima facie showing, or to set an evidentiary hearing.

Items 1 and 2 on form JV-721 are for findings. Item 1 allows the court to indicate whether the applicant’s claim does or does not qualify for retroactive application of the act and whether it was or was not filed in a timely manner. A claim that is not timely filed after the applicant learns of the alleged violation may be denied. (§§ 745(c) (claims made during trial must be filed “as

soon as practicable” upon the applicant learning of the violation), 1473.7(c) (motions to vacate must be filed “without undue delay” from the date the applicant actually, or reasonably should have, learned of the violation).) Item 2 allows the court to make additional findings, if necessary.

Items 3 through 7 on form JV-721 are for orders. Item 3 allows the court to indicate whether the applicant’s request for counsel is granted or denied. Item 4 allows the court to set the matter for a discovery hearing, if appropriate. Item 5 allows the court to set the matter for further hearing on the prima facie showing, also if appropriate. If the court finds that the request for relief itself establishes a prima facie showing, the court can also set the matter for an evidentiary hearing in item 6. Item 7 allows the court to make additional orders, as appropriate.

***Findings and Orders After Initial Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-722)***

The committee proposes form JV-722 as an optional form for a juvenile court to make findings and orders after an initial hearing on the applicant’s request. The form can be used to indicate whether the applicant is eligible for relief under the RJA, to grant or deny a request for discovery, and to indicate whether a prima facie showing has been made.

Item 1 on form JV-722 allows the court to memorialize when an initial hearing occurred and which parties were present, while items 2 and 3 are for findings. Item 2 allows the court to indicate whether an applicant has demonstrated good cause to order discovery. (§ 745(d).) Item 3 allows the court to indicate whether an applicant has established a prima facie violation of the act. If so, the court must set the matter for a hearing. (§ 745(c).)

Items 4 through 6 on form JV-722 are for orders. Item 4 allows the court to grant a request for discovery and to specify any documents or information that must be produced. Item 4 also allows the court to indicate whether any redactions to discovery ordered are appropriate and to specify any protective orders the discovery is subject to. (§ 745(d).) Item 4 also allows the court to deny a request for discovery and to indicate whether the denial is based on a failure to establish good cause or because discovery cannot be adequately redacted or protected by a protective order to protect a statutory privilege or constitutional privacy right. (*Ibid.*)

Item 5 allows the court to set the matter for further hearing on the prima facie showing, if appropriate. If the court finds that a prima facie showing has already been established, item 5 also allows the court to set the matter for an evidentiary hearing. (§ 745(c).) Item 6 allows the court to make additional orders, if necessary.

***Findings and Orders After Evidentiary Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-723)***

The committee proposes form JV-723 as an optional form for a juvenile court to make findings and orders after an evidentiary hearing, including final adjudication of the matter. The form can be used to grant or deny a claim, explain the court’s reasoning, and order relief under the act.

Item 1 allows the court to memorialize when and where the hearing required by section 745(c) took place and which parties were present. Item 2 allows the court to indicate what, if any, violations of the act it finds have been proven by a preponderance of the evidence, and item 3 allows the court to make findings required by the act, as appropriate. (§§ 745(c)(2), (3).)

Items 4, 5, and 6 are for orders. In item 4, the court grants or denies the applicant's request. Item 5 allows the court to indicate what, if any, remedies it orders for any violations of the act. (§ 745(e).) Item 6 allows the court to make additional orders, as appropriate.

### **Alternatives Considered**

The committee considered taking no action, but rejected this option because it expects the number of claims filed in the juvenile courts to increase going forward. These optional forms will assist litigants in accessing relief under the act and assist the courts in making required findings and ruling on these claims.

The committee considered developing separate forms for seeking relief under section 745 depending on the procedural posture of the request—whether as a motion made in a pending case, a petition for habeas corpus, or a motion to vacate. Upon further discussion, however, the committee decided to propose a single form for requesting relief under the act for simplicity. Since petitions for habeas corpus are rarely filed in juvenile court and claims for relief in pending cases may more commonly be filed as individually drafted motions by counsel, the committee anticipates that the form will most often be used to request to vacate a prior adjudication or disposition.

The committee also considered proposing a single findings and order form for use after both the initial filing of a claim under the act and, if a prima facie case is established, after an evidentiary hearing on the claim. Upon further discussion, however, the committee decided to propose three separate forms for clarity: one for use after the filing of a claim, which could also be used to provide notice of a hearing; another for use after a hearing on discovery or prima facie showing; and a third form for use after an evidentiary hearing on a claim filed under the act.

The committee also discussed whether new rules are necessary to implement the act in juvenile court. As noted above, the proposal to implement the act in criminal court cases included rule amendments, specifically, to trial court and appellate court rules on habeas corpus proceedings. However, there are no existing habeas corpus rules in juvenile court. The committee concluded that the proposed forms appear to be sufficient and that rules are not currently needed, but will monitor the process going forward and consider rules in the future if they would be helpful.

After the prior circulation, the committee also reconsidered the language on form JV-720 regarding eligibility. The RJA applies prospectively “[t]o all cases in which judgment is not final.” (§ 745(j)(1).) In *People v. Esquivel* (2021) 11 Cal.5th 671, the California Supreme Court held that “[a] case in which a defendant is placed on probation with imposition of sentence suspended is not yet final for this purpose if the defendant may still timely obtain direct review of an order revoking probation and imposing sentence.” (*Esquivel*, 11 Cal.5th at p. 673.) In the

committee’s view, based on *Esquivel*, the case of a youth on juvenile probation is a case “in which judgment is not final” within the meaning of the RJA. In juvenile delinquency matters, a youth typically remains on juvenile probation until their case is ultimately dismissed; thus a youth would generally be eligible to file a claim under the RJA at any time prior to the dismissal of their case. To better explain eligibility in a juvenile case, the committee rephrased “Judgment in my case is not final” to instead read “My juvenile court case is still pending or I am currently on juvenile probation.”

### **Fiscal and Operational Impacts**

Fiscal and operational impacts to the courts are largely attributable to the legislation authorizing retroactive juvenile claims under the Racial Justice Act. The proposal aims to mitigate workload burdens by making the application for relief under the act more efficient, consistent, and easier to navigate for self-represented litigants and the courts. Expected costs include training, case management system updates, and the production of new forms.

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### 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?
- Is the language in forms JV-720 and JV-720-INFO clear for self-represented litigants? Please provide any specific suggestions for improvements.

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 two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

1. Forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723, at pages 10–22
2. Link A: Pen. Code, § 745,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=745.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=745.&lawCode=PEN)
3. Link B: Pen. Code, § 1473,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1473.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1473.&lawCode=PEN)
4. Link C: Pen. Code, § 1473.7,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1473.7.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1473.7.&lawCode=PEN)

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   <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>REQUEST FOR RELIEF UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION</b>	CASE NUMBER:

**Instructions—Read Carefully**

- Use this form if you are going or went to court because you allegedly committed an offense when you were under the age of 18 and you believe your case was affected by discrimination on the basis of race, ethnicity, or national origin.
- For more information about the Racial Justice Act and how to fill out this form, please see *The Racial Justice Act in Juvenile Court* ([form JV-720-INFO](#)).
- If this form asks for information that you do not have, contact your attorney. If you don't have an attorney, the public defender's office in the county where you are going or went to court may be able to help you get the information.
- File this form in the county where you are going or last went to court.
- The court will serve this form for you unless you have an attorney. If you have an attorney, your attorney must serve the form.

**1. Eligibility**

I am eligible to file this request because (*check all that apply*):

- a.  My juvenile court case is still pending or I am currently on juvenile probation.
- b.  I face actual or potential immigration consequences (such as deportation) based on this case.
- c.  I was committed to the Division of Juvenile Justice (DJJ) or the California Youth Authority (CYA) based on this case.

**2.  Appointment of counsel**

I request the court appoint an attorney to represent me.

**3. Basis for violation**

I believe the Racial Justice Act was violated because (*check all that apply, then provide details in item 5a*):

- a.  The judge, an attorney, a law enforcement officer, or an expert witness in the case exhibited bias or animus towards me because of my race, ethnicity, or national origin.
- b.  During in-court trial proceedings, the judge, an attorney, a law enforcement officer, or an expert witness used discriminatory language about my race, ethnicity, or national origin. (Racially discriminatory language does not include repeating language used by someone else that is relevant to the case, or giving a racially neutral and unbiased physical description of a suspect.)

CASE NAME:	CASE NUMBER:
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3. c.  I was charged with or found responsible for a more serious offense than people of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained adjudications (convictions) for serious offenses against people who share my race, ethnicity, or national origin in the county where the adjudications (convictions) were sought or obtained.
- d.  I received a longer or more severe disposition (sentence) compared to similarly situated individuals for the same offense **and** (check all that apply):
- (1)  Longer or more severe dispositions (sentences) were more frequently imposed for the same offense on people who share my race, ethnicity, or national origin than on people of other races, ethnicities, or national origins in the county in which this case occurred.
- (2)  Longer or more severe dispositions (sentences) were more frequently imposed for the same offense on people in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in the county in which this case occurred.

4. **Discovery of violation**

I learned of the grounds described in item 3 on or about (date): \_\_\_\_\_

5. **Supporting facts**

a. Describe what happened. For each violation you claim in item 3 above, explain the facts that support it. Give details. (If necessary, attach additional pages. You may use Attachment to Judicial Council Form (form MC-025) for any additional pages. If available, attach declarations, relevant records, transcripts, or other documents supporting your request.)

Additional documents attached.

b. Is your request based on a statement or conduct by a judge?  Yes  No

If yes, please fill in the judge's name if you know it: \_\_\_\_\_



CASE NAME:	CASE NUMBER:
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6. Disclosure of evidence

I request disclosure of evidence relevant to a potential violation of the Racial Justice Act (If you checked the box, complete items a and b below):

a. I need the following types of records or information:

b. I need the records or information because:

7.  Request for interpreter

If there is a hearing, I will need an interpreter for (language): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(NAME OF APPLICANT OR ATTORNEY)



\_\_\_\_\_  
(SIGNATURE OF APPLICANT OR ATTORNEY)

## What is the Racial Justice Act?

The Racial Justice Act (RJA) is a law that prohibits the State of California from prosecuting or punishing someone based on race, ethnicity, or national origin. If you have, or ever had, a juvenile court case, this law may apply to you.

## Why was the RJA passed?

The RJA was passed because the California Legislature recognized that “[d]iscrimination in our criminal justice system based on race, ethnicity, or national origin has a deleterious effect not only on individual[s] but on our system of justice as a whole.” (Assem. Bill 2542 (Kalra); Stats. 2020, ch. 317.) Such discrimination denies Californians equal justice under the law. The intent of the RJA is to “eliminate racial bias from [our] criminal justice system because racism in any form or amount . . . is intolerable, inimical to a fair criminal justice system,” and violates the laws and Constitution of the state. (*Ibid.*)

## How do I know if the RJA applies to my case?

The RJA may apply to your juvenile case if:

- You believe a judge, attorney, law enforcement officer, or expert witness in your case was biased against you because of your race, ethnicity, or national origin;
- A judge, attorney, law enforcement officer, or expert witness in your case used racially discriminatory language about your race, ethnicity, or national origin;
- You believe: (1) you were charged with or found to have committed a more serious offense because of your race, ethnicity, or national origin; and (2) people in the same county who share your race, ethnicity, or national origin tend to be charged with or found to have committed more serious offenses than people of a different race, ethnicity, or national origin;
- You believe: (1) you received more severe consequences because of your race, ethnicity, or national origin; and (2) people in the same county who share your race, ethnicity, or national origin tend to receive more severe consequences than people of a different race, ethnicity, or national origin; or

- You believe: (1) you received more severe consequences based upon the race, ethnicity, or national origin of the victims in your case; and (2) people in the same county whose victims share the same race, ethnicity, or national origin as people in your case tend to receive more severe consequences than people whose victims are of a different race, ethnicity, or national origin.

## Who can file a request under the RJA?

You can file a request under the RJA if:

- Your juvenile court case is still pending or you are currently on juvenile probation;
- You have or may have immigration problems (such as deportation) because of your juvenile court case; or
- You were sent to the Division of Juvenile Justice (DJJ), also known as the California Youth Authority (CYA), as a result of your juvenile court case.

If none of the above apply, you cannot file an RJA request

## Where should I file a request under the RJA?

File your request in the juvenile court if your last court date was in juvenile court by filling out *Request for Relief Under the Racial Justice Act—Juvenile Adjudication* ([form JV-720](#)). On the other hand, if your last court date was in adult criminal court, file your request in criminal court instead by filling out *Petition for Writ of Habeas Corpus* ([form HC-001](#)) or *Motion to Vacate Conviction or Sentence* ([form CR-188](#)).

## When can I file a request under the RJA?

If your case is currently in trial, you must file your request as soon as practicable after you learned that there may have been a violation of the act in your case. If your case is over and you are no longer at DJJ or CYA or on juvenile probation, you should file a request under the act as soon as you can after you learn that there may have been a violation.



## Do I need an attorney?

You do not have to have an attorney. You can file a request under the RJA yourself or you can ask an attorney to file a request for you. If you do not have an attorney, you can ask the court to appoint an attorney to represent you for this request. If you need information to file the request yourself, you can contact the attorney who previously represented you or the public defender's office to see if they can help you.

## How do I file an RJA request?

You or your attorney (if you have one) may file a request under the RJA in juvenile court by filling out *Request for Relief Under the Racial Justice Act—Juvenile Adjudication* ([form JV-720](#)).

Fill out the form by putting your name and contact information in the box at the top of the form and the address of the court in the box below your name and address. You can get the court's address from the court papers in your case. The form must be filed in the last county where you went to court for your case. Then, check the boxes that apply to your case and fill in the information requested.

- Check the boxes in item 1 that apply to your case.
- Check the box in item 2 if you are asking the court to appoint an attorney to represent you.
- Check the boxes in item 3 that explain why you believe the RJA was violated in your case.
- Fill in item 4 with the date you discovered the RJA was violated in your case.
- Fill in item 5a with facts that support why you believe the RJA was violated in your case.
- Check the box in item 5b if you believe the RJA was violated in your case because of something a judge said or did, and fill in the name of the judge if you know it. If so, a different judge will hear your request.
- Check the box in item 6 if you are asking for records or information that can be used to support your request. If so, fill in the types of records or information you are asking for and why you need them. For example, you might request a transcript of a prior hearing to show that a witness used racially

discriminatory language about your race, ethnicity, or national origin.

