



# JUDICIAL COUNCIL OF CALIFORNIA

RULES AND PROJECTS  
COMMITTEE

[www.courts.ca.gov/rupromeetings.htm](http://www.courts.ca.gov/rupromeetings.htm)  
[rupromeetings@jud.ca.gov](mailto:rupromeetings@jud.ca.gov)

## RULES AND PROJECTS COMMITTEE

### MINUTES OF OPEN MEETING

October 15, 2019  
12:10-1:10 p.m.  
Conference Meeting

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Advisory Body Members Present: Hon. Harry E. Hull, Jr. (Chair), Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Ms. Rachel W. Hill, Hon. Ann C. Moorman, Mr. Maxwell V. Pritt, and Hon. B. Tam Nomoto Schumann.

Advisory Body Members Absent: Hon. Dalila C. Lyons (Vice-chair)

Staff Present: Michael Giden, Benita Downs, Tracy Kenny, Eric Long, and Patti Williams.

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair called the meeting to order at 12:13 p.m., and took roll call.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 01-04)

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##### JUDICIAL ADMINISTRATION

**Judicial Branch Administration:** Judicial Branch Policies on Workplace Conduct (adopt rule 10.351)  
(Action required – approval for circulation for comment)

**Action:** The Rules and Projects Committee approved the proposal for circulation.

##### CALIFORNIA CIVIL JURY INSTRUCTIONS (CACI)

**Jury Instructions: Review and Approve Publication of Instructions with Minor Revisions** (Action required – RUPRO action only)

**Action:** *The Rules and Projects Committee approved the publication of the Jury Instructions with minor revisions.*

**Jury Instructions: New, Revised, Renumbered, and Revoked Civil Jury Instructions** (Action required – recommend Judicial Council action)

**Action:** *The Rules and Projects Committee recommended approval on the Judicial Council's November 14, 2019, consent agenda, with one member abstaining, Mr. Maxwell V. Pritt.*

**JUVENILE**

**Juvenile Law: Transfer of Jurisdiction to Criminal Court (Revoke action taken on September 24, 2019 to amend rules 5.766, 5.768, and 5.770, and revise forms JV-060-INFO and JV-710)** (Action required –the Judicial Council revoke its action on September 24, 2019, to revise rules and forms to implement recent changes in the law on the transfer of jurisdiction to a criminal court for children 14 and 15 years of age because there is a split of authority within the California Courts of Appeal as to whether these changes were enacted in a constitutional manner.

**Action:** *The Rules and Projects Committee recommended approval on the Judicial Council's November 14, 2019, consent agenda.*

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**A D J O U R N M E N T**

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

Approved by the advisory body on enter date.



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## RULES AND PROJECTS COMMITTEE

### MINUTES OF OPEN MEETING

Monday, October 28, 2019

4:00 - 5:00 p.m.

Conference Call Meeting

**Advisory Body  
Members Present:**

Hon. Harry E. Hull, Jr. (Chair), Hon. Dalila C. Lyons (Vice-chair), Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Ms. Rachel W. Hill, Mr. Maxwell V. Pritt, and Hon. B. Tam Nomoto Schumann.

**Advisory Body  
Members Absent:**

Hon. Ann C. Moorman

**Others Present:**

**RUPRO staff:** Michael Giden, Susan McMullan, and Benita Downs.

**Committee staff:** Sarah Fleischer-Ihn (**CLAC**), Nicole Giacinti (**Fam/Juv**), Tracy Kenny, (**Fam/Juv**), Eric Long, (**CACI**), Kara Portnow, (**CALCRIM**), Anne Ronan, (**CSCAC**), Jamie Schechter, (**Traffic**), Christy Simmons, (**Appellate**), and Corby Sturges, (**PMHAC**).

**Advisory Committee Chairs:** Hon. Jerilyn Borack, (**Fam/Juv**), Hon. J. Richard Couzens, (**CLAC**), Hon. Gail Dekreon, (**Traffic**), Hon. Ann I. Jones, (**CSCAC**), Hon. Louis R. Mauro, (**Appellate**), and Hon. Martin J. Tangeman, (**CACI**).

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#### OPEN MEETING

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**Call to Order and Roll Call**

The chair called the meeting to order at 4:05 p.m., and took roll call.

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#### I. DISCUSSION AND POSSIBLE ACTION ITEMS

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##### CALIFORNIA CIVIL JURY INSTRUCTIONS (CACI)

**Advisory Committee on Civil Jury Instructions Annual Agenda** (Action required – RUPRO action only)

**Action:** *The Rules and Projects Committee approved the Civil Jury Instructions Annual Agenda.*

##### CALIFORNIA CRIMINAL JURY INSTRUCTIONS (CALCRIM)

**Advisory Committee on Criminal Jury Instructions Annual Agenda** (Action required – RUPRO action only)

*Action: The Rules and Projects Committee approved the Criminal Jury Instructions Annual Agenda.*

## APPELLATE

**Appellate Advisory Committee Annual Agenda** (Action required – RUPRO action only)

Justice Fujisaki recommended current project #6 **Record retention in criminal appeals**; priority be changed from 2 to 1(e). This is urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public.

*Action: The Rules and Projects Committee approved the Appellate Advisory Committee's Annual Agenda with the above modification.*

## CIVIL AND SMALL CLAIMS (Items 06-08)

**Civil and Small Claims Advisory Committee Annual Agenda** (Action required – RUPRO action only)

*Action: The Rules and Projects Committee approved the Civil and Small Claims Advisory Committee's Annual Agenda.*

## CRIMINAL

**Criminal Law Advisory Committee Annual Agenda** (Action required – RUPRO action only)

*Action: The Rules and Projects Committee approved the Criminal Law Advisory Committee's Annual Agenda.*

## FAMILY and JUVENILE

**Family and Juvenile Law Advisory Committee Annual Agenda** (Action required – RUPRO action only)

Prior to the meeting, Ms. Hill contacted the committee's staff with questions and suggestions. Staff modified the agenda, making suggested changes that are technical in nature and necessary to correct inadvertent omissions and incorrect references.