- Or, you might request records of people charged with offenses similar to yours in the same county to show that people that share your race, ethnicity, or national origin tend to be charged with more serious offenses.
- If you will need an interpreter, ask for one in item 7.

Once you have filled out form JV-720, take or mail it to the court clerk's office in the court where the last court date was held. 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.

## What happens after I file a request under the RJA?

If you do not have an attorney and have asked for one, the court will first decide whether to appoint an attorney to your case. If the court appoints an attorney for you, the attorney will have the opportunity to change or add to ("amend") your request.

If the court appoints an attorney for you and you requested records or information (known as "discovery") to support your request, your attorney can amend your request for discovery. The court will then decide whether you have presented enough facts to establish "good cause" for the release of discovery. If the court orders discovery, it may order that certain confidential information be protected.

The court will then review your request and decide whether you have presented enough facts to establish a substantial likelihood that a violation of the RJA occurred. A "substantial likelihood" requires more than a mere possibility, but less than a standard of "more likely than not." If the court decides you have met this standard, it must then hold an "evidentiary hearing."

If the court holds an evidentiary hearing, you may present evidence and testimony to support your request. The district attorney will also be able to present evidence and testimony. To win, you must prove a violation of the RJA by a preponderance of the evidence. That means you must prove it is more likely than not that the RJA was violated. After the hearing, the court will decide if you have proven a violation by a preponderance of the evidence. If the court finds that you have not proven a violation, it is required to explain why it is denying your request.

**What happens if my RJA request is granted?**

If you prove a violation, the court will grant your request and can make orders to repair the harm, based on your case. This can include starting your case over, reducing the charges against you, or reducing your disposition (sentence). The court can also make other orders, depending on the circumstances.

**What happens if my RJA request is denied?**

If your request is denied, you have the right to appeal the denial by filing a notice of appeal asking the Court of Appeal to review the juvenile court's decision.

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  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>PRELIMINARY FINDINGS AND ORDERS AFTER REQUEST FOR RELIEF                  UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION</b>	CASE NUMBER:

**FINDINGS**

1. **Timeliness** (check all that apply):

- a.  The court finds that applicant's request  was  was not filed in a timely manner.
- b.  The court finds that applicant's case is no longer pending and  does  does not qualify for retroactive application under Penal Code section 745(j).

2.  **Additional findings**

The court also finds the following:

**ORDERS**

3.  **Appointment of counsel**

- a.  The court grants the request for appointment of counsel.
- b.  The court denies the request for appointment of counsel because:

CASE NAME:	CASE NUMBER:
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4.  **Discovery**

The court orders the matter set for a hearing on discovery:

Name and address of court if different from above:

Date:                                  Time:  
Dept.:                                  Room:

5.  **Prima facie showing**

The court orders the matter set for a hearing on a showing of a prima facie case:

Name and address of court if different from above:

Date:                                  Time:  
Dept.:                                  Room:

6.  **Evidentiary hearing**

The court orders the matter set for an evidentiary hearing on a violation of the Racial Justice Act:

Name and address of court if different from above:

Date:                                  Time:  
Dept.:                                  Room:

7.  **Additional orders**

The court also orders the following:

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

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):	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>FINDINGS AND ORDERS AFTER INITIAL HEARING ON REQUEST FOR RELIEF UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION</b>	CASE NUMBER:

1. This proceeding was heard on (date): \_\_\_\_\_ at time: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 by Judge (name): \_\_\_\_\_  Temporary Judge
- a.  Applicant present  Attorney present (name): \_\_\_\_\_  
 b.  District attorney present  Attorney present (name): \_\_\_\_\_  
 c.  Probation present  Attorney present (name): \_\_\_\_\_  
 d.  Other party present  Attorney present (name): \_\_\_\_\_

**FINDINGS**

2.  **Discovery**  
 The court finds that applicant  has  has not shown good cause for production of discovery.
3.  **Prima facie showing**  
 The court finds that applicant  has  has not made a prima facie showing of a violation of Penal Code section 745(a).

**ORDERS**

4. **Discovery**
- a.  The court orders that applicant's request for discovery is granted or granted in part.
- (1) Good cause having been shown, the court orders the following discovery be produced:
- (2) Discovery is subject to the following redactions:
- (3) Discovery is subject to the following protective orders:

CASE NAME:	CASE NUMBER:
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4. b.  The court orders that applicant's request for discovery is denied or denied in part.
- (1) Applicant has not shown good cause for discovery of the following evidence:
  
  
  
  - (2) Applicant has shown good cause for discovery of the following evidence, but a statutory privilege cannot be adequately protected by redaction or a protective order:
  
  
  
  - (3) Applicant has shown good cause for discovery of the following evidence, but a constitutional privacy right cannot be adequately protected by redaction or a protective order:

**5. Ruling on further hearing**

- a.  The court orders the matter set for a hearing on a showing of a prima facie case:  
Name and address of court if different from above:
- Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- b.  A prima facie case having been shown, the court orders the matter set for an evidentiary hearing on a violation of the Racial Justice Act:  
Name and address of court if different from above:
- Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- c.  A prima facie case not having been shown, the court orders that applicant's request for relief is denied.

6.  **Additional orders**  
The court also orders the following:

Date: \_\_\_\_\_

\_\_\_\_\_ JUDICIAL OFFICER



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   <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>FINDINGS AND ORDERS AFTER EVIDENTIARY HEARING ON REQUEST FOR RELIEF UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION</b>	CASE NUMBER:

1. This proceeding was heard on (date): \_\_\_\_\_ at time: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 by Judge (name): \_\_\_\_\_  Temporary Judge
- a.  Applicant present  Attorney present (name): \_\_\_\_\_  
 b.  District attorney present  Attorney present (name): \_\_\_\_\_  
 c.  Probation present  Attorney present (name): \_\_\_\_\_  
 d.  Other party present  Attorney present (name): \_\_\_\_\_

**FINDINGS**

**2. Violation**

- a.  The court finds by a preponderance of the evidence that the following violation or violations of Penal Code section 745(a) have been established (check all that apply):
- (1)  The judge, an attorney, a law enforcement officer, or an expert witness in the case exhibited bias or animus against the applicant because of the applicant's race, ethnicity, or national origin. (Pen. Code, § 745(a)(1).)
  - (2)  During in-court trial proceedings, the judge, an attorney, a law enforcement officer, or an expert witness used discriminatory language about the applicant's race, ethnicity, or national origin. (Racially discriminatory language does not include repeating language used by someone else that is relevant to the case or giving a racially neutral and unbiased physical description of the suspect.) (Pen. Code, § 745(a)(2).)
  - (3)  The applicant was charged with or adjudicated for a more serious offense than people of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained adjudications for more serious offenses against people who share the applicant's race, ethnicity, or national origin in the county where the adjudications were sought or obtained. (Pen. Code, § 745(a)(3).)
  - (4)  The applicant received a longer or more severe disposition compared to similarly situated individuals adjudicated for the same offense and (check all that apply):
    - (a)  Longer or more severe dispositions were more frequently imposed for the same offense on people who share the applicant's race, ethnicity, or national origin than on people of other races, ethnicities, or national origins in the county in which this case occurred. (Pen. Code, § 745(a)(4)(A).)
    - (b)  Longer or more severe dispositions were more frequently imposed for the same offense on people in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in the county in which this case occurred. (Pen. Code, § 745(a)(4)(B).)
- b.  The court finds that a violation of Penal Code section 745(a) has not been established by a preponderance of the evidence.

CASE NAME:	CASE NUMBER:
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### 3. Required findings

The court makes the following factual findings in support of the above, as required by Penal Code section 745(c)(3):

## ORDERS

### 4. Ruling on request

- a.  The court orders that applicant's request for relief is granted.
- b.  The court orders that applicant's request for relief is denied.

### 5. Remedies

- a.  Judgment not being final, the court orders the following (*check all that apply*):
- (1)  At applicant's request, a mistrial.
  - (2)  The following enhancement or enhancements dismissed:
  
  - (3)  The following special allegation or allegations dismissed:
  
  - (4)  The following charge or charges reduced:
- b.  Judgment being final, the court orders the following (*check all that apply*):
- (1)  The adjudication was sought or obtained in violation of Penal Code section 745. The court orders the adjudication and disposition vacated, declares them legally invalid, and orders the following new proceedings:
  
  - (2)  Only Penal Code section 745(a)(3) (*see item 2a(3)*) was violated and the violation may be rectified by a modification of the adjudication. The court orders the adjudication modified to the following lesser-included or lesser-related offense or offenses:
  
  - (3)  Only the disposition was sought, obtained, or imposed in violation of Penal Code section 745. The court vacates the disposition, declares it legally invalid, and imposes the following new disposition:
- c.  The court orders the following additional remedies:

CASE NAME:	CASE NUMBER:
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6.  **Additional orders**  
The court also orders the following:

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Juvenile Law: Sex Offender Registration

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Revise form JV-915-INFO

*Committee or other entity submitting the proposal:*  
Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Tony Cheng, 415-865-4268, [tony.cheng@jud.ca.gov](mailto:tony.cheng@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): October 22, 2024 and November 26, 2024

Project description from annual agenda: The committee will develop a recommendation to revise Information on Filing a Petition to Terminate Juvenile Sex Offender Registration (form JV-915-INFO) to clarify the requirements a juvenile sex offender registrant must meet to apply for termination of their registration. One of the requirements currently enumerated on form JV-915-INFO is that the registrant must not have been convicted of a new offense described in Penal Code section 667.5(c) since their release from custody for the offense originally giving rise to the duty to register. This requirement, however, is only applicable to adult sex offender registrants, not to juveniles. The proposal would accordingly delete reference to this requirement from form JV-915-INFO.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 2/19/25

approved by Office Director (or Designee) (name) Audrey Fancy  
on (date) 3/3/25

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

**SPR25-19**

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Title	Action Requested
Juvenile Law: Sex Offender Registration	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form JV-915-INFO	January 1, 2026
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Tony Cheng, 415-865-4268
Hon. Tari L. Cody, Cochair	<a href="mailto:tony.cheng@jud.ca.gov">tony.cheng@jud.ca.gov</a>
Hon. Stephanie E. Hulse, Cochair	

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes revising *Information on Filing a Petition to Terminate Juvenile Sex Offender Registration* (form JV-915-INFO) to correct legally inaccurate statements in the form. The form currently states that the Department of Justice determines the registration tier for individuals required to register due to a juvenile adjudication and that a subsequent violent felony conviction or a conviction for an offense requiring sex offender registration disqualifies an applicant from requesting termination of juvenile sex offender registration. Because neither of those statements reflect the controlling statutory provisions, the committee accordingly proposes their removal from the form.

### Background

In California, individuals convicted of certain enumerated criminal offenses must register as sex offenders. (Pen. Code, § 290.)<sup>1</sup> Historically, the sex offender registration requirement was a lifetime obligation for all registrants. In 2017, California adopted a tiered registration scheme, which became effective on January 1, 2021. (Sen. Bill 384 (Wiener) Stats. 2017, ch. 541.) Under the tiered registration system, individuals convicted<sup>2</sup> of certain enumerated criminal offenses

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<sup>1</sup> Unless otherwise specified, all further statutory references are to the Penal Code.

<sup>2</sup> Individuals who were committed to the California Youth Authority after being adjudicated as wards of the juvenile court for an offense enumerated in section 290.008(c) and subsequently discharged on or after January 1, 1986, are

*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.*

who meet certain other stated qualifications may request to terminate their registration requirement after successfully completing a set period of registration. (See § 290 et seq.)

## Adults

Under the tiered registration scheme, individuals with a qualifying criminal conviction (as opposed to a qualifying juvenile adjudication) are classified as either a tier one, tier two, or tier three offender. Tier one offenders are eligible to petition the court for termination of their registration requirement after registering for a minimum period of at least 10 years,<sup>3</sup> while most tier two offenders are generally eligible to do so after registering for a minimum period of at least 20 years.<sup>4</sup> Most tier three offenders remain subject to the lifetime registration requirement and are not eligible to petition the court for termination of their registration requirement.<sup>5</sup>

Certain individuals classified as tier two offenders may seek to petition the court for termination of their registration requirement after a minimum period of at least 10 years<sup>6</sup> (as opposed to the otherwise applicable 20 years). Among other criteria, these applicants must not have been convicted of a new offense requiring sex offender registration *or* for a new offense described in section 667.5(c)<sup>7</sup> since their release from custody following their conviction for the offense originally giving rise to the duty to register.<sup>8</sup>

## Juvenile

In contrast, individuals with a qualifying juvenile adjudication are classified as either a tier one juvenile offender<sup>9</sup> or a tier two juvenile offender<sup>10</sup> based solely on their registrable offense. A tier one juvenile offender is an individual whose registrable offense is *not* considered a serious or violent felony under either section 667(c) or 1192.7(c), while a tier two juvenile offender is an individual whose registrable offense *is* considered a serious or violent felony under either section 667(c) or 1192.7(c). Individuals classified as a tier one juvenile offender must register for a

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also required to register as sex offenders. These individuals are expressly included in California's tiered registration scheme as well. The California Youth Authority was subsequently designated the Division of Juvenile Justice in 2005. Under realignment, all such facilities closed on June 30, 2023.

<sup>3</sup> § 290(d)(1)(A).

<sup>4</sup> § 290(d)(2)(A). A tier two offender may file for termination from the registry after registering for only 10 years "if all of the following apply: (A) the registerable offense involved no more than one victim 14 to 17 years of age, inclusive; (B) the offender was under 21 years of age at the time of the offense; (C) the registerable offense is not specified in subdivision (c) of Section 667.5, except subdivision (a) of Section 288; and (D) the registerable offense is not specified in Section 236.1." (§ 290.5(b)(1).)

<sup>5</sup> § 290(d)(3). An individual required to register as a tier three offender based solely on their risk level under section 290(d)(3)(D), however, may also petition the court for termination of their registration requirement after registering for a minimum period of at least 20 years and meeting several other requirements. (§ 290.5(b)(3).)

<sup>6</sup> § 290.5(b)(2).

<sup>7</sup> Offenses described in section 667.5(c) are also known as "violent felonies."

<sup>8</sup> § 290.008(b)(2).

<sup>9</sup> § 290.008(d)(1).

<sup>10</sup> § 290.008(d)(2).

minimum period of at least 5 years<sup>11</sup> (instead of 10 years for a qualifying criminal conviction) before becoming eligible to petition the court for termination of their registration requirement. Individuals classified as a tier two juvenile offender must register for a minimum period of at least 10 years<sup>12</sup> (instead of 20 years for a qualifying criminal conviction) before becoming eligible to petition for termination of their registration requirement.

Form JV-915-INFO inaccurately states that a juvenile offender's tier level is determined by the Department of Justice. That statement is incorrect. A juvenile offender's tier level is determined solely by whether or not their registrable offense is serious or violent felony. Form JV-915-INFO also inaccurately states that any juvenile offender (whether tier one or tier two) must not have been convicted of a new offense requiring sex offender registration *or* for a new offense described in section 667.5(c) since their release from custody following their conviction for the offense originally giving rise to the duty to register. That statement is also incorrect, as that prohibition does not apply to juvenile registrants.

The prohibition is contained in section 290.5(b)(2), which expressly only applies to tier two "offenders" under section 290(d)(2), and not to tier two "juvenile offenders," which are described in section 290.008(d)(2). Moreover, section 290(d)(2)(A) defines eligible tier two offenders as individuals who were "convicted" of certain offenses. Juvenile adjudications are not to be deemed "a conviction of a crime for any purpose."<sup>13</sup> As a result, individuals who are required to register because of a juvenile adjudication are not subject to the prohibition.

## **The Proposal**

The Family and Juvenile Law Advisory Committee proposes two substantive revisions and several minor technical changes to *Information on Filing a Petition to Terminate Juvenile Sex Offender Registration* (form JV-915-INFO).

Item 3 on the form is titled "Which tier am I? How is my tier determined?" The answer lists four bullet points. The first bullet point states, in pertinent part, that "The Department of Justice will determine tier placement for all current registrants and will notify the law enforcement agency where you register." The committee proposes replacing this sentence with "If your registrable offense is considered either a serious or violent felony under either Penal Code section 667.5(c) or 1192.7(c), you are in Tier 2; if not, you are in Tier 1." This language is consistent with the language of sections 290.008(d)(1) and (2).

Additionally, item 4 on the form is titled "Are there any other requirements besides registering for my tier's minimum time period?" The answer lists five bulleted requirements following the heading "If you are assessed as Tier 1 or Tier 2, you are eligible to petition for relief only upon reaching the end of the minimum registration period and only if *all* of the following are true."

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<sup>11</sup> § 290.008(d)(1).

<sup>12</sup> § 290.008(d)(2).

<sup>13</sup> § 203.



The committee proposes removing the following bullet points in item 4, which, as described above, do not apply to juvenile offenders:

- You have not been convicted of a new offense requiring sex offender registration since your release from custody following your adjudication for the offense originally giving rise to your duty to register; and
- You have not been convicted of a new offense described in Penal Code section 667.5(c) since your release from custody upon adjudication for the offense originally giving rise to your duty to register.

The remaining listed requirements track the language of section 290.5(a)(2), and thus the committee does not propose substantive revision to them.

### **Alternatives Considered**

The committee considered taking no action but rejected this option because without the proposed revisions the form would contain inaccurate statements of law.

### **Fiscal and Operational Impacts**

Fiscal and operational impacts are likely to be minor as the proposal is limited to two substantive changes on an information sheet. Expected costs include training, case management system updates, and the production of new forms.

### **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?
- Are there any other legally inaccurate statements in the form?

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 two 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 JV-915-INFO, at pages 6–8
2. Link A: Pen. Code, § 290,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=290.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=290.&lawCode=PEN)
3. Link B: Pen. Code, § 290.008,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=290.008.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=290.008.&lawCode=PEN)
4. Link C: Pen. Code, § 290.5,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=290.5.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=290.5.&lawCode=PEN)

DRAFT

**1 General Information**

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

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

<b>If you are...</b>	<b>You must have registered for at least...</b>
Tier 1 (Juvenile)	5 years
Tier 2 (Juvenile)	10 years

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

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

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

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

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

- You are not the subject of pending criminal charges **that** could extend the time to complete the registration requirements of the tier or change the tier status;
- You are not in custody; **and**
- You are not on parole, probation, postconviction supervised release, or any other form of supervised release.

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

Your tier is based on the offense for which you were adjudicated and committed to the Division of Juvenile Justice. **If your registrable offense is considered either a serious or violent felony under either Penal Code section 667.5(c) or 1192.7, you are in Tier 2; if not, you are in Tier 1.** Registrants may request a tier notification letter from the registering law enforcement agency.

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

You may file **form JV-915** and proof of current registration as a sex offender, which you can get from the registering law enforcement agency, in the juvenile court in the county where you register. If you register with **more than one law enforcement agency** (for example, if you are also required to register at a school campus or at an additional residence



address), you must file the petition and proof of current registration in the county of your primary residence.

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

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

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

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

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

- *Example:* If you were adjudicated for a registrable offense in Los Angeles County but register in Orange County, you or someone on your behalf must serve the law enforcement agency and the district attorney’s office in both counties.
- Contact every agency that must be served to check if there is a specific person or mailing address that should receive the petition and proof of current registration. If the agencies do not get a copy, they will not be able to provide the information the court needs to consider your request, and the court may deny the request or delay its decision until it receives this information.

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

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

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

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

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

**7 Time frame for court's decision**

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



- The law enforcement agency has 60 days from receipt of the petition to report on your eligibility to the court and district attorney. The law enforcement agency may request more time if it discovers a conviction not previously considered by the Department of Justice.
- The district attorney may request a hearing within 60 days after receiving the eligibility report from law enforcement.
- Once you file your petition and proof of current registration and the court gives you a case number, you can see whether the court has received and filed any responses from the law enforcement agency and the district attorney's office by going in person to the juvenile court to request access to your paper file. The district attorney will also serve a copy of its response on you or your attorney.
- The court may grant your request, deny your request, or set the request for a hearing if one is requested by the district attorney. The court will notify you or your attorney if a hearing is set.

## **8 Hearing**

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

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

## **9 Subsequent petition**

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

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** April 10, 2025

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

**Title of proposal:** Juvenile Law: Date a Child Entered Foster Care

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Amend Cal. Rules of Court, rule 5.502

*Committee or other entity submitting the proposal:*  
Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Sarah Saria, 916-643-7078, sarah.saria@jud.ca.gov

*Identify project(s) on the committee's annual agenda that is the basis for this item:*  
Annual agenda approved by Rules Committee on (date): October 22, 2024; Amended: November 26, 2024

Project description from annual agenda: Juvenile Dependency, item o. AB 2664 (Bryan) Foster youth (Stats. of 2024, Ch. 412) Clarifies that when a child is returned to the home of the parent or guardian at the dispositional hearing and subsequently removed through a petition, the child shall be deemed to have been originally removed from the physical custody of their parent or guardian on the date they were taken into custody by the social worker via the subsequent petition.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

- reviewed by EGG on (date) February 4, 2025
- approved by Office Director (or Designee) (name) Audrey Fancy on (date) March \_\_, 2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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

### SPR25-20

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Title	Action Requested
Juvenile Law: Date a Child Entered Foster Care	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.502	January 1, 2026
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Sarah Namnama Saria, 916-643-7078
Hon. Tari L. Cody, Cochair	Sarah.Saria@jud.ca.gov
Hon. Stephanie E. Hulsey, Cochair	

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### Executive Summary and Origin

Assembly Bill 2664 (Bryan; Stats. 2024, ch. 412) amended Welfare and Institutions Code section 361.49 to clarify the date a child is deemed to have entered foster care for the purpose of establishing timelines for the provision of reunification services. The Family and Juvenile Law Advisory Committee proposes amending two definitions in rule 5.502 of the California Rules of Court to conform to the law.

### Background

When there is an allegation that a child is being abused or neglected, the county child welfare agency is tasked with investigating the allegation.<sup>1</sup> Depending on the investigation, the social worker can offer voluntary services to keep the child safe in the parent's custody; keep the child in the parent's custody and file a petition with the court to open a juvenile dependency case;<sup>2</sup> or remove the child from the home (with or, in certain circumstances, without a warrant) and file a petition with the court.

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<sup>1</sup> Welf. & Inst. Code, §§ 328, 16500. All unspecified statutory references are to the Welfare and Institutions Code.

<sup>2</sup> This petition must be heard by the court within 15 days. (Cal. Rules of Court, rule 5.670(a).) All unspecified references to rules 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.*



When a child is taken from the home of a parent or guardian by a social worker or peace officer because of safety concerns, unless the child is returned to parental custody within 48 hours, a social worker or probation officer must file a petition with the court.<sup>3</sup> The court must set a detention hearing on the petition that same day or the next day to determine whether the child should be detained or released to a parent pending the jurisdiction hearing.<sup>4</sup> If the court takes jurisdiction over the child at the jurisdiction hearing, the case moves to a disposition hearing where the court can formally take custody from the parent or guardian and make appropriate orders regarding the child's care and custody.<sup>5</sup>

One of the options at the disposition hearing on a section 300 petition is placing the child in foster care and ordering time-limited services to the parent or guardian with the aim of eventually reunifying the child with the parent or guardian. Reunification services may be provided for up to 18 months or, in certain exceptional cases, 24 months from the date the child was originally removed from the parent's physical custody.<sup>6</sup> At the end of this reunification period, the court must consider a permanent plan for the child that may include termination of parental rights and placement of the child for adoption.<sup>7</sup>

Another option at the disposition hearing on a section 300 petition is *not* removing the child from the custody of a parent or guardian and ordering family *maintenance* services.<sup>8</sup> If a petition under section 342 or 387 is later filed, the court may remove the child from the custody of their parent or guardian at disposition on this later petition and order reunification services. The Welfare and Institutions Code did not expressly address the timeline for reunification services for a child detained but not removed at disposition on a section 300 petition but later removed at disposition on a section 342 or 387 petition.

An opinion from an appellate court illustrated the lack of certainty that surrounded such a situation. In the case of *In re Damian L.* (2023) 90 Cal.App.5th 357, the children were initially taken from their mother's custody by law enforcement and then detained by the court on a section 300 petition in September 2019. The children remained out of the mother's care until the disposition hearing on the section 300 petition in June 2020, when the juvenile court ordered custody of the children to be retained by the mother and family maintenance services provided. When the children were subsequently removed at disposition on a section 387 petition in May 2021, the child welfare agency argued that the mother was out of time to reunify because the 18- and 24-month limits for reunification services ran from the date the children were initially taken from parental custody in September 2019. The juvenile court

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<sup>3</sup> § 313(a).

<sup>4</sup> §§ 315, 319.

<sup>5</sup> § 358.

<sup>6</sup> §§ 361.5(a)(3)(A) & (a)(4)(A), 366.21(g)(1) & (g)(2), 366.22(b).

<sup>7</sup> § 366.26.

<sup>8</sup> § 362(c).

disagreed and ordered reunification services for the mother. The Court of Appeal reversed the juvenile court's order, holding that the 18- and 24-month time limits on reunification services began when the children were taken from parental custody on the original section 300 petition.<sup>9</sup>

In response to *In re Damian L.*, the Legislature passed Assembly Bill 2664, which amended section 361.49. As amended, section 361.49 provides that, when a court does not remove a child from the custody of their parent or guardian at disposition on a section 300 petition, the timeline for reunification does not begin to run. The timeline will begin to run if the child becomes the subject of a subsequent petition under section 342 or 387 and the court removes the child from the custody of the parent or guardian at disposition on the subsequent petition. In such a situation, the date the child entered foster care, which is the date used to calculate hearings to track the timeline and progress toward reunification, is the earlier of the date of the jurisdiction hearing on the section 342 or 387 petition or the date that is 60 days after the date the child was initially removed from the physical custody of their parent or guardian under the section 342 or 387 petition.

## **The Proposal**

The Family and Juvenile Law Advisory Committee proposes to amend two definitions in rule 5.502—subdivision (9), Date the child entered foster care, and subdivision (21), Initial removal—to conform to current law.

### **Definition of “date the child entered foster care”**

For dependency cases, the definition of “date the child entered foster care” in subdivision (9)(A) of rule 5.502 would be amended to add a provision addressing the situation of a child removed on a subsequent petition after not having been removed at disposition on the original section 300 petition. New subdivision (9)(A)(ii) would provide: “If the court ordered custody retained by the parent or guardian at disposition on a petition filed under section 300, even if the child was initially detained, and later removed the child at disposition on a subsequent petition filed under section 342 or 387, the earlier of the date on which the court sustained the subsequent petition filed under section 342 or 387 or 60 days after the “initial removal” of the child, as defined in (21)(B).” With minor clarifying changes, new subdivision (9)(A)(i) would retain the existing definition for situations in which a court orders a child removed from the custody of a parent or guardian at disposition on a section 300 petition.

### **Definition of “initial removal”**

Similarly, this proposal would amend the definition of “initial removal” in subdivision (21) of rule 5.502 to add new subdivision (21)(B): “If the child was not removed from the physical custody of their parent or guardian at disposition on a prior petition filed under section 300, the date on which the child, who is the subject of a subsequent petition filed under section 342

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<sup>9</sup> *In re Damian L.* (2023) 90 Cal.App.5th 357, 383.

or 387, was taken into custody by the social worker or a peace officer, or was deemed to have been taken into custody under section 309(b) on the subsequent petition.” With minor clarifying changes, the new subdivision 21(A) would retain the existing definition for situations in which a court orders a child removed from the custody of a parent or guardian at disposition on a section 300 petition.

### **Alternatives Considered**

The committee did not consider taking no action. Amending the two definitions is necessary to conform with amended section 361.49 and to ensure that parents receive the reunification services to which they are entitled.

### **Fiscal and Operational Impacts**

Other than education and training of judicial officers and court staff, no fiscal and operational impacts on courts are expected.

#### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the Family and Juvenile Law Advisory Committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The Family and Juvenile Law 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 two 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 5.502, at pages 5–6
2. Link A: Welf. & Inst. Code, § 361.49  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=361.49.&lawCode=WIC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=361.49.&lawCode=WIC)
3. Link B: Assem. Bill 2664 (Bryan; Stats. 2024, ch. 412)  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB2664](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2664)

Rule 5.502 of the California Rules of Court would be amended, effective January 1, 2026, to read:

1 **Rule 5.502. Definitions and use of terms**

2  
3 Definitions \* \* \*

4  
5 As used in these rules, unless the context or subject matter otherwise requires:

6  
7 (1)–(8) \* \* \*

8  
9 (9) “Date the child entered foster care” means:

10  
11 (A) In dependency;

12  
13 (i) Except as provided in (ii), the earlier of the date on which the  
14 court sustained the petition filed under section 300 or 60 days  
15 after the “initial removal” of the child as defined below in  
16 (21)(A), whichever is earlier; or

17  
18 (ii) If the court ordered custody retained by the parent or guardian at  
19 disposition on a petition filed under section 300, even if the child  
20 was initially detained, and later removed the child at disposition  
21 on a subsequent petition filed under section 342 or 387, the  
22 earlier of the date on which the court sustained the subsequent  
23 petition filed under section 342 or 387 or 60 days after the “initial  
24 removal” of the child, as defined in (21)(B).