*Action: The Rules and Projects Committee approved the Family and Juvenile Law Advisory Committee's Annual Agenda as modified.*

## PROBATE AND MENTAL HEALTH ADVISORY COMMITTEE

**Probate and Mental Health Advisory Committee Annual Agenda** (Action required – RUPRO action only)

Staff informed the committee that current project #4 **Form for designating an emergency caregiver and nominating a guardian for a child; status/timeline** was changed from 2020 to 2021 because a new form is anticipated to take effect January 1, 2021.

*Action: The Rules and Projects Committee approved the Probate and Mental Health Advisory Committee's Annual Agenda as modified.*

**Rules and Forms: Disposition of Small Estates** (revise forms DE-305, DE-310, and DE-315) (Action required – recommend council action)

*Action: The Rules and Projects Committee recommended approval on the Judicial Council's November 14, 2019, consent agenda.*

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**TRAFFIC ADVISORY COMMITTEE**

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**Traffic Advisory Committee Annual Agenda** (Action required – RUPRO action only)

*Action: The Rules and Projects Committee approved the Traffic Advisory Committee's Annual Agenda.*

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**II. OTHER BUSINESS**

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**Next RUPRO meeting-** Thursday, December 12, 2019

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**A D J O U R N M E N T**

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

Approved by the advisory body on enter date.



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## RULES AND PROJECTS COMMITTEE

### MINUTES CIRCULATING ORDER-ACTION BY E-MAIL

Monday, November 18, 2019

3:30 p.m.

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**Advisory Body** Hon. Harry E. Hull, Jr. (Chair), Hon. Dalila C. Lyons (Vice-chair), Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Ms. Rachel W. Hill, Hon. Ann C. Moorman, Mr. Maxwell V. Pritt, and Hon. B. Tam Nomoto Schumann.  
**Members Voting:**

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#### CIRCULATING ORDER-ACTION BY EMAIL

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As provided in the California Rules of Court, rule 10.75 (o)(1)(B), the chair concluded that prompt action was needed. This action by e-mail concerned a matter that would otherwise be discussed in an open meeting; therefore, in accordance with rule 10.75(o)(2).

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#### DISCUSSION AND ACTION ITEM (ITEM 1)

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The Traffic Advisory Committee recommends the Judicial Council adopt revisions to the Uniform Bail and Penalty Schedules, effective January 1, 2020. Vehicle Code section 40310 requires that the Judicial Council annually adopt a uniform traffic infraction penalty schedule that conforms to new legislation. Additionally, Penal Code section 1269b and rule 4.102 of the California Rules of Court require all trial courts annually to revise and adopt a countywide schedule of penalties for all misdemeanor and infraction offenses, except Vehicle Code infractions.

The 2020 proposal includes proposed revisions to conform the 2020 schedules to recent changes in the law, changes based on recommendations from courts and justice system partners, and proposed technical changes to the schedules and footnotes.

**Action:** *The Rules and Projects Committee recommended Judicial Council's approval by circulating order.*

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#### ADJOURNMENT

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The action by e-mail concluded on Wednesday, November 20, at 12:00 p.m.

Approved by the advisory body on enter date.

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Recommend JC approval (has circulated for comment)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):  
Adopt California Rule of Court 10.351 Judicial branch policies on workplace conduct

**Committee or other entity submitting the proposal:**  
Ad hoc RUPRO subcommittee on the Prevention of Discrimination and Harassment

**Staff contact** (*name, phone and e-mail*): Mike Etchepare, 916-643-7019, michael.etchepare@jud.ca.gov

**Identify project(s) on the committee's annual agenda that is the basis for this item:**  
Approved by RUPRO: N/A  
Project description from annual agenda: N/A

**If requesting July 1 or out of cycle, explain:**  
This rule proposal originates from recommendations made by the Work Group for the Prevention of Discrimination and Harassment (Work Group), appointed by Chief Justice Tani G. Cantil-Sakauye. The Work Group's recommendations, including a recommendation to adopt a rule establishing standardized, baseline requirements for court policies on the prevention, reporting, and resolution of complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification, were approved by the Judicial Council on July 19, 2019. The Judicial Council directed RUPRO to oversee this rule-making process at the earliest possible convenience.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)  
N/A



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 16–17, 2020

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**Title**

Judicial Branch Administration: Policies on Workplace Conduct

**Agenda Item Type**

Action Required

**Effective Date**

January 17, 2020

**Rules, Forms, Standards, or Statutes Affected**

Adopt Cal. Rules of Court, rule 10.351

**Date of Report**

December 6, 2019

**Recommended by**

Rules and Projects Committee  
Hon. Harry E. Hull, Jr., Chair  
Hon. Dalila C. Lyons, Vice Chair

**Contact**

Deborah Brown, Chief Counsel  
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### Executive Summary

To promote improvement and greater consistency in how judicial branch entities prevent and address harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification, the Rules and Projects Committee recommends that the Judicial Council adopt a new California Rule of Court to establish standardized baseline requirements for court policies on the prevention, reporting, and resolution of these types of complaints. This proposal originates from recommendations made by the Work Group for the Prevention of Discrimination and Harassment, and approved by the Judicial Council on July 19, 2019, with a recommendation to adopt a rule on these issues.