25  
26 (B) \* \* \*

27  
28 (10)–(20) \* \* \*

29  
30 (21) “Initial removal” means:

31  
32 (A) Except as provided in (B), the date on which the child, who is the  
33 subject of a petition filed under section 300 or 600, was taken into  
34 custody by the social worker or a peace officer, or was deemed to have  
35 been taken into custody under section 309(b) or 628(c), if removal  
36 results in the filing of the petition before the court; or

37  
38 (B) If the child was not removed from the physical custody of their parent  
39 or guardian at disposition on a prior petition filed under section 300, the  
40 date on which the child, who is the subject of a subsequent petition  
41 filed under section 342 or 387, was taken into custody by the social

1                                    worker or a peace officer, or was deemed to have been taken into  
2                                    custody under section 309(b) on the subsequent petition.

3

4    (22)-(46) \* \* \*

## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 04/10/2025

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

**Circulate for comment (January 1 cycle)**

**Title of proposal:** Family Law: Joint Petition for Dissolution or Legal Separation

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

Amend Cal. Rules of Court, rules 5.16, 5.50, 5.68, and 5.92; adopt forms FL-700, FL-710, and FL-720; approve forms FL-700-INFO and FL-725

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and email):* Sarah Jacobvitz, 5-4533, sarah.jacobvitz@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): 10/22/2024

Project description from annual agenda: 1. Project Summary: 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 act only where necessary to allow courts to implement the legislation efficiently. . . .

(i) SB 1427 (Allen) Marriage: joint petition for dissolution of marriage (Stats. of 2024, Ch. 190) Effective January 1, 2026, establishes a process by which parties to a marriage that does not meet the requirements for summary dissolution may file a joint petition for dissolution or legal separation on forms to be adopted by the Judicial Council. Requires a joint petition for dissolution of marriage or legal separation to set forth all of the following, as nearly as can be ascertained: the date of the marriage, if there are children of the marriage, and if so the number of children and the age and birth date of each child; and a list of issues that the parties intend to resolve by agreement. Provides a joint petition and a joint summons, in a form and content approved by the Judicial Council, shall be deemed to be served on both parties upon the filing of the joint petition with the court, and both parties shall be determined to have appeared in the matter. Provides that the filing of a joint petition shall be accompanied by the filing fees required for the filing of petitions and responses in standard dissolution or legal separation matters, unless both parties have been granted a fee waiver.

**Out of Cycle/Early Implementation:** *If requesting July 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

- **Director Approval** (required for all invitations to comment and reports)
  - This report or invitation to comment was:
    - reviewed by EGG on (date) 2/4/2025
    - approved by Office Director (or Designee) (name) Anna Maves on (date) 3/26/2025

*If either of above not checked, explain why:*

Complete the following for all reports to be submitted to council (optional for ITCs):

- **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 report 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

### SPR25-21

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Title	Action Requested
Family Law: Joint Petition for Dissolution or Legal Separation	Review and submit comments by May 23, 2025
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 5.16, 5.50, 5.68, and 5.92; adopt forms FL-700, FL-710, and FL-720; approve forms FL-700-INFO and FL-725	January 1, 2026
	Contact
	Sarah Jacobvitz, 415-865-4533 <a href="mailto:sarah.jacobvitz@jud.ca.gov">sarah.jacobvitz@jud.ca.gov</a>
Proposed by	
Family and Juvenile Law Advisory Committee	
Hon. Tari L. Cody, Cochair	
Hon. Stephanie E. Hulse, Cochair	

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### Executive Summary and Origin

To implement Senate Bill 1427 (Stats. 2024, ch. 190), the Family and Juvenile Law Advisory Committee proposes that the Judicial Council amend four rules of court, adopt three mandatory forms, and approve two optional forms. Effective January 1, 2026, SB 1427 authorizes parties who do not qualify to use the current summary dissolution process to file a joint summons and a joint petition to ask the court for a dissolution of the marriage or domestic partnership or for a legal separation. The legislation requires the Judicial Council to adopt or amend any rules or forms necessary for implementation.

### Background

Currently and until SB 1427 is implemented, most proceedings for dissolution or legal separation follow an adversarial process, with each party filing a separate initial pleading and serving the other or risking default. The only exception is if parties qualify for the summary dissolution process, which is a simplified joint process in which parties have fewer disclosure requirements

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and must waive their rights to support and to an appeal.<sup>1</sup> Parties qualify for this process only if they have been married for less than five years, have no children, and have very little property.<sup>2</sup>

SB 1427 (Link A) allows parties who do not meet the criteria for summary dissolution to initiate their case in a collaborative manner. Parties must still complete the required financial disclosures and may still serve discovery.<sup>3</sup> If a party no longer wants to continue with the collaborative process or if they want to request orders from the court (including orders regarding discovery), they may revoke the joint petition and convert the case into a traditional dissolution or legal separation proceeding in which each party is required to file their own initial pleading.<sup>4</sup>

Family Code section 2330 prescribes the manner in which a party may commence an action for dissolution or legal separation. SB 1427 amends section 2330 to add section 2330(c), which establishes the required content of a joint petition. In addition to facts as required in all dissolution and legal separation proceedings, new section 2330(c) requires that parties include in their joint petition a list of all issues that they intend to resolve by agreement. If there are any issues that the parties do not intend to resolve by agreement, the parties are precluded from using the joint petition process.

Family Code section 2331 specifies the manner of service of a petition for dissolution or legal separation. SB 1427 amends section 2331 to add section 2331(b), which states that, in joint petition cases, filing a joint petition and joint summons completes service requirements and effectuates a general appearance by both parties.

SB 1427 also adds section 2342.5 to the Family Code to provide the procedures relating to the joint summons and joint petition. Under the joint petition process, either party may seek discovery, and parties may jointly amend the petition. Section 2342.5 includes a process for parties to revoke a joint petition without leave of the court by filing an amended pleading. The joint petition is deemed revoked when a joint petitioner files an amended petition or an amended response. After service of this amended pleading, the other party is required to file their own response (if they were the second joint petitioner) or amended petition (if they were the first joint petitioner) or risk default. If either party to a joint petition files a request for order before entry of judgment, the party must also at that time revoke the joint petition by filing an amended petition or amended response, taking the matter out of the joint petition process.

## **The Proposal**

The committee is proposing that the Judicial Council amend four rules of court, adopt three mandatory forms, and approve two optional forms to implement SB 1427, which, starting January 1, 2026, authorizes parties who do not qualify to use the current summary dissolution

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<sup>1</sup> Fam. Code, §§ 2400, 2404(b).

<sup>2</sup> Fam. Code, § 2400.

<sup>3</sup> Fam. Code, § 2342.5(d)–(g).

<sup>4</sup> Fam. Code, § 2342.5(b).

process to file a joint summons and a joint petition to ask the court for a dissolution of the marriage or domestic partnership or for a legal separation. This proposal would implement the legislation by the effective date.

## **Proposed Rule Amendments**

### ***Rule 5.16 Designation of the parties***

Rule 5.16(a)<sup>5</sup> establishes how each party in family law proceedings is designated. The committee proposes amending this rule to specify that the first joint petitioner in a joint petition case is designated “petitioner 1” and the second joint petitioner is designated “petitioner 2.” If either party revokes the joint petition, the first petitioner becomes the petitioner in the now-adversarial process, and the second petitioner becomes the respondent.<sup>6</sup> For any Judicial Council forms that list the parties as “petitioner” and “respondent,” petitioner 1 should identify themselves as “petitioner” and petitioner 2 should identify themselves as “respondent.”<sup>7</sup>

### ***Rule 5.50 Papers issued by the court***

This rule lists the names and numbers of each type of summons that the court clerk must issue in proceedings under the Family Code. The committee proposes amending this rule to include a sentence in rule 5.50(a)(1)(A) that limits the use of *Summons (Family Law)* (form FL-110) to cases filed pursuant to Family Code section 2330 subdivisions (a) and (b). The committee also proposes adding subdivision 5.50(a)(1)(F), which states that the court clerk must issue *Summons—Joint Petition* (form FL-710) when parties file a joint petition for dissolution or legal separation pursuant to Family Code Section 2330(c). This proposal does not seek to amend any other subdivision of rule 5.50.<sup>8</sup>

### ***Rule 5.68. Manner of service of summons and petition; response; jurisdiction***

This rule sets forth the procedures for serving a summons in a family law case. The committee proposes amending this rule to establish the service requirements for an amended pleading when a joint petitioner revokes the joint petition and the case becomes contested. No amended summons would be issued, but the revoking party would be required to file and serve *Notice of Cancellation of Joint Petition* (form FL-720), to notify the receiving party of the potential for default judgment, along with a copy of the amended pleading revoking the joint petition.

If the party to be served is unrepresented, the pleading revoking the joint petition would be served in the same manner as prescribed by law for an initial summons and complaint as

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<sup>5</sup> Please note that this proposal would impact only rule 5.16(a). There are proposed amendments to rule 5.16(b) that are circulating concurrently in a separate proposal, SPR-15. Please address any comments regarding the proposed amendments to rule 5.16(b) in a separate response to that invitation to comment.

<sup>6</sup> Fam. Code, § 2342.5(b).

<sup>7</sup> Fam. Code, § 2342.5(a)(1).

<sup>8</sup> Proposed amendments to rule 5.50(a)(1)(E) are currently circulating for comment in a separate proposal, SPR-15. Please address any comments regarding rule 5.50(a)(1)(E) in a separate response to that invitation to comment.

specified in Code of Civil Procedure sections 415.10 et seq and rules 5.68 and 5.72.<sup>9</sup> If the party to be served is represented, the pleading would be served on counsel in the same manner as a notice or motion under Code of Civil Procedure section 1010 et seq and rule 5.92(f)(3). The rule would also be amended to allow the court authority authorized to make an exception to these service requirements on a showing of good cause, as long as the manner of service is otherwise permitted by law.

The committee proposes different service requirements for represented and unrepresented parties because of the unique nature of family law proceedings. As both parties will have already made a general appearance pursuant to Family Code section 2331(b) and as no amended summons would issue, service of the notice of potential default and the pleading revoking the joint petition would ordinarily be permitted by mail.<sup>10</sup> However, when parties initiate a family law case collaboratively, they may be cohabitating and therefore sharing a mailing address. This is especially true of low-income parties, who may not have the financial means to immediately cease cohabitation. In such cases, allowing service of a pleading revoking a joint petition on an unrepresented party by mail could fail to result in actual notice, as by the time the proceeding becomes adversarial cohabitation may be untenable, leading to physical separation. In such an instance, a self-represented litigant might not update their mailing address with the court in time to receive actual notice of a potential default. Rather, the opposing party would mail the pleading revoking the joint petition and the notice of potential default to the address on file with the court, which could be their own address, producing an inequitable result. Similarly situated litigants in cases initiated through the adversarial process would be entitled to heightened service requirements to mitigate the risk of default.

Conversely, a represented party's attorney would not be subject to this cohabitation concern and would be likely to receive actual notice by means of service by mail or email. Therefore, the committee determined there was no justification for increasing litigation costs for parties by requiring heightened levels of service on represented parties.

Differing service requirements for represented and unrepresented parties are found elsewhere in law where there is a concern that service may otherwise not result in actual notice of unrepresented parties, such as in Code of Civil Procedure section 1010.6 regarding electronic service.

Further, because the committee is adding a service requirement for unrepresented litigants above what is statutorily required, the committee decided to include a mechanism in rule 5.68(d)(2)(C)

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<sup>9</sup> However, the party would not be required to follow the procedures of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters or the Inter-American Convention on Letters Rogatory, as both parties will have already made a general appearance pursuant to Family Code section 2331(b). See *In re Vanessa Q.* (2010) 187 Cal. App. 4th 128, 136; see also *In re Jennifer O.* (2010) 184 Cal. App. 4th 539, 548.

<sup>10</sup> Code of Civil Procedure § 1013.

for courts to impose a different service requirement if there is good cause to do so, such as if a party is evading service.

***Rule 5.92. Request for court order; responsive declaration***

This rule establishes the procedures for requesting an order from the court during the pendency of a family law proceeding. The committee proposes amending this rule to comply with Family Code section 2342.5(e) and require that, in joint petition cases in which judgment has not yet been entered, a party wishing to file a request for order must revoke the joint petition either simultaneously with the request for order or before filing the request for order.

**Proposed new forms**

Effective January 1, 2026, the proposal would provide the forms necessary for parties to file a joint summons and joint petition for dissolution of marriage or domestic partnership or legal separation, as mandated by Family Code section 2342.5. The proposal includes a notice form for a party revoking a joint petition to serve on the other party noticing them of a potential default, and a proof of service form specifying the proper method of service for a pleading revoking a joint petition.

To avoid the possibility of confusion, the committee decided to assign the FL-700 series to the proposed new joint petition forms. This would not preclude parties from using other forms in the FL-100 series in the joint petition case. To make this clear, the proposed information sheet would reference the names of the forms in the FL-100 series that are needed. For example, the information sheet references compliance with the Uniform Child Custody Jurisdiction and Enforcement Act, the disclosure requirements under Family Code section 2104, and submitting a proposed judgment to the court.

**Joint Petition—Marriage or Domestic Partnership (*form FL-700*)**

The committee proposes adopting this new mandatory form for filing a joint petition. The proposed form includes a section explaining what legal rights parties would be waiving if they file a joint petition. The proposed form is in plain-language format and was drafted with user-friendly principles in mind.

Like *Petition—Marriage/Domestic Partnership* (form FL-100), this form would be mandatory to ensure that parties include the facts required by statute in the joint petition.

**Summons—Joint Petition (*form FL-710*)**

The committee proposes adopting this new mandatory joint summons form to incorporate the requirements for a joint summons under section 2342.5, including the same temporary restraining orders as *Summons* (form FL-110) under Family Code section 2040 (Link B).

The committee proposes that instead of the form including language noticing the opposing party of a potential default, it will have a general statement in bold type directed at the joint petitioners

informing them that they are parties to a formal legal proceeding and are therefore immediately subject to certain obligations.

### **Notice of Cancellation of Joint Petition (*form FL-720*)**

The committee proposes adopting this new mandatory form to provide notice in cases in which a party revokes the joint petition. It contains language similar to that required by Code of Civil Procedure section 412.20, which notifies the receiving party of the potential for default judgment and directs that party to resources for legal assistance (Link C). The notice would also contain language stating that the restraining orders issued on the joint summons remain in full force and effect. This form would be mandatory to ensure that parties receive notice of the potential for default.

This form would also alert the court that a party has revoked the joint petition and that a default judgment could be requested.

### **Legal Steps for a Joint Petition for Dissolution or Legal Separation (*form FL-700-INFO*)**

This proposed information sheet is based on *Legal Steps for a Divorce or Legal Separation* (form FL-107-INFO). The proposed new information sheet would describe the procedures relating to the joint petition process and include a list of resources that parties can use to help resolve the issues in their case, such as the Self-Help Guide to the California Courts on the courts' website, the state bar, and a website that directs to legal service organizations by legal and geographical area. The form would also have instructions specifying the procedures for revoking a joint petition.

### **Proof of Service of Pleading Revoking Joint Petition (*form FL-725*)**

This proposed optional form would be used as a proof of service of the pleading revoking the joint petition. It would contain a list of the forms that the revoking party must serve on the other party and a list of legally acceptable methods of service. This will help the clerks, the court, and the parties determine whether service was proper.

A new proof of service form is necessary because the legal requirements for service of a pleading revoking the joint petition are distinct, and the absence of such a form could cause confusion. The committee recommends this form for optional rather than mandatory use to allow courts the flexibility to accept proof in an alternate format that contains the requisite information to proceed expeditiously to the merits of the case.

### **Alternatives Considered**

Because the Judicial Council is required to adopt or amend any rules or forms to implement SB 1427 on or before January 1, 2026, the committee did not consider taking no action.

The committee considered how to number the proposed joint petition forms. For example, the committee considered using a similar numbering system as the current petition for and summons for dissolution of a marriage or domestic partnership or legal separation— forms FL-100 and FL-110, respectively. For the joint petition and joint summons, the committee considered identifying

them as forms FL-100(JP) and FL-110(JP). However, the committee believed that this could cause confusion among forms users about which set to use for their situation.

The committee considered designating the first joint petitioner as “petitioner” and the second joint petitioner as “respondent” from the beginning of the case. However, it decided against this because this designation may cause confusion. By statute, respondents in family law cases have different obligations than petitioners. For example, a petitioner must serve their preliminary declarations of disclosure within 60 days of filing the petition; a respondent must do so within 60 days of filing a response.<sup>11</sup> However, in a joint petition case, no response is filed unless a party revokes the joint petition.<sup>12</sup> Each party to a joint petition is a petitioner and must serve preliminary declarations of disclosure within 60 days of filing the joint petition.

The committee also initially considered proposing only a petition and summons forms, but it decided to also propose *Notice of Cancellation of Joint Petition* (form FL-720) and *Proof of Service of Pleading Revoking Joint Petition* (form FL-725) to clarify procedures and ensure that proper notice is provided in cases in which one party revokes the joint petition.

### **Fiscal and Operational Impacts**

Courts would incur costs to train court employees, revise internal procedures, revise local rules and forms, and update case management systems, costs that are attributable to the legislation. However, the committee expects that the new joint petition process will enable a number of dissolution proceedings to move more collaboratively and quickly, easing the caseload burden on the family courts.

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<sup>11</sup> Fam. Code, § 2104(f).

<sup>12</sup> Under Family Code section 2342.5(b)(3), “[t]he filing date of the joint petition shall be considered the filing date for the action and all relevant deadlines,” and therefore the deadline to serve the preliminary declaration of disclosure would not be extended.

## Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should rule 5.68 provide for different service methods of the pleading revoking the joint petition for represented and unrepresented litigants?

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 the 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 two 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 5.16, 5.50, 5.68, and 5.92, at pages 9-12
2. Forms FL-700, FL-710, FL-720, FL-700-INFO, and FL-725, at pages 13-27
3. Link A: Senate Bill 1427,  
[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=202320240SB1427&showamends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240SB1427&showamends=false)
4. Link B: Fam. Code, 2040,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=FAM&sectionNum=2040](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM&sectionNum=2040)
5. Link C: Code Civ. Proc., 412.20,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CCP&sectionNum=412.20](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=412.20)

Rules 5.16, 5.50, 5.68, and 5.92 of the California Rules of Court would be amended, effective January 1, 2026, to read:

1 **Rule 5.16. Designation of parties**

2  
3 **(a) Designation of parties**

4  
5 (1) In cases filed under the Family Code; ~~the party starting the case is referred to~~  
6 ~~as the "petitioner," and the other party is the "respondent."~~

7  
8 (A) Except as otherwise specified in this rule, the party starting the case is  
9 referred to as the "petitioner," and the other party is the "respondent."

10  
11 (B) If the parties initiate the case by joint petition under Family Code  
12 sections 2330 and 2331 or section 2400:

13  
14 (i) The first joint petitioner is referred to as "petitioner 1," and the  
15 second joint petitioner is referred to as "petitioner 2." For any  
16 Judicial Council forms that list the parties as "petitioner" and  
17 "respondent," petitioner 1 should identify themselves as  
18 "petitioner" and petitioner 2 should identify themselves as  
19 "respondent."

20  
21 (ii) If either party revokes the joint petition under Family Code  
22 section 2342.5(b), petitioner 1 will thereafter be referred to as the  
23 "petitioner" and petitioner 2 will thereafter be referred to as the  
24 "respondent."

25  
26 (2) \* \* \*

27  
28 **(b) \* \* \***

29  
30 **Rule 5.50. Papers issued by the court**

31  
32 **(a) Issuing the summons; form**

33  
34 If a summons is required to commence a family law case, the clerk of the court  
35 must issue the summons using the same procedure for issuing a summons in civil  
36 actions, generally.

37  
38 (1) The clerk of the court must:

39  
40 (A) - (E) \* \* \*



1 (F) Issue Summons—Joint Petition (form FL-710) when parties file a joint  
2 petition for dissolution of marriage or domestic partnership or legal  
3 separation as specified in Family Code sections 2330(c) and 2331.  
4

5 (2) \* \* \*

6  
7 **(b) Automatic temporary family law restraining order in summons; handling by**  
8 **clerk**

9  
10 Under Family Code section 233, in proceedings for dissolution, legal separation, or  
11 nullity of a marriage or domestic partnership and in all parentage proceedings, the  
12 clerk of the court must issue a summons that includes automatic temporary  
13 (standard) restraining orders.  
14

15 (1)–(2) \* \* \*

16  
17 **(c) \* \* \***  
18

19 **Rule 5.68. Manner of service of summons and petition; response; jurisdiction**  
20

21 **(a) Service of summons and petition**  
22

23 The petitioner must arrange to serve the other party with a summons, petition, and  
24 other papers as required by one of the following methods:  
25

- 26 (1) Personal service (Code Civ. Proc., § 415.10);  
27  
28 (2) Substituted service (Code Civ. Proc., § 415.20);  
29  
30 (3) Service by mail with a notice and acknowledgement of receipt (Code Civ.  
31 Proc., § 415.30);  
32  
33 (4) Service on person outside of the state (Code Civ. Proc., § 415.40);  
34  
35 (5) Service on a person residing outside of the United States, which must be done  
36 in compliance with service rules of the following:  
37  
38 (A) Hague Convention on the Service Abroad of Judicial and Extrajudicial  
39 Documents in Civil or Commercial Matters; or  
40  
41 (B) Inter-American Convention on Letters Rogatory and the Additional  
42 Protocol to the Inter-American Convention on Letters Rogatory.  
43

1 (6) Service by posting or publication (Code Civ. Proc., §§ 415.50 and 413.30).

2

3 (b) \* \* \*

4

5 (c) **Continuing jurisdiction**

6

7 (1) The court has jurisdiction over the parties and control of all subsequent  
8 proceedings from the time of service of the summons and a copy of the  
9 petition. In joint petition cases, the court has jurisdiction over the parties and  
10 control of all subsequent proceedings from the time of filing of the joint  
11 petition.

12

13 (2) A general appearance of the respondent is equivalent to personal service  
14 within this state of the summons and a copy of the petition upon him or her.

15

16 (d) **Service of pleading revoking joint petition**

17

18 (1) If either party revokes a joint petition under Family Code section 2342.5(b),  
19 the revoking party must arrange to serve a copy of the following documents  
20 on the other party:

21

22 (A) The completed and filed pleading revoking the joint petition (amended  
23 Petition—Marriage/Domestic Partnership (form FL-100) or amended  
24 Response—Marriage/Domestic Partnership (form FL-120)); and

25

26 (B) A completed and filed Notice of Cancellation of Joint Petition (form  
27 FL-720).

28

29 (2) Service of the documents specified in this subdivision must be in the same  
30 manner as specified in subdivision (a) of this rule, except:

31

32 (A) When serving a person residing outside of the United States, service  
33 need not follow the procedures of the Hague Convention on the Service  
34 Abroad of Judicial and Extrajudicial Documents in Civil or  
35 Commercial Matters or the Inter-American Convention on Letters  
36 Rogatory);

37

38 (B) If the party to be served is represented by counsel, then service may be  
39 on counsel in the same manner as service of a notice or motion (Code  
40 Civ. Proc., §§ 1010 et seq.); and

41

42 (C) Upon a showing of good cause, the court may order an alternative  
43 method of service.

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**Rule 5.92. Request for court order; responsive declaration**

**(a)** \* \* \*

**(b) Request for order; required forms and filing procedure**

(1)–(6) \* \* \*

(7) If the parties initiated the proceeding by joint petition under Family Code sections 2330 and 2331 and judgment has not yet entered in the case, a party must file a pleading revoking the joint petition under Family Code section 2342.5(b) and a *Notice of Cancellation of Joint Petition* (form FL-720) before or simultaneously with filing a request for order.

**(c)–(g)** \* \* \*

*Clerk stamps date here when form is filed.*

Amended Petition

Use this form if you are two people who are:

- Married to each other;
- Registered as domestic partners with the Secretary of State.

And you both want to:

- End your marriage;
- End your domestic partnership; or
- Legally separate from one another.

Use this form if you and your partner have agreed, or plan to agree, on all of the issues in your case. If there are any issues on which you think you both will not agree, you must instead use forms FL-100 and FL-110.

If you are both married to and in a domestic partnership with each other, you can use this form to end both relationships by checking that you want to end each of them in item ②.

**FOR MORE INFORMATION:** Read *Legal Steps for a Joint Petition for Divorce or Legal Separation* (form [FL-700-INFO](#)) and visit the court's website at [selfhelp.courts.ca.gov/divorce-california](http://selfhelp.courts.ca.gov/divorce-california).

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**FL-700 2025-03-26 AD-SJ-**  
**v17**

*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 Who You Are**

*(Either of you can be Petitioner 1 or Petitioner 2, but once you choose to be Petitioner 1 or 2, the same person must be Petitioner 1 or 2 on all documents in this case. There is no legal advantage to being either Petitioner 1 or 2.)*

a. Petitioner 1:

(1) Your Name:

\_\_\_\_\_

(2) Your Lawyer *(if you have one for this case)*:

Name: \_\_\_\_\_ State Bar Number: \_\_\_\_\_

Firm Name: \_\_\_\_\_

(3) 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.)*:

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_



**1** b. Petitioner 2:

(1) Your Name: \_\_\_\_\_

(2) Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar Number: \_\_\_\_\_

Firm Name: \_\_\_\_\_

(3) 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.):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**2** Type of Case You Are Filing

a. Are you married to each other?  Yes  No (skip to item 2b)

(1) On what date did you marry? \_\_\_\_\_

(2) Are you asking for a divorce?  Yes (skip to item 2b)  No

(3) Are you asking to legally separate but not dissolve (end) your marriage?  Yes  No

b. Are you in a domestic partnership with each other?  Yes  No (if you are not married to each other or in a domestic partnership with each other, do not use this form)

(1) What date did you enter into your domestic partnership? \_\_\_\_\_

(2) Are you asking to dissolve (end) your domestic partnership?  Yes (skip to item 3)  No

(3) Are you asking to legally separate but not dissolve (end) your domestic partnership?  Yes  No

**3** Where you Live or Where you Established your Legal Relationship (Residency)

(Complete this item if you answered "yes" to either item 2a(2) or item 2b(2). If you are only asking for a legal separation and not to end your legal relationship, skip to item 4. To end your marriage or domestic partnership, you have to be a resident of this state for at least the last six months and of this county for at least three months, unless you qualify for one of the exceptions listed below.)

a. Has Petitioner 1 lived in California for the last six months and in this county for the last three months?

Yes  No

b. Has Petitioner 2 lived in California for the last six months and in this county for the last three months?

Yes (skip to item 4)  No



- 3 c. Are you in a domestic partnership with each other that you established in California?  
 Yes *(skip to the instructions at the end of this item)*    No
- d. Are Petitioner 1 and Petitioner 2 the same sex?  
 Yes    No *(skip to the instructions at the end of this item)*
- (1) Were you married in the county where you are filing this joint petition?  
 Yes    No *(skip to the instructions at the end of this item)*
- (2) Do both of you currently live somewhere that will not let you get divorced (for example, somewhere that does not recognize your marriage)?  
 Yes    No *(skip to the instructions at the end of this item)*
- (a) Petitioner 1 lives in: \_\_\_\_\_
- (b) Petitioner 2 lives in: \_\_\_\_\_

If you did not answer yes to item 3a, item 3b, item 3c, or both of the questions in item 3d, you may not be allowed to file your request in this county. Even if you are allowed to file in this county to ask the court to end your legal relationship, if you do not live in California the court may not be able to make orders about property, support, or children. You can find more information on the rules for where you can file your case in the California Court Self-Help Guide: [selfhelp.courts.ca.gov/divorce-california](http://selfhelp.courts.ca.gov/divorce-california).

4 **Legal Grounds**

You each declare that you have substantial differences in your relationship that you each believe you cannot work out in the future and justify now ending your relationship (irreconcilable differences).