## **Recommendation**

To effectuate the action approved by the Judicial Council on July 19, 2019, the Rules and Projects Committee (RUPRO) recommends that, effective January 17, 2020, the Judicial Council adopt proposed California Rule of Court, rule 10.351, Judicial Branch Policies on Workplace Conduct. The proposed rule would require courts to adopt updated policies on the prevention, reporting, and resolution of complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification. The proposed rule is consistent with and carries out the first recommendation made by the Work Group for the Prevention of Discrimination and Harassment and approved by the Judicial Council in July 2019, and would establish minimum requirements for court policies on the prevention, reporting, and resolution of complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.

The text of the proposed rule is attached at pages 8–10.

## **Relevant Previous Council Action**

In April 2018, Chief Justice Tani G. Cantil-Sakauye asked the Judicial Council to take immediate action to amend the rule of court on public records to clarify that settlement agreements to resolve sexual harassment and discrimination complaints against judicial officers must be publicly disclosed in response to public records requests. She also created the Rule 10.500 Working Group to develop the necessary rule changes required to achieve this goal. Through developing its proposals, the Rule 10.500 Working Group identified other related issues that were beyond its scope, including harassment and discrimination prevention by the courts.

In October 2018, the Chief Justice appointed the Work Group for the Prevention of Discrimination and Harassment (Work Group) to examine these related issues and further support the judicial branch’s commitment to a workplace free of harassment and discrimination. The Work Group examined research and discussed potential areas for improvement relating to harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification. The Work Group ultimately proposed recommendations to the Judicial Council, including, among others, that RUPRO “oversee the rulemaking process to propose a rule of court clarifying the responsibility of courts to adopt updated policies that: (a) prohibit harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification; (b) contain definitions and examples of prohibited harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification; and (c) address and clarify complaint reporting and response procedures.”<sup>1</sup> Those recommendations were approved by the Judicial Council on July 19, 2019.

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<sup>1</sup> Judicial Council of Cal., Adv. Body Rep., *Judicial Branch Administration: Prevention of Discrimination, Harassment, Retaliation, and Inappropriate Workplace Conduct Based on a Protected Classification* (June 12, 2019), p. 2.

RUPRO created an ad hoc RUPRO subcommittee on the Prevention of Harassment and Discrimination (RUPRO subcommittee) to develop a rule of court consistent with the Work Group's direction to the Judicial Council. The RUPRO subcommittee was chaired by Justice Harry E. Hull, Jr., of the Court of Appeal, Third Appellate District, and consisted of seven judicial officers, court executive officers, and attorneys from Judicial Council membership, many of whom also served on both the Work Group and the Rule 10.500 Working Group. RUPRO considered the RUPRO subcommittee's rule proposal and recommends it to the Judicial Council for adoption.

### **Analysis/Rationale**

Rule 10.351 would require courts to adopt updated policies on the prevention, reporting, and resolution of complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.<sup>2</sup> The new rule would require court policies to contain, at minimum:

1. A list of all protected classifications under applicable state and federal laws.
2. A nonexhaustive list of definitions and examples of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.
3. A prohibition against harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification by judicial officers, supervisors, managers, coworkers, third parties, and other individuals with whom court employees come into contact.
4. A comprehensive complaint reporting procedure that clearly identifies individuals, in addition to an employee's supervisor, to whom complaints may be made; individuals to whom complaints may be made involving the conduct of administrative presiding justices, appellate court clerk/executive officers, presiding judges, court executive officers, judicial officers, and court management; and outside administrative agencies to whom employees may complain.
5. Comprehensive complaint intake, investigatory, and follow-up processes that provide for fair, timely, and thorough investigations conducted by impartial, qualified personnel; consideration of appropriate options for remedial action and resolution; appropriate reassurances of confidentiality, and an explanation that disclosure of information will be limited to the extent consistent with conducting a fair, effective, and thorough investigation; and a clear prohibition on retaliation against anyone making a complaint of

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<sup>2</sup> The phrase "protected classification" is used throughout proposed rule 10.351 and does not limit the scope of the proposed rule to only certain groups of employees. The phrase "protected classifications" applies to and protects all employees, not just those of a particular status within the classification. As an example, the protected classification of sex/gender protects all employees based on their sex, gender expression, and gender identification, regardless of whether they are male or female, identify or express as a gender other than their sex assigned at birth, or identify or express as gender nonbinary. This example applies to other protected classifications as well; the rule applies equally to all groups within that classification. The phrase "protected classification" is used to ensure that all employees are protected and treated equally and that courts are also aware that they have legal obligations to investigate and resolve complaints that involve issues related to classifications that are specifically enumerated by statute.

harassment, discrimination, retaliation, or inappropriate workplace conduct based on a protected classification or participating in an investigation into such complaints.

The proposed rule is consistent with and carries out the first recommendation made by the Work Group and approved by the Judicial Council in July 2019, and would standardize minimum requirements for court policies on the prevention, reporting, and resolution of complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification. The proposed rule would benefit judicial branch employees and judicial officers by:

1. Requiring courts to define and provide examples of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification;
2. Removing barriers for employees to report such conduct by clearly identifying individuals to whom complaints may be made;
3. Providing a more consistent response to complaints of such conduct throughout the branch;
4. Educating employees who are subjected to such conduct as to their rights and available resources; and
5. Clarifying the responsibilities of court management to prevent and address such conduct.

### **Policy implications**

In drafting the proposed rule, RUPRO considered many of the same policy considerations discussed by the Work Group, including balancing the competing policies of court autonomy with the need for more standardized processes. While both the Work Group and RUPRO acknowledge the critical importance of baseline procedures and protection for branch employees in the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification, there was also an acknowledgment that courts are autonomous entities with the independence to manage their own operations and workforces. Courts vary greatly in size and structure, and trial courts have unionized workforces with bargained memorandums of understanding addressing terms and conditions of employment that may require the courts to meet and confer with unions about various policy and procedure changes prior to implementation.