5 **Your Children Who Are Younger Than 18**

- a. Are you both the parents of any children who are younger than 18?    Yes    No *(skip to item 6)*
- b. List the information of your children who are younger than 18 below:

<u>Child's Name</u>	<u>Date of Birth</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- A child or children not yet born
- Check here if you have more children together who are younger than 18. Attach a sheet of paper and write "Attachment 5b" at the top of it. List the names, dates of birth, and ages of any additional minor children there. You may use form MC-020.
- c. You must fill out form FL-105 and attach it to this form. Both of you must sign form FL-105 (you may sign together on one signature line).
- d. If any of the children you listed in this section were born before the date of your marriage or domestic partnership, the court has the power to determine those children to be the children of your marriage or domestic partnership.



**6** You both agree that the items below are a complete list of all the issues in this case, and that you have agreed or plan to agree on all the issues. For each item, check “yes” if it applies to your case or “does not apply” if it does not apply to your case.

- a. Date of separation  Yes  Does Not Apply
- b. Child custody and visitation (parenting time)  Yes  Does Not Apply
- c. Child support  Yes  Does Not Apply
- d. Spousal or domestic partner support  Yes  Does Not Apply
- e. Division of separate property  Yes  Does Not Apply
- f. Division of community property and quasi-community property  Yes  Does Not Apply
- g. Changing name back to what it was before you were married for:

(1) Petitioner 1  Yes  Does Not Apply

If yes, Petitioner 1 will change their name back to (*specify*): \_\_\_\_\_

(2) Petitioner 2  Yes  Does Not Apply

If yes, Petitioner 2 will change their name back to (*specify*): \_\_\_\_\_

- h. Payment of attorney's fees and costs  Yes  Does Not Apply
- i. Other issue  Yes  Does Not Apply

If yes, explain below.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Check here if you need more space. Attach a piece of paper and write “Attachment 6i” at the top, then continue writing on that piece of paper. You may use form MC-025 for this.

**7 Your Agreements and the Legal Rights You Are Giving Up**



**IMPORTANT! DO NOT SKIP THIS SECTION.** It has information about your legal rights and what you are giving up by filing this joint petition.

Both of you understand and agree that:

- a. Each of you gives up the right to be legally served with a petition and a summons in this case.
- b. All the standard temporary restraining orders listed in *Summons—Joint Petition* (form FL-710) will apply to each of you as soon as anyone files this form. You each have read the restraining orders on the back of that form.
- c. By filing this form, each of you makes a general appearance. This means that you accept the power of this court to make decisions in your case and agree to participate in the case. The day you make a general appearance also starts the clock for some deadlines to act in your case.



- 7 d. If you appeared in court and were sworn to testify, each of you would testify that the facts in this joint petition are true.
- e. Even if one or both of you later decides to cancel (revoke) the joint petition, the date that the joint petition is filed will be the filing date of the case. This means that important dates in your case (such as the deadline for you to serve your financial disclosures and the earliest date the court can dissolve your marriage) will be counted from the date you first filed the joint petition.
- f. Before the court enters *Judgment* (form FL-180) in this case, neither of you may file a request for a court order in this case unless you first cancel (revoke) this joint petition. Instructions on how to cancel (revoke) this joint petition are listed on *Legal Steps for a Joint Petition for Dissolution or Legal Separation* (form [FL-700-INFO](#)).

8  Other (*explain*):

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Check here if you need more space. Attach a piece of paper and write “Attachment 8” at the top, then continue writing on that piece of paper. You may use form MC-025 for this.

**NOTICE—BEWARE OF POSSIBLE AUTOMATIC CANCELLATION OF RIGHTS.** Dissolution or of your marriage or domestic partnership or legal separation may automatically cancel your spouse's or domestic partner's rights under your will, trust, retirement benefit 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 thing. It does not automatically cancel your spouse's or domestic partner's rights as beneficiary of your life insurance policy. If these are not the results that you want, you must change your will, trust, account agreement, or other similar document to reflect your actual wishes.

Dissolution of your marriage or domestic partnership or legal separation may also automatically cancel your rights under your spouse's or domestic partner's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, and survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your rights as beneficiary of your spouse's life insurance policy.

You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement benefit plans, and credit reports to determine whether they should be changed or whether you should take any other actions in view of the dissolution of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or domestic partner or a court order.

Attorneys sign here. If you do not have an attorney, leave this section blank.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Signature of Attorney for Petitioner 1*





Case Number:

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Signature of Attorney for Petitioner 2*

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*



\_\_\_\_\_  
*Signature of Petitioner 1*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Signature of Petitioner 2*

**SUMMONS—JOINT PETITION**  
**CITACIÓN—PETICIÓN CONJUNTA**

FL-710

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

**NOTICE TO JOINT PETITIONERS**  
**AVISO A LOS DEMANDANTES CONJUNTOS**

**DRAFT**

**NOT APPROVED BY THE  
JUDICIAL COUNCIL**

**v. 2/5/24**

CASE NUMBER (NUMERO DE CASO):

The joint petitioners named below are parties to a formal legal proceeding and are immediately subject to certain obligations as a result. Read the information below and on the next page.

*Los demandantes conjuntos nombrados a continuación son partes de un procedimiento formal y legal y, como resultado, están sujetos inmediatamente a ciertas obligaciones. Lea la información a continuación y en la página siguiente.*

Name of petitioner 1:  
*Nombre del demandante 1:*

Name of petitioner 2:  
*Nombre del demandante 2:*

**NOTICE—RESTRAINING ORDERS ARE ON PAGE 2:**

These restraining orders are effective against both spouses or domestic partners until the joint petition is dismissed, a judgment is entered, or the court makes further orders. They are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of them.

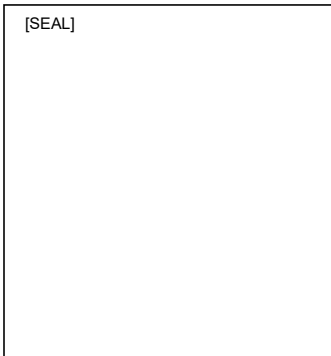
**AVISO—LAS ÓRDENES DE RESTRICCIÓN SE**

**ENCUENTRAN EN LA PÁGINA 2:** Las órdenes de restricción están en vigencia en cuanto a ambos cónyuges o miembros de la pareja de hecho hasta que se despida la petición conjunta, se emita un fallo o la corte dé otras órdenes. Cualquier agencia del orden público que haya recibido o visto una copia de estas órdenes puede hacerlas acatar en cualquier lugar de California.

**FEE WAIVER:** If you cannot pay the filing fee, ask the clerk for a fee waiver form. The court may order you to pay back all or part of the fees and costs that the court waived for you or the other party.

**EXENCIÓN DE CUOTAS:** Si no puede pagar la cuota de presentación, pida al secretario un formulario de exención de cuotas. La corte puede ordenar que usted pague, ya sea en parte o por completo, las cuotas y costos de la corte previamente exentos a petición de usted o de la otra parte.

1. The name and address of the court are *(El nombre y dirección de la corte son):*
2. The name, address, and telephone number of the attorney for petitioner 1, or petitioner 1 without an attorney, are: *(El nombre, dirección y número de teléfono del abogado del demandante 1, o del demandante 1 si no tiene abogado, son):*
3. The name, address, and telephone number of the attorney for petitioner 2, or petitioner 2 without an attorney, are: *(El nombre, dirección y número de teléfono del abogado del demandante 2, o del demandante 2 si no tiene abogado, son):*



Date *(Fecha):* \_\_\_\_\_ Clerk, by *(Secretario, por)* \_\_\_\_\_, Deputy *(Asistente)*

**STANDARD FAMILY LAW RESTRAINING ORDERS**

**Starting immediately, you and your spouse or domestic partner are restrained from:**

1. Removing the minor children of the parties from the state or applying for a new or replacement passport for those minor children without the prior written consent of the other party or an order of the court;
2. Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their minor children;
3. Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life; and
4. Creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. Before revocation of a nonprobate transfer can take effect or a right of survivorship to property can be eliminated, notice of the change must be filed and served on the other party.

You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, you may use community property, quasi-community property, or your own separate property to pay an attorney to help you or to pay court costs.

**ÓRDENES DE RESTRICCIÓN ESTÁNDAR DE DERECHO FAMILIAR**

**En forma inmediata, usted y su cónyuge o pareja de hecho tienen prohibido:**

1. *Llevarse del estado de California a los hijos menores de las partes, o solicitar un pasaporte nuevo o de repuesto para los hijos menores, sin el consentimiento previo por escrito de la otra parte o sin una orden de la corte;*
2. *Cobrar, pedir prestado, cancelar, transferir, deshacerse o cambiar el nombre de los beneficiarios de cualquier seguro u otro tipo de cobertura, como de vida, salud, vehículo y discapacidad, que tenga como beneficiario(s) a las partes y su(s) hijo(s) menor(es);*
3. *Transferir, gravar, hipotecar, ocultar o deshacerse de cualquier manera de cualquier propiedad, inmueble o personal, ya sea comunitaria, cuasicomunitaria o separada, sin el consentimiento escrito de la otra parte o una orden de la corte, excepto en el curso habitual de actividades personales y comerciales o para satisfacer las necesidades de la vida; y*
4. *Crear o modificar una transferencia no testamentaria de manera que afecte la asignación de una propiedad sujeta a transferencia, sin el consentimiento por escrito de la otra parte o una orden de la corte. Antes de que se pueda eliminar la revocación de una transferencia no testamentaria, se debe presentar ante la corte un aviso del cambio y hacer una entrega legal de dicho aviso a la otra parte.*

*Cada parte tiene que notificar a la otra sobre cualquier gasto extraordinario propuesto por lo menos cinco días hábiles antes de realizarlo, y rendir cuenta a la corte de todos los gastos extraordinarios realizados después de que estas órdenes de restricción hayan entrado en vigencia. No obstante, puede usar propiedad comunitaria, cuasicomunitaria o suya separada para pagar a un abogado que lo ayude o para pagar los costos de la corte.*

**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 towards high-quality affordable health care. For more information, visit [coveredca.com](http://coveredca.com). Or call Covered California at 1-800-300-1506.

**AVISO—ACCESO A SEGURO DE SALUD MÁS ECONÓMICO:**

*¿Necesita seguro de salud a un costo asequible, ya sea para usted o alguien en su hogar? Si es así, puede presentar una solicitud con Covered California. Covered California lo puede ayudar a reducir el costo que paga por seguro de salud asequible y de alta calidad. Para obtener más información, visite [coveredca.com](http://coveredca.com). O llame a Covered California al 1-800-300-0213.*

**WARNING—IMPORTANT INFORMATION**

California law provides that, for purposes of division of property upon dissolution of a marriage or domestic partnership or upon legal separation, property acquired by the parties during marriage or domestic partnership in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language in the deed that characterizes how title is held (i.e., joint tenancy, tenants in common, or community property) will be controlling, and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.

**ADVERTENCIA—INFORMACIÓN IMPORTANTE**

*De acuerdo a la ley de California, las propiedades adquiridas por las partes durante su matrimonio o pareja de hecho en forma conjunta se consideran propiedad comunitaria para fines de la división de bienes que ocurre cuando se produce una disolución o separación legal del matrimonio o pareja de hecho. Si cualquiera de las partes de este caso llega a fallecer antes de que se divida la propiedad comunitaria de tenencia conjunta, el destino de la misma quedará determinado por las cláusulas de la escritura correspondiente que describen su tenencia (por ej., tenencia conjunta, tenencia en común o propiedad comunitaria) y no por la presunción de propiedad comunitaria. Si quiere que la presunción comunitaria quede registrada en la escritura de la propiedad, debería consultar con un abogado.*

*Clerk stamps date here when form is filed.*

Use this form if you want to cancel (revoke) a *Joint Petition—Marriage or Domestic Partnership* (form FL-700) that you filed to start your case and the court has not yet entered a *Judgment* (form FL-180).

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**FL-720 2025-03-26 AD-SJ-**  
**v7**

*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 Information**

a. Your Name:

\_\_\_\_\_

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.):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

d. Your role in this case (check one):

**PETITIONER** (Check here if you were Petitioner 1 on the Joint Petition–Marriage or Domestic Partnership (form FL-700). You must file an amended Petition (form FL-100) at the same time as this form.)

**RESPONDENT** (Check here if you were Petitioner 2 on the Joint Petition–Marriage or Domestic Partnership (form FL-700). You must file an amended Response (form FL-120) at the same time as this form.)

**2 Notice to** (other party's name): \_\_\_\_\_

The person in **1** has canceled (revoked) the *Joint Petition–Marriage or Domestic Partnership* (form FL-700) that you filed together. Either of you may now ask for orders of the court without the agreement of the other. The restraining orders listed on the *Summons–Joint Petition* (form FL-710) are still active. Both you and the other party must read and follow the orders on that form.

**You have 30 calendar days** after the amended *Petition–Marriage/Domestic Partnership* (form FL-100) or amended *Response–Marriage/Domestic Partnership* (form FL-120) is served on you to file a *Response–Marriage/Domestic Partnership* (form FL-120) (if you were Petitioner 2) or an amended *Petition–Marriage/Domestic Partnership* (form FL-100) (if you were Petitioner 1). If you do not, the court may make orders affecting your marriage or domestic partnership, your property, and custody of your children. You may be ordered to pay support and attorneys fees and costs. For legal advice, contact a lawyer immediately. Get help finding a lawyer through the Self-Help Guide to the California Courts ([selfhelp.courts.ca.gov](http://selfhelp.courts.ca.gov)), at the LawHelpCA ([www.lawhelpca.org](http://www.lawhelpca.org)), or by contacting your local county bar association.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Name of Party or Attorney*



\_\_\_\_\_  
*Signature of Party or Attorney*

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

**Use this form to learn more about the process of getting a judgment of divorce, dissolution of domestic partnership, or legal separation by filing a joint petition together with your spouse or domestic partner. This form also has instructions for canceling a joint petition for dissolution or legal separation that you already filed. If you would like information on how to get a judgment of divorce, dissolution of domestic partnership, or legal separation without filing jointly, use form FL-107-INFO.**

## 1 Start Your Case

You and your spouse or domestic partner fill out and file with the court clerk at least:

- *Joint Petition—Marriage or Domestic Partnership* (form [FL-700](#));
- *Summons—Joint Petition* (form [FL-710](#));

And if there are children of the relationship:

- *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105](#)).

Each of you must also pay your court fees. For information about fee waivers, see [selfhelp.courts.ca.gov/fee-waiver](http://selfhelp.courts.ca.gov/fee-waiver).

On form FL-700, one of you will be listed as Petitioner 1 and the other will be listed as Petitioner 2. For any forms that you must file in your case that say “Petitioner” and “Respondent,” Petitioner 1 should identify themselves as “Petitioner” and Petitioner 2 should identify themselves as “Respondent.”

## 2 Disclose Financial Information

Within 60 days of filing the Joint Petition, both of you must fill out and have these documents served on each other:

- *Declaration of Disclosure* (form [FL-140](#));
- *Income and Expense Declaration* (form [FL-150](#)) (you should also file this form with the court);
- *Schedule of Assets and Debts* (form [FL-142](#)) or *Property Declaration* (form [FL-160](#)); and
- All tax returns filed by the party in the two years before serving the disclosure documents. These disclosure documents are not filed with the court.

You can serve these documents by having someone 18 or older (not you) mail a copy of your disclosure documents to your spouse. Do not file or mail these documents with the court. They only go to your spouse or domestic partner. Then, you each must each file a *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form [FL-141](#)) with the court saying disclosures were served.

## 3 Come to an Agreement

You and your spouse or domestic partner will come to an agreement (you may skip to Step 4 if you already came to an agreement before you began this process). If you need help coming to an agreement, the following private services are available:

**Lawyers.** Also called attorneys, lawyers can help work out agreements between the parties and represent you at court hearings and trials if necessary.

**Collaborative Lawyers.** Lawyers who represent each party but do not go to court. They try to reach an agreement. If court is necessary, the parties must hire new lawyers.

**Mediators.** A lawyer or counselor who helps the parties communicate to explore options and reach a mutually acceptable resolution.

## 4 Finalize Your Case

To finalize your case, you will put your agreement in the proper form for the court to accept it and submit your judgment. You must fill out, sign, and file at least the following paperwork:

- *Appearance, Stipulations, and Waivers* (form [FL-130](#)) signed by both of you.



- *Declaration for Default or Uncontested Dissolution or Legal Separation* (form [FL-170](#)) signed by either of you.
- *Stipulation and Waiver of Final Declaration of Disclosure* (form [FL-144](#)) signed by both of you. If you do not want to waive your final declaration of disclosure, each of you must repeat Step 2 with updated financial information and then file a *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form [FL-141](#)).

If you have children together or agreements about support, you may need to file additional documents. For a complete list of needed forms, see

[selfhelp.courts.ca.gov/divorce/finalize-divorce](http://selfhelp.courts.ca.gov/divorce/finalize-divorce).

You must also fill out and submit at least the following paperwork to the court:

- A proposed *Judgment* (form [FL-180](#)) with written agreements attached.
- A proposed *Notice of Entry of Judgment* (form [FL-190](#)) with your updated contact information.

**5 Steps to Later Cancel (Revoke) The Joint Petition**



**IMPORTANT!** If you cannot reach an agreement or you simply do not want to continue with the joint process, either or both of you can change your mind and cancel (revoke) the joint petition **before the court enters a judgment in your case**. You may do this without the approval of the court or the other party.

- Fill out and sign both:
  - *Petition—Marriage/Domestic Partnership* (form [FL-100](#)) (if you are Petitioner 1) or *Response—Marriage/Domestic Partnership* (form [FL-120](#)) (if you are Petitioner 2). Check the box for “Amended” in the caption.
  - *Notice of Cancellation of Joint Petition* (form [FL-720](#)).

- File the forms in Step 1 with the court. File them in the same case (use the same case number) as the joint petition. If the amended *Petition—Marriage/Domestic Partnership* (form [FL-100](#)) or amended *Response—Marriage/Domestic Partnership* (form [FL-120](#)) is filed in a different case (with a different case number), it will not cancel (revoke) *Joint Petition—Marriage or Domestic Partnership* (form [FL-700](#)).
- Have someone 18 or older who is not a party to the case serve the other party with the forms you filed in Step 2. If the other party does not have a lawyer, serve in the same way as a summons. If the other party has a lawyer, serve in the same way as a motion (if you serve electronically you can serve yourself even though you are a party to the case). Complete and file form *Proof of Service of Pleading Revoking Joint Petition* (form [FL-725](#)). More information on how to serve legal documents is available through the Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/court-basics/service](http://selfhelp.courts.ca.gov/court-basics/service).
- Once you file the amended *Petition—Marriage/Domestic Partnership* (form [FL-100](#)) or amended *Response—Marriage/Domestic Partnership* (form [FL-120](#)) in your case, the joint petition will be canceled. Petitioner 1 will become the petitioner in this case, and Petitioner 2 will become the respondent in your case. The case will move forward like a standard case in which parties do not agree on one or more issues (see Family Code section 2330).

The court will not issue a new summons. All the standard temporary restraining orders listed on *Summons—Joint Petition* (form [FL-710](#)) will stay in full force and effect until the court enters a final judgment or dismisses your case.



**If the other party files to cancel the joint petition**

Once the other party has you legally served with the amended *Petition—Marriage/Domestic Partnership* (form [FL-100](#)) or amended *Response—Marriage/Domestic Partnership* (form [FL-120](#)), you must file the proper court form within 30 days or risk having a default judgment entered against you. This means the other party could get the orders they are asking for even if you do not agree. To avoid this, you must file an amended *Petition—Marriage/Domestic Partnership* (form [FL-100](#)) (if you are Petitioner 1) or a *Response—Marriage/Domestic Partnership* (form [FL-120](#)) (if you are Petitioner 2).

**Important Notices****Date Your Legal Relationship Ends**

The earliest you can be divorced is six months and one day from the date you filed the *Joint Petition—Marriage or Domestic Partnership* (form [FL-700](#)). Legal separation has no waiting period. You are NOT divorced or legally separated until the court enters a judgment in your case.

**Requests for Court Orders**

If you do not yet have a judgment in your case and you need court orders for child support, custody, parenting time (visitation), spousal or partner support, discovery, or other issues, you must first cancel (revoke) the joint petition. To do this, follow the steps listed at the end of the joint petition form. Then, file a *Request for Order* (form [FL-300](#)) asking for orders. See the court's website at [selfhelp.courts.ca.gov/request-for-order](http://selfhelp.courts.ca.gov/request-for-order) for more information.

**Mailing Address**

You must keep the court and the other party informed of any change in your mailing address or other contact information. File and serve a *Notice of Change of Address or Other Contact Information* (form [MC-040](#)) on the other party or their attorney to let them know about the change in your contact information.

**Public Assistance and Child Support**

If either of you is receiving public assistance (CalWORKS), all child support should be made payable to the local child support agency. A representative of the local

child support agency must also sign your proposed *Judgment* (form [FL-180](#)) before you submit it to the court. For more information, contact your local child support agency using the contact information on the California Department of Child Support Services website at [childsupport.ca.gov/find-my-local-agency/](http://childsupport.ca.gov/find-my-local-agency/).

**What if there is domestic violence?**

Domestic violence can be physical abuse, but it does not have to be. Abuse can also be verbal, mental, or emotional. If there is domestic violence in your relationship or a protective or restraining order, this collaborative process may not be right for you. Instead, you can use the standard divorce process. More information about that process can be found on *Legal Steps for a Divorce or Legal Separation* (form [FL-107-INFO](#)). It is important that you talk to a lawyer, counselor, or mediator before making agreements.

For domestic violence help, call the National Domestic Violence Hotline: 800-799-7233; (TDD): 800-787-3224; or 211 (if available in your area).

**Where can I get help?**

This information sheet gives you only basic information the joint petition process and is not legal advice. If you want legal advice, ask a lawyer for help. You may also:

- Contact the family law facilitator or self-help center in your court for information, court forms, and referrals to local legal resources. For more information, see [selfhelp.courts.ca.gov/court-based-self-help-services](http://selfhelp.courts.ca.gov/court-based-self-help-services).
- Find information on the Self-Help Guide to the California Courts: [selfhelp.courts.ca.gov](http://selfhelp.courts.ca.gov).
- Find a lawyer through a certified lawyer referral service on the State Bar of California's website ([calbar.ca.gov/LRS](http://calbar.ca.gov/LRS)) or by calling 866-442-2529 (toll-free).
- Find free and low-cost legal help (if you qualify) at [lawhelpca.org](http://lawhelpca.org).
- Find information at your local law library or public library.





PETITIONER: RESPONDENT:	CASE NUMBER:
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5. b.  **Substituted service.** I left the copies with or in the presence of *(name)*:  
 who is *(specify title or relationship to the person in item 2)*:
- (1)  **(Business)** a person at least 18 years of age who was apparently in charge at the office or usual place of business of the person in item 2. I informed the person of the general nature of the papers.
- (2)  **(Home)** a competent member of the household (at least 18 years of age) at the home of the person in item 2. I informed the person of the general nature of the papers.

On *(date)*:

At *(time)*:

I thereafter mailed additional copies (by first class, postage prepaid) to the person in item 2 at the place where the copies were left (Code Civ. Proc., § 415.20b) on *(date)*:

A **declaration of diligence** is attached, stating the actions taken to first attempt personal service.

- c.  **Mail and acknowledgment service.** I mailed the copies to the person in item 2, addressed as shown in item 4, by first-class mail, postage prepaid, on *(date)*: from *(city)*:
- (1)  with two copies of the *Notice and Acknowledgment of Receipt* (form [FL-117](#)) and a postage-paid return envelope addressed to me. **(Attach completed *Notice and Acknowledgment of Receipt* (form [FL-117](#)).**  
 (Code Civ. Proc., § 415.30.)
- (2)  to an address outside California (by registered or certified mail with return receipt requested). **(Attach signed return receipt or other evidence of actual delivery to the respondent.)** (Code Civ. Proc., §§ 415.40, 417.20.)
- d.  **Other** *(specify code section)*:  
 Continued on [Attachment 5d](#)

6. **Service on a represented party or by alternative means with permission of the court** *(you may only serve by the methods listed below if item 6a or item 6b is true; otherwise, service must be by one or more of the methods in item 5)*:

- a.  Service was on the attorney in item 2b; or
- b.  The court granted permission to serve the documents in item 3 on the person in item 2 by alternative means on *(date of order)*: . Attach a copy of the order to this form.

*If you checked item 6a, service may be by the methods below in addition to the methods in item 5. If you checked item 6b, service may be by the method specified in the court order.*

- c.  **Personal delivery.** I left 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 if there was no person in the office with whom the notice or papers could be left, I left them in a conspicuous place in the office between the hours of 9 a.m. and 5 p.m.

On *(date)*:

At *(time)*:

- d.  **United States Mail.** I enclosed the document in a sealed envelope or package addressed to the person in item 2 at the address in item 4 on *(specify date)*: and *(check one)*:
- (1)  I deposited the sealed envelope with the United States Postal Service, with postage fully prepaid; or
- (2)  I 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 of or employed in the county where the mailing occurred. The envelope or package was placed in the mail at *(city and state)*:

- e.  **Overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the person in item 2 at the address in item 4, then placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

Date of overnight delivery *(specify)*:

PETITIONER: RESPONDENT:	CASE NUMBER:
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6. f.  **Fax transmission.** Based on an agreement to accept service by fax, I faxed the documents in item 3 to the person in item 2 at the following fax number: \_\_\_\_\_ on (specify date): \_\_\_\_\_. No error was reported by the fax machine that was used. A copy of the record of the fax transmission is attached.
- g.  **Other** (specify code section or authority): \_\_\_\_\_  
 Continued on [Attachment 6h](#)

7. **Person who served papers**

Name:

Address:

Telephone number:

This person is

- a.  exempt from registration under Business and Professions Code section 22350(b).
- b.  not a registered California process server.
- c.  a registered California process server:  an employee or  an independent contractor
- (1) Registration no.: \_\_\_\_\_
- (2) County: \_\_\_\_\_
- (3) **The fee** for service was (specify): \$ \_\_\_\_\_


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

—or—

9.  **I am a California sheriff, marshal, or constable**, and I certify that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(NAME OF PERSON WHO SERVED PAPERS)

 \_\_\_\_\_  
(SIGNATURE OF PERSON WHO SERVED PAPERS)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

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## RULES COMMITTEE ACTION REQUEST FORM

**Rules Committee Meeting Date:** 4/11/2025

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

**Title of proposal:** Access and Fairness: Accommodations for Court Users to Pump or Express Breast Milk

*Proposed rules, forms, or standards (include amend/revise/adopt/approve):*  
Adopt rule 2.40; approve form MC-420

*Committee or other entity submitting the proposal:*  
Advisory Committee on Providing Access and Fairness

*Staff contact (name, phone and email):* Sarah Jacobvitz, 415-865-4533; sarah.jacobvitz@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): Approved by the Executive and Planning Committee on 12/5/2024

Project description from annual agenda: Project Title: Implementation of Superior Court Lactation Accommodation Procedure (Sen. Bill 949 Stats. 2024, Ch. 159) in All Court Proceedings (New/Implementation Project)  
Priority5 1(a)

Strategic Plan Goal6 I, IV

Project Summary: Develop a proposal to implement Senate Bill 949 for superior courts. The proposal will outline a process for courts to offer lactating court users who are participating in an ongoing proceeding, a confidential request for a reasonable amount of break time to express breast milk for their infant child. To comply with SB 949, PAF will draft a new form for court users, circulate the proposal for public comment, and address any public comments received.

**Out of Cycle/Early Implementation:** *If requesting July 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.)

Senate Bill 949 mandates new or amended rules and forms by January 1, 2026.

### Additional Information for JC Staff

- **Director Approval** (required for all invitations to comment and reports)

This report or invitation to comment was:

reviewed by EGG on (date) 2/18/2025

approved by Office Director (or Designee) (name) Anna Maves  
on (date) 3/14/2025

*If either of above not checked, explain why:*

*Complete the following for all reports to be submitted to council (optional for ITCs):*

- **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 report 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

### SPR25-22

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**Title**

Access and Fairness: Accommodations for Court Users to Pump or Express Breast Milk

**Action Requested**

Review and submit comments by May 23, 2025

**Proposed Rules, Forms, Standards, or Statutes**

Adopt rule 2.40; approve form MC-420

**Proposed Effective Date**

January 1, 2026

**Proposed by**

Advisory Committee on Providing Access and Fairness

Hon. Kevin C. Brazile, Cochair

Hon. Victor A. Rodriguez, Cochair

**Contact**

Sarah Jacobvitz, 415-865-4533

[sarah.jacobvitz@jud.ca.gov](mailto:sarah.jacobvitz@jud.ca.gov)

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### Executive Summary and Origin

Senate Bill 949 (Stats. 2024, ch. 159) requires superior courts to grant court users who are participating in court proceedings a reasonable amount of break time to express milk for their infant children. The legislation also mandates that the Judicial Council create a confidential process for superior court users to request the break time. To implement the new law, the Advisory Committee on Providing Access and Fairness proposes a new rule of court and a new optional form.