The result is a proposed rule that sets a minimum baseline of compliance consistent with law, regulatory guidance, and direction received from the Judicial Council in the recommendations that were approved on July 19, 2019. The proposed rule ensures that courts will implement standard policies that provide for the protection of all branch employees by delineating mandatory required content for such policies and requiring that courts implement their own appropriate complaint, investigatory, and follow-up procedures. Yet despite these requirements, the proposed rule does not mandate the specific language to be used in policies and does not mandate how courts structure their specific complaint, investigatory, and follow-up procedures. The proposed rule provides branch employees with important and uniform protections while allowing courts to determine how to best achieve and expand those requirements—and in the context of their own structures, limitations, and union relationships.

## **Comments**

This proposal was circulated for public comment from October 16, 2019 through November 15, 2019. The Invitation to Comment elicited a total of four public comment responses. Both the Superior Court of San Diego County and the general counsel for the Superior Court of Shasta County asked RUPRO to provide further definition of the term “inappropriate workplace conduct,” as discussed in the “Alternatives considered” section below. The Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Subcommittee raised a concern that courts requiring union approval of their personnel policies might struggle to meet the implementation deadline stated in the rule. While RUPRO shares the subcommittee’s concern about the short timeframe for courts to implement the proposed rule, the rule already provides an exception that addresses this issue, as discussed in the “Fiscal and Operational Impacts” section below.

The California Employment Lawyers Association (CELA) also raised a number of general comments on harassment prevention and also specific comments to the proposed rule. Specifically, CELA suggested that the rule contain specific reference to protected classifications listed in the Government Code and suggested that the rule emphasize that any listed definitions and examples provided in a prevention policy are “nonexhaustive.” RUPRO has adopted these suggestions. CELA also made suggestions to bolster retaliation and complaint procedures, and while RUPRO shares CELA’s concerns on these issues, the current rule already includes robust protections and procedures in those areas. CELA also suggested that the rule require courts to retain records related to complaints and investigations for a set period of time after conclusion of the investigation. While RUPRO encourages courts to retain documents related to complaints and investigations consistent with their existing record retention policies, RUPRO notes that this suggestion is beyond the scope of the proposed rule and has not been subject to public comment. RUPRO anticipates that this suggestion will be reevaluated as part of the “follow up” envisioned by the Work Group, and approved by the Judicial Council, to occur by July 2021.

CELA also made a handful of other comments regarding judicial discipline and recusals that were beyond the scope of this proposal: to create a rule to standardize minimum requirements for court policies on the prevention, reporting, and resolution of complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.<sup>3</sup> Those comments are addressed more specifically in the comment chart, at pages 11–27.

## **Alternatives considered**

The Judicial Council directed that a rule of court be developed and proposed, including suggested topics for the rule to address. Rule 10.351 was developed consistent with the direction and guidance of the Work Group’s recommendations and approval of those recommendations by

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<sup>3</sup> Proposed rule 10.351 is intended only to address the first recommendation made by the Work Group and approved by the Judicial Council on July 19, 2019. The Work Group’s other proposed recommendations on training, creation of sample policies and procedures, improved communication, and follow-up to determine if further actions should be taken, all of which were approved by the Judicial Council, will be addressed by other actions taken by the Center for Judicial Education and Research Advisory Committee, Judicial Council staff, and individual courts.

the Judicial Council, and consistent with industry-approved best practices for policies on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.

Even so, RUPRO considered alternative requirements to include in the rule, including how to best standardize complaint reporting procedures while ensuring that the rule provides courts with the ability to adopt reporting and response procedures that suit the size and organization of each court. The result is language mandating broad requirements—that courts provide “multiple avenues for raising complaints” and “identify individuals to whom complaints may be made” against court leadership—while leaving courts to determine the specific avenues and identification of individuals to receive complaints.

As discussed, RUPRO received comments asking that the proposed rule include specific examples and definitions of the phrase “inappropriate workplace conduct.” RUPRO did not change the proposed rule in this manner. The prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification is constantly evolving. Definitions and examples of prohibited and inappropriate workplace conduct have evolved, and will continue to evolve, as employees share their experiences and employers continue to embrace the challenge to provide better, safer, fairer, and more respectful workplaces for their employees. While the desire for greater clarity in the proposed rule is understandable, both the Work Group and RUPRO determined that including specific examples and definitions in the rule risked that those definitions and examples would soon become out of date and fail to account for the newest developments and best practices in harassment prevention.

To balance the competing concerns of creating a robust rule that is flexible enough to adapt to an everchanging landscape while also providing appropriate guidance to the courts, the recommendations presented by the Work Group and approved by the Judicial Council on July 19, 2019, specifically require Judicial Council staff to create sample language for policies on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification, and to update those sample policies as necessary. RUPRO anticipates that the sample language created by Judicial Council staff will be disseminated to courts shortly after adoption of the proposed rule, and will provide additional context, examples, and definitions that will guide court compliance with the rule. The examples of inappropriate workplace conduct provided in the comments are illustrative of the concerns facing court employees, and RUPRO will forward those comments and suggestions to Judicial Council staff responsible for creating the sample policies. It is anticipated that these samples will be frequently reviewed and updated by Judicial Council staff.

Finally, RUPRO notes that the Work Group recommended, and the Judicial Council adopted, a requirement that Judicial Council staff follow up on implementation of the Work Group recommendations by July 2021. RUPRO anticipates that the clarity of the proposed rule will be included in that follow-up evaluation and that any necessary changes will be recommended at that time.

## **Fiscal and Operational Impacts**

RUPRO does not anticipate any significant one-time or sustained annual costs associated with adoption of the rule. It does anticipate some operational impacts for Judicial Council staff and courts in the short term, primarily in the period leading up to the rule implementation date. Specifically, it is anticipated that court leadership and human resources staff will examine existing harassment prevention policies to ensure compliance with rule 10.351, and draft or revise informal complaint resolution policies and investigation protocols consistent with the requirements of the proposed rule. Although Judicial Council staff will attempt to alleviate some of these operational impacts through the creation of sample policy language, RUPRO anticipates that some courts will want to create their own policies and procedures or, at the very least, customize sample language to fit the operational realities of their courts.

The proposed rule also includes an implementation date of June 30, 2020. RUPRO anticipates that some courts may be unable to meet this implementation date because of obligations to meet and confer or consult with recognized employee organizations regarding changes to personnel policies. The proposed rule specifically accounts for this possibility by allowing courts to implement the rule “by June 30, 2020, or as soon thereafter as possible,” if satisfying any such obligations delays implementation beyond the deadline. While RUPRO expects that courts will diligently work to implement rule 10.351 by the June 30, 2020 implementation date, the proposed rule anticipates that some courts will face additional steps for approval that may extend beyond the implementation date.

## **Attachments and Links**

1. Cal. Rules of Court, rule 10.351, at pages 8–10
2. Chart of comments, at pages 11–27

### **Rule 10.351. Judicial branch policies on workplace conduct**

The judicial branch is committed to providing a workplace free of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification. Consistent with this commitment, each court must take reasonable steps to prevent and address such conduct, including adopting policies prohibiting harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification and establishing for such conduct complaint reporting and response procedures that satisfy the minimum requirements stated in this rule.

#### **(a) Prohibition policies**

Each court must ensure that its policies prohibiting harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification conform with the minimum requirements stated in this rule. These policies must contain:

- (1) A prohibition against harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification by judicial officers, managers, supervisors, employees, other personnel, and other individuals with whom employees come into contact;
- (2) A list of all protected classifications under applicable state and federal laws, including all protected classifications listed in Government Code section 12940(a);
- (3) Definitions and a nonexhaustive list of examples of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification;
- (4) A clear prohibition of retaliation against anyone making a complaint or participating in an investigation of harassment, discrimination, retaliation, or inappropriate workplace conduct based on a protected classification; and
- (5) Comprehensive complaint reporting, intake, investigatory, and follow-up processes.

#### **(b) Complaint reporting process**

Each court must adopt a process for employees to report complaints of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification. These reporting processes must:

- (1) Establish effective open-door policies and procedures for reporting complaints;
- (2) Offer multiple avenues for raising complaints, either orally or in writing, and not require that the employee bring concerns to an immediate supervisor;

- (3) Clearly identify individuals to whom complaints may be made regarding the conduct of administrative presiding justices, appellate court clerk/executive officers, presiding judges, court executive officers, judicial officers, and court management;
- (4) Identify the Commission on Judicial Performance, California Department of Fair Employment and Housing, and U.S. Equal Employment Opportunity Commission as additional avenues for employees to lodge complaints, and provide contact information for those entities; and
- (5) Instruct supervisors, managers, and directors with knowledge of harassment, discrimination, retaliation, or inappropriate workplace conduct based on a protected classification to report this information to the administrative presiding justice or an appellate court clerk/executive officer, a presiding judge, a court executive officer, human resources, or another appropriate judicial officer who is not involved with the conduct or named in the complaint.

**(c) Court responsibility on receipt of complaint or knowledge of potential misconduct**

Each court must develop processes to intake, investigate, and respond to complaints or known instances of harassment, discrimination, retaliation, or inappropriate workplace conduct based on a protected classification. These processes must provide for:

- (1) Appropriate reassurances to complainants that their confidentiality in making a complaint will be preserved to the extent possible, including an explanation that disclosure of information will be limited to the extent consistent with conducting a fair, effective, and thorough investigation;
- (2) Fair, timely, and thorough investigations of complaints that provide all parties with appropriate consideration and an opportunity to be heard. These investigations should be conducted by impartial, qualified investigators;
- (3) Communication with complainants throughout the investigation process, including initial acknowledgment of complaints, follow-up communication as appropriate, and communication at the end of the process;
- (4) Consideration of appropriate options for remedial action and resolution based on the evidence collected in the investigation; and
- (5) Timely case closures.



**(d) Implementation**

All courts must implement the requirements of this rule by June 30, 2020, or as soon thereafter as possible, subject to any applicable obligations to meet and confer or consult with recognized employee organizations.

DRAFT

**SP19-10**

**Judicial Branch Administration: Policies on Workplace Conduct** (adopt Cal. Rules of Court, rule 10.351)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Employment Lawyers Association by Wendy Musell, Chair	N	<p>The California Employment Lawyers Association (CELA) appreciates the opportunity to submit the following comments on the Committee’s Proposal to Adopt Cal. Rules of Court, rule 10.351.</p> <p>CELA a statewide organization of more than 1,200 private attorneys who practice primarily employment law on behalf of workers. CELA was established to assist California lawyers representing employees and unions in matters related to employment. CELA’s mission is to help our members protect and expand the legal rights of working women and men through litigation, education and advocacy.</p> <p>CELA is in a unique position to provide these comments. Specifically, CELA’s members have the ability to bring a unique perspective to these issues, as advocates for the rights of employees, including employees of the judicial branch, and as officers of the Court, many of whom have unfortunately personally experienced or witnessed harassment and discrimination by judicial officers.</p> <p>Our Courts stand for the proposition that all persons shall be afforded equal justice under the law. We commend the Committee for its acknowledgment of the fact that there exists a problem with harassment, discrimination, and</p>	<p>The Rules and Projects Advisory Committee (RUPRO) appreciates the suggestions from the commenter and addresses them below. RUPRO also notes that many of the issues raised by this comment are outside the scope of the proposed rule. Proposed rule 10.351 addresses the Work Group for the Prevention of Discrimination and Harassment (Work Group) recommendation #1, approved by the Judicial Council on July 19, 2019. That recommendation called for RUPRO to create a rule that would: (1) clarify the responsibility of the courts to adopt updated policies that prohibit harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification; (2) require courts to provide definitions and examples of the same conduct in those policies; and (3) address and clarify complaint reporting procedures. RUPRO does not specifically address the comments beyond the scope of this proposal.</p>