### Background

Under Labor Code section 1031, superior courts that employ more than 50 people must provide a lactation room to their employees; superior courts that employ fewer than 50 people may be exempt if they can demonstrate that this requirement would impose an undue hardship.<sup>1</sup> It came to the Legislature's attention that, although many attorneys spend the bulk of their day in superior courts, not all superior courts permitted attorneys or jurors to use lactation rooms because they are not employees of the court. To ensure that all superior court users would have similar access to a lactation room as court employees, in 2022 the Legislature enacted Assembly

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<sup>1</sup> Lab. Code, § 1031(a) & (i).

*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.*

Bill 1576 (Stats. 2022, ch. 200), which added section 69894 to the Government Code. Effective July 1, 2026, section 69894 requires any superior court that is required to provide access to a lactation room to its employees to also provide access to a lactation room to court users.<sup>2</sup>

To provide the greatest number of superior court users with access to lactation rooms in as many courthouses as possible, Assembly Bill 3280 (Stats. 2024, ch. 228) amended section 69894 to clarify that a superior court may provide a lactation room that does not meet all the requirements an employer must satisfy in providing a lactation room for employees under Labor Code section 1031(d).<sup>3</sup> Assembly Bill 3280 also mandates that superior courts must use the most cost-effective means possible to construct or renovate lactation rooms in courthouses.<sup>4</sup>

In 2024, the Legislature also enacted Senate Bill 949, which added section 69894.1 to the Government Code. Effective July 1, 2026, this section requires superior courts to provide court users participating in ongoing proceedings with a reasonable amount of break time during the proceedings to express breast milk for their infant children.<sup>5</sup> Government Code section 69894.1(b) requires the Judicial Council to adopt or amend rules of court or forms to provide a confidential process to request this break time by no later than January 1, 2026.

## **The Proposal**

This proposal would provide a confidential process by which superior court users participating in proceedings may request break time to express or pump breast milk under new Government Code section 69894.1.

### **Rule 2.40, Requests for lactation accommodations**

New rule 2.40 is modeled on current rule 1.100, which governs requests for accommodations by persons with disabilities. The proposed process for requesting an accommodation to pump or express breast milk and responding to those requests closely mirrors rule 1.100, as court staff and users are already familiar with the disability accommodation request process. Also similar to rule 1.100, new rule 2.40 would contain definitions, a policy statement, a review procedure, and provisions to maintain confidentiality.

As proposed, the new rule would not include the provisions of rule 1.100(f), which address denials of disability accommodation requests, because the statutory bases for denial of a disability accommodation request do not apply to requests by lactating persons for break time. Further, the review procedure proposed in the new rule does not include a provision from rule

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<sup>2</sup> The operative date of the bill was originally July 1, 2024, but was changed to July 1, 2026, in 2023 by Senate Bill 133 (Stats. 2023, ch. 34).

<sup>3</sup> Gov. Code, § 69894(b).

<sup>4</sup> *Ibid.*

<sup>5</sup> Gov. Code, § 69894.1.

1.100(g) regarding decisions by nonjudicial court personnel because, under section 69894.1, these decisions must be made by a judicial officer.

Despite being modeled on rule 1.100, which is located in Title 1 rules that apply to all courts, the new rule would be placed in Title 2, rules that apply to superior courts, because Senate Bill 949 applies to superior courts only. Within Title 2, the new rule would be located in new Chapter 5, Accommodations.

### ***Request for Accommodation to Pump or Express Breast Milk (form MC-420)***

The committee proposes new optional *Request for Accommodation to Pump or Express Breast Milk* (form MC-420), a confidential form that a user may submit to the court, but which would not become a part of the court file.

The proposed form is in plain language format. On the first page, the court user would put their name and contact information in item 1 and indicate their role in court proceedings in item 2. In items 3 and 4, the court user would indicate the proceedings for which they are requesting break time and give additional information regarding their request (duration, timing, etc.). Page 2 of the form is for the court to respond to the request.

### **Alternatives Considered**

The committee considered including requests for lactation accommodation in the existing rule for requesting disability accommodation. The committee rejected this option because, although the processes are similar, the applicable law and types of accommodations are different. In addition, the statute specifies that trial courts must provide lactation accommodations, while all courts must provide disability accommodations. For clarity, the committee proposes a separate rule.

Regarding the title of the form, *Request for Accommodation to Pump or Express Breast Milk* (form MC-420), the committee considered shortening the name to *Request for Lactation Accommodation*. However, the committee decided against this title because it does not comport with plain language principles and the committee was concerned that the title might cause confusion among the public.

The committee also considered which term to use for the process of expressing milk and decided to use the phrase “pump or express.” The committee considered using only the word “express” or only the word “pump,” but the former is not plain language, and the latter excluded methods such as manual expression.

Because the statute does not specify the amount of time the court should grant for any scheduled break time, stating only that it should be “reasonable,”<sup>6</sup> the committee considered shortening the form and not including item 4, which allows the user to provide more details about their request. Instead, the committee considered including only a general statement that the user requests a

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<sup>6</sup> Gov. Code, § 69894.1(a).

“reasonable” amount of time. However, because what is reasonable will depend on the circumstances, the committee decided that allowing an applicant to provide more information would assist the judicial officer in determining the amount of break time to allow and the reasonableness of the request.

The committee considered making form MC-420 mandatory instead of optional but decided against doing so to give individual courts the flexibility to adopt their own local forms, which may better suit their needs. The committee also considered approving an optional form but not proposing any rule amendments or a new rule. However, it concluded that local courts would benefit from guidance on processing these requests.

Finally, the committee did not consider taking no action because of the legislative mandate to create a confidential process including rules or court or forms by which users participating in superior court proceedings can request break time.

### **Fiscal and Operational Impacts**

To implement the new process, courts will need to provide training to judicial officers and court employees, create local procedures for court operations, and otherwise update systems to incorporate the new form. These costs are a result of the legislation.

#### **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 form include any other information? 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 two 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 2.40, at pages 6-8



2. Form MC-420, at pages 9-10
3. Link A: Senate Bill 949 (Stats. 2024, ch. 159),  
[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=202320240SB949&showamends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240SB949&showamends=false)
4. Link B: Assembly Bill 3280 (Stats. 2024, ch. 228),  
[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=202320240AB3280&showamends=false](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240AB3280&showamends=false)
5. Link C: Lab. Code, § 1031,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=LAB&sectionNum=1031](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1031)

DRAFT

Rule 2.40 of the California Rules of Court would be adopted, effective January 1, 2026, to read:

1 Title 2. Trial Court Rules

2  
3 Chapter 5. Accommodations

4  
5 Rule 2.40. Requests for accommodations to pump or express breast milk

6  
7 (a) Definitions

8  
9 As used in this rule:

- 10  
11 (1) “Persons who are lactating” means individuals covered by Government Code  
12 section 69894 et seq.  
13  
14 (2) “Applicant” means any court user who is participating in an ongoing court  
15 proceeding in a superior court.  
16  
17 (3) “Accommodations” means providing break time from court proceedings in a  
18 superior court to pump or express breast milk for the applicant’s infant child.  
19 Accommodations may include making reasonable modifications in policies,  
20 practices, and procedures, and providing access to a lactation room if the  
21 court has one.

22  
23 (b) Policy

24  
25 It is the policy of the courts of this state to ensure that persons who are lactating  
26 have equal and full access to the judicial system.

27  
28 (c) Process for requesting accommodations

29  
30 The process for requesting accommodations is as follows:

- 31  
32 (1) Requests for accommodations under this rule may be presented ex parte on a  
33 form approved by the Judicial Council or in another written format. Requests  
34 must be forwarded to the ADA coordinator, also known as the access  
35 coordinator, or designee, within the time frame provided in (c)(3).  
36  
37 (2) Requests for accommodations must include a description of the  
38 accommodation being requested. The court, in its discretion, may require the  
39 applicant to provide additional information about the request.  
40

Rule 2.40 of the California Rules of Court would be adopted, effective January 1, 2026, to read:

1           (3) Requests for accommodations must be made as far in advance as possible,  
2           and in any event must be made no fewer than 5 court days before the  
3           requested implementation date. The court may, in its discretion, waive this  
4           requirement.

5  
6           (4) The court must keep confidential all information of the applicant concerning  
7           the request for accommodation, unless confidentiality is waived in writing by  
8           the applicant or disclosure is required by law. The applicant's identity and  
9           confidential information may not be disclosed to the public or to persons  
10           other than those involved in the accommodation process. Confidential  
11           information includes all medical information pertaining to the applicant, and  
12           all oral or written communication from the applicant concerning the request  
13           for accommodation.

14  
15       **(d) Permitted communication**

16  
17           Communications under this rule must address only the accommodation requested  
18           by the applicant and must not address, in any manner, the subject matter or merits  
19           of the proceedings before the court.

20  
21       **(e) Response to accommodation request**

22  
23           The court must respond to a request for accommodation as follows:

24  
25           (1) In determining whether to grant an accommodation request or provide an  
26           appropriate alternative accommodation, the court must consider, but is not  
27           limited by, Government Code section 69894 et seq.

28  
29           (2) The court must promptly inform the applicant of the determination to grant or  
30           deny an accommodation request. If the accommodation request is denied in  
31           whole or in part, the response must be in writing. The response to the  
32           applicant must indicate:

33  
34           (A) Whether the request for accommodation is granted or denied, in whole  
35           or in part, or an alternative accommodation is granted;

36  
37           (B) If the request for accommodation is denied in whole or in part, the  
38           reason for the denial;

39  
40           (C) The nature of any accommodation to be provided;  
41

Rule 2.40 of the California Rules of Court would be adopted, effective January 1, 2026, to read:

1           (D) The duration of any accommodation to be provided; and  
2

3           (E) If the response is in writing, the date the response was delivered in  
4                 person or sent to the applicant.  
5

6 **(f) Review procedure**  
7

8           (1) If the request for accommodation is denied in whole or in part, an applicant  
9                 may file a petition for a writ of mandate under rules 8.485–8.493 or 8.930–  
10                8.936 in the appropriate reviewing court. The petition must be filed within 10  
11                days of the date the response under (e)(2) was delivered in person or sent to  
12                the petitioner. For purposes of this rule, only those participants in the  
13                proceeding who were notified by the court of the determination to grant or  
14                deny the request for accommodation are considered real parties in interest in  
15                a writ proceeding. The petition for the writ must be served on the respondent  
16                court and any real party in interest as defined in this rule.  
17

18           (2) The confidentiality of all information of the applicant concerning the request  
19                 for accommodation and review under (f)(1) must be maintained as required  
20                 under (c)(4).  
21

22 **(g) Duration of accommodations**  
23

24           The accommodation by the court must be provided for the duration indicated in the  
25                 response to the request for accommodation and must remain in effect for the period  
26                 specified. The court may provide an accommodation for an indefinite period of  
27                 time, for a limited period of time, or for a particular matter or appearance.  
28

29   **Advisory Committee Comment**  
30

31           Nothing in this rule limits the rights of persons who are lactating to seek accommodation under  
32                 rule 1.100.  
33

34           **Subdivision (f)(2).** Which court is the “appropriate reviewing court” under this rule depends on  
35                 the court in which the accommodation decision is made and the nature of the underlying case. If  
36                 the accommodation decision is made by a superior court judicial officer and the underlying case  
37                 is a limited civil, misdemeanor, or infraction case, the appropriate reviewing court is the appellate  
38                 division of the superior court. If the accommodation decision is made by a superior court judicial  
39                 officer and the case is anything other than a limited civil, misdemeanor, or infraction case, such  
40                 as a family law, unlimited civil, or felony case, the appropriate reviewing court is the Court of  
41                 Appeal.

If you have an infant child and need break time during a court date to pump or express breast milk for that child, you may use this form to make your request.

*Clerk receives and date stamps here.*

**DRAFT**  
**Not approved by**  
**the Judicial Council**  
**MC-420 2025-3-11 AD-SJ-**  
**v14**



Make this request at least **5 court days** (when the court is open) before you need the accommodation.

**1 Your information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**Court Name and Address:**

\_\_\_\_\_



**Important!** Provide complete and updated contact information. The court may contact you about this request. The contact will only be about this request and you must not discuss the details of any court case.

**Case Number (if you know it):**

\_\_\_\_\_

**2 How are you participating in the case?**

- Juror    Party    Witness    Lawyer
- Other (*explain*): \_\_\_\_\_

**Case Name or Type (if you know it):**

\_\_\_\_\_

**3 For which court hearing or hearings are you asking for break time?**

- a.  Date or dates: \_\_\_\_\_  
Department: \_\_\_\_\_ Courthouse: \_\_\_\_\_
- b.  Other (*explain*): \_\_\_\_\_

**4 Explain your request**

- a. At what times or how often are you asking for the breaks to happen? (*Specify*): \_\_\_\_\_
- b. How much break time are you asking for? (*give length in minutes of each break*): \_\_\_\_\_
- c. Would you like to provide more information about your request?    Yes (*explain below*)    No
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- More information on this request is attached. (*You may use form MC-025.*)
- d. If the court has an available lactation room, would you like to use it?    Yes    No

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

\_\_\_\_\_  
*Signature*



Name: \_\_\_\_\_

Case Number (if you know it): \_\_\_\_\_

**Court fills out below**

**(Optional)**



**Important!** If your situation changes after you make this request and you do not need the break for the date or dates you listed in item ③, please contact the court at:

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

- Your request is **GRANTED**. The court will provide the accommodation requested.
- Your request is **GRANTED IN PART**. The reasons for denying part of your request are listed below.

The court will provide the accommodation as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Your request is **DENIED** for the reasons listed below.

The court's reasons for denying all or part of your request are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The court will provide the accommodation:**

- For the dates and times requested.     For every court hearing in this case.
- On the following date or dates: \_\_\_\_\_
- More information on this decision is attached.

Date: \_\_\_\_\_



\_\_\_\_\_  
*Judicial Officer*

The court responded in person, by phone, or by mail/email on: \_\_\_\_\_



**Please note:** Form MC-420 is a confidential form that is not part of the case file. The form must be given to the ADA Coordinator or designated person in your court. If you are submitting papers to the court electronically you must not include form MC-420 with your filing.

You may be able to ask for a review of this decision. [California Rules of Court, rule 2.40\(f\)](#) explains how to do this.