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			<p>retaliation – statewide, and up to the highest levels – within California’s hallowed halls of justice. We provide the following comments in hope of assisting the Committee in achieving its goal of promoting improvement and consistency in how judicial branch entities prevent and address harassment, discrimination, retaliation, and inappropriate workplace conduct.</p> <p><u>Public Policy Considerations</u></p> <p>CELA encourages the Committee to consider certain matters of public policy when adopting this Rule and to incorporate these considerations into any future drafts.</p> <p>For example, one of the key issues that has already, and will continue, to affect employees in the judicial branch is institutional knowledge regarding acts of harassment, discrimination and retaliation by the same actors. CELA encourages the judicial branch to include in this Rule a records retention requirement such that complaints – however they are received – are documented in a central location which can be accessed by qualified investigators in the event of future complaints. Complaints and investigative documents should be kept for a period of at least five years following the end of any person’s employment by the judicial branch. This is critical to ensuring that</p>	<p>RUPRO appreciates the importance of record retention for documents related to complaints and investigations and encourages individual courts to create record retention rules for such documents consistent with their own internal record retention procedures. RUPRO notes that the suggestion to include a specific record retention requirement in the rule is beyond the scope of the current proposal and has not been subject to public comment. RUPRO has directed this comment to Judicial Council staff who will be responsible for conducting the follow up envisioned by the Work Group, and approved by the Judicial Council, to occur by July 2021. RUPRO anticipates that part of the follow up will include whether courts have</p>

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			<p>appropriate remedial measures are being taken against perpetrators who commit multiple acts of inappropriate conduct and/or conduct prohibited under the FEHA and the Labor Code. This also ensures that patterns regarding unlawful behavior are more readily apparent and accessible to investigators, such that problem persons and/or offices can be appropriately – and promptly – investigated and remedial action be taken. This type of institutional knowledge is critical to ensuring that serial harassers, for example, do not repeat this conduct towards multiple employees before action is taken.</p> <p>Another issue that is of particular concern in the judicial branch is guarding against retaliatory actions by members of the judiciary, either towards employees, or the attorneys and/or litigants who appear before the courts and who may have witnessed the conduct under investigation. The safest course would be for judicial officers to recuse themselves from handling cases where a member of the bar or litigant is a witness to alleged discrimination, harassment or retaliation. Further, the proposed Rule should make clear that retaliation in any form, against any witness, whether an employee of the judicial branch or otherwise, is prohibited. A clear explanation of this should be included in the proposal, to enunciate the</p>	<p>implemented such record retention procedures and whether further guidance is necessary in this area.</p> <p>While RUPRO agrees with the importance of emphasizing a commitment to preventing retaliation against those who make complaints, participate in complaints, or are witnesses to complaint investigations, it notes that the proposed rule already includes the requirement that court policies on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification must include a provision preventing retaliation. The issue of recusal of judicial officers is beyond the scope of this proposal.</p>

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			<p>public policy underlying full and complete investigations. Investigations rely wholly upon the gathering of facts from witnesses, and this process is greatly impeded if witnesses fear reprisal in any form for simply communicating the facts of what they observed.</p> <p>Further, CELA encourages the creation of a panel of qualified investigators to promptly and thoroughly investigate all complaints originating from the judicial branch. In 2019, the Office of Legislative Counsel created The Workplace Conduct Unit (WCU), independent of the Legislature, to investigate complaints of discrimination, harassment, and retaliation in the Legislature. The WCU could serve as an instructive model for setting up an independent body with experienced investigators to conduct workplace investigations. Having a panel of at least two investigators assigned to complaints will assist in ensuring fairness and impartiality of the investigation. Additionally, setting up term limits for the investigators will help ensure that the investigators maintain their neutrality. These two factors are particularly important in the judicial branch, where even the investigators may be concerned about reprisals from high ranking officials and/or judicial officers.</p> <p>CELA likewise recommends greater transparency and mechanisms to guard against the potential collateral effects of judicial investigations. For example, CELA is aware of</p>	<p>RUPRO notes that the request to create a panel of qualified investigators is beyond the scope of this proposal and is antithetical to the Work Group’s emphasis that courts maintain the autonomy to establish their own processes on addressing and responding to complaints, within the general framework provided by the Judicial Council. RUPRO has directed this comment to Judicial Council staff that will be responsible for conducting the follow up envisioned by the Work Group to occur by July 2021. Specifically, RUPRO anticipates that part of the follow up will include whether courts have been able to obtain fair, qualified, and impartial investigators to conduct their investigations, and whether creation of a panel is necessary.</p> <p>RUPRO notes that the comments regarding discipline of judicial officers are beyond the scope of this proposal. RUPRO directs the commenter to the Commission for Judicial Performance (CJP)</p>

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			<p>instances where, regrettably, members of the judiciary exhibit bias against civil rights cases after allegations of harassment or discrimination have been made against them personally. To remove even the appearance of impropriety, increase confidence among employees and the public in general, and demonstrate that the judicial branch takes seriously the commitment to provide a workplace free of harassment, discrimination, retaliation, and inappropriate workplace conduct, CELA makes the following recommendations to avoid these collateral effects. In every instance of a substantiated case or a settled complaint, either the judicial officer would have all similar cases immediately reassigned to other judicial officers and such cases would not be assigned to that judicial officer for a period of 6 months, or the substantiated or settled complaints would be made public and would serve as sufficient evidence of bias to permit attorneys or parties to remove or disqualify a judge if their case involves similar claims.</p> <p>The potential consequences of a substantiated complaint, up to and including termination and/or removal from the bench, should be communicated to all employees of the judicial branch. It is particularly important that in this branch of government, employees are assured that no one is above the law.</p>	<p>for more information about its policies and procedures: <a href="https://cjp.ca.gov/">https://cjp.ca.gov/</a>. RUPRO also notes that any person, including court employees, attorneys, litigants, or members of the public, may make complaints of judicial misconduct directly to the CJP. Depending on the circumstances, attorneys and litigants may also consider whether a writ or appeal is appropriate.</p>

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			<p><u>Protection for Officers of the Court</u></p> <p>CELA would also like to request the Committee consider reviewing and modifying the protections for officers of the court who are also victims of harassment, discrimination, retaliation, and inappropriate workplace conduct based on protected characteristics.</p> <p>CELA’s members have reported an alarming amount of discriminatory and degrading behavior at the hands of current and former members of the judiciary. This behavior includes, but is not limited, to:</p> <p>Sexual harassment, including being told to wear skirts and/or low-cut tops to increase our chances of success “on the merits” before certain judicial officers;</p> <p>Demeaning comments about female attorney’s ability to be “tough” or “aggressive” litigators; Berating, hostile, and at times abusive behavior by both members of the judiciary and members of the bar, which goes unchecked by the judiciary when called to its attention in the form of various motions;</p> <p>Denial of continuances of trial, on the basis that pregnancy or childbirth do not constitute “good cause,” when male colleagues receive trial continuances for items such as vacations or simple scheduling conflicts;</p>	<p>RUPRO notes that the comments regarding protections and remedies for attorneys and other officers of the court appearing before judicial officers are beyond the scope of this proposal. RUPRO directs the commenter to the CJP for more information about its policies and procedures: <a href="https://cjp.ca.gov/">https://cjp.ca.gov/</a>. RUPRO also notes that any person, including court employees, attorneys, litigants, or members of the public, may make complaints of judicial misconduct directly to the CJP. Depending on the circumstances, attorneys and litigants may also consider whether a writ or appeal is appropriate.</p> <p>RUPRO has also forwarded this comment to the Center for Judicial Education and Research Advisory Committee for consideration in the changes to judicial education training that are being contemplated as a result of the Work Group recommendations.</p>

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			<p>Unprofessional conduct, both on and off the record, including berating comments about items that have nothing to do with an attorney’s professional abilities or the merits of a case;</p> <p>Reduction in attorney fee rates based on gender, including being told that a rate reduction is appropriate because a member of the bar could not possibly have been pregnant/breastfeeding/raising children and working as hard as male colleagues in the practice of law.</p> <p>Attorneys are fearful of reporting this conduct, as it is their clients who will bear the brunt of any retaliatory action taken as a result of these reports. Moreover, the Commission on Judicial Performance, while charged with adjudicating complaints, is the same body that defends cases against judicial officers. If the body that creates the rules against harassment and discrimination is the same body that defends the party alleged to have violated the rules, this seems to be a clear conflict. To protect the neutrality of investigations, and the confidence of employees, attorneys, and the public in the integrity of the process, CELA recommends that any complaints received by the Commission on Judicial Performance be referred to the panel of qualified investigators that should be created to investigate complaints made regarding conduct in the judicial branch.</p>	<p>RUPRO notes that the commenter is inaccurate in stating that the CJP defends judicial officers in complaints of misconduct; rather, the CJP website states that it “is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges.” <a href="https://cjp.ca.gov/">https://cjp.ca.gov/</a>.</p>

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			<p>Officers of the court who are part of one or more protected classes who are being demeaned, marginalized, and belittled in the judicial branch need an unconflicted method through which to make protected complaints about this unlawful treatment. Absent that, the profession itself will suffer, leading to the exodus of attorneys who are casualties of the justice system to which they have devoted their careers and lives.</p> <p>CELA urges the judicial branch to shine a light on the abuses present within the system, and to seek sweeping changes to how the judiciary treats officers of the court. We call on the judiciary to ensure equal treatment of all attorneys, and for attorneys to likewise enjoy a workplace free from harassment, discrimination, and retaliation.</p> <p><u>Statewide Concerns</u></p> <p>The proposed Rule requires that each individual court adopt policies prohibiting harassment, discrimination, retaliation, and inappropriate workplace conduct. This is a laudable goal, however CELA is concerned about the potential inconsistencies that will inevitably come with 58 different Superior Courts, and 6 different appellate districts, adopting varied versions of these policies, particularly in the areas of what classifications are protected. Rather, CELA proposes that the Rule of Court directs the</p>	<p>RUPRO declines the suggestion to require that one global harassment prevention policy be adopted by the Supreme Court that will be applicable for all courts. The Work Group recommendations emphasized the reality that courts are autonomous entities with the independence to manage their own operations and workforces, varying greatly in size and structure. In addition, the trial courts have unionized workforces with bargained memorandums of understanding addressing terms and conditions of employment that require the courts to meet and</p>

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			<p>Supreme Court to adopt one policy that is applicable to all courts throughout the State, to ensure consistency, fairness, and equity among the rules applicable to employees of the judicial branch and officers of the court.</p> <p><u>Subsection (a) – Prohibition Policies</u></p> <p>With respect to subsection (a)(2), CELA proposes that all classifications protected under California’s already existing Fair Employment and Housing Act (“FEHA”) are likewise protected classifications with respect to employees of the judicial branch. Specifically, Cal. Gov’t Code § 12940, subd. (a) already provides a comprehensive list of protected categories and classifications, which are likewise defined in the accompanying regulations promulgated by the Fair Employment and Housing Council (FEHC). By adopting these definitions for employees of the judicial branch, it will ensure consistency in the protections afforded all individuals employed within the State of California.</p>	<p>confer with unions about various policy and procedure changes prior to implementation. As a result, the Work Group created, and RUPRO is recommending, a structure whereby the proposed rule sets a minimum baseline of compliance that ensures protection of all branch employees, while allowing individual courts to determine, consistent with the baseline, how best to achieve and expand those requirements, and in consideration of their own structure, limitations, and union relationships.</p> <p>RUPRO agrees with the commenter’s request that the proposed rule include specific reference to the protected classifications listed in Government Code § 12940(a). The proposed rule has been revised accordingly.</p>

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			<p>CELA proposes that subsection (a)(3) be amended to state that a “nonexhaustive” list of definitions and examples of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification be provided, but to make clear that these definitions and examples are instructive only, not comprehensive.</p> <p><u>Subsection (b) – Complaint Reporting Process</u></p> <p>CELA proposes that the judicial branch adopt a Rule that follows 2 Cal. Code of Regs. § 11023, subd. (b)(4), which provides for a robust complaint procedure. Specifically, § 11023, subd. (b)(4) provides that a complaint process is (a) designated confidential to the extent possible; (b) receives a timely response; (c) has timely and impartial investigations conducted by qualified personnel; (d) provides documentation and tracking for reasonable progress; (e) provides appropriate options for remedial actions and resolution and (f) provides timely closures. While the proposed rule discusses certain aspects of the regulation, endorsing the above referenced regulation will ensure employees in the judicial branch have clear and consistent parameters for complaint reporting throughout the judicial branch.</p> <p><u>Conclusion</u></p> <p>CELA applauds the Committee for taking these important steps to ensure the judicial branch</p>	<p>RUPRO also agrees with the request to add language to the proposed rule stating that the examples of inappropriate workplace conduct listed in court policies will be “nonexhaustive.” The proposed rule has been revised accordingly.</p> <p>RUPRO declines the suggestion to specifically adopt the complaint reporting procedures of 2 Cal. Code of Regs § 11023, and notes that the proposals made in the proposed rule go beyond the requirements listed in the regulation and provide additional protections.</p>

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			<p>provides a workplace free from harassment, discrimination, retaliation, and inappropriate workplace conduct based on protected classifications. CELA’s Board, and membership as a whole, is eager to assist the Committee in any way possible, and thanks the Committee for their consideration of these comments.</p>	
2.	<p>Superior Court of San Diego County by Mike Roddy, Executive Officer</p>	AM	<p>Whether “inappropriate workplace conduct” should be a separate and distinct category in the rule; and whether it should be treated identically to statutorily unlawful conduct.</p> <p>The rule addresses four categories of prohibited conduct: harassment, discrimination, retaliation, and “inappropriate workplace conduct.” The first three categories are legal terms that are well-defined in state statutes, regulations, and case law. However, the last category is not. A Westlaw search of the term “inappropriate workplace conduct” indicates that the term is not used in any California statute, regulation, or reported appellate case. Nor is any definition of the term provided in the rule itself. The Court questions whether “inappropriate workplace conduct” should be set out as a separate distinct category, and whether that category should be subject to the same requirements as the other three categories. “Inappropriate workplace conduct” appears to be a catch-all term that addresses conduct that is considered improper in the work environment,</p>	<p>RUPRO appreciates the commenter’s concern regarding “inappropriate workplace conduct” being treated identically to harassment, discrimination, and retaliation. However, by equating inappropriate workplace conduct with other forms of prohibited conduct, the proposed rule emphasizes the importance of preventing all inappropriate behavior in the workplace, regardless of whether it amounts to inappropriate conduct or violation of a statute. RUPRO notes that the charge of the Chief Justice in creating the Work Group for the Prevention of Discrimination and Harassment specifically tasked the Work Group with taking measures to eliminate not just harassment, discrimination, and retaliation, but also “inappropriate workplace conduct.”</p> <p>RUPRO declines to provide specific examples of inappropriate workplace conduct in the proposed rule. The prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification is constantly evolving. Definitions and examples of prohibited and inappropriate</p>

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		<p>but not actionable as unlawful. It is a highly subjective term. It clearly includes the other three categories, as harassment, discrimination, and retaliation all fall into the category of “inappropriate workplace conduct.”</p> <p>The Committee indicates an intent to have Judicial Council staff provide “sample language” to assist the courts in defining this term and providing examples, but that would seem to be an incredibly difficult task given the lack of any legal guidance in this area. Broad ambiguous definitions will be highly objectionable to employee unions, who will not want to subject their members to possible discipline based on such an amorphous concept. Disputes over discipline imposed under a policy prohibiting “inappropriate workplace conduct” will be decided by labor arbitrators who again will have no interpretive guidance and will create their own definitions in individual cases. Arbitrators applying the “just cause” standard for discipline typically require that employees have advance notice of what behavior is prohibited. The employer’s policies, practices, and performance rules must be reasonable and job-related. Such broad language may not meet that test.</p> <p>As a possible suggestion, it would seem that the goal of this rule could more effectively and clearly be met by using the terminology “inappropriate workplace conduct based on a</p>	<p>workplace conduct have evolved, and will continue to evolve, as employees share their experiences and employers continue to embrace the challenge to provide better, safer, fairer, and more respectful workplaces for their employees. While the desire for greater clarity in the proposed rule is understandable, including more specific examples and definitions in the proposed rule poses risks of those definitions and examples soon becoming outdated and failing to account for the newest developments and best practices in harassment prevention.</p> <p>To balance the competing concerns of creating a robust proposed rule that is flexible enough to adapt to an everchanging landscape, while also providing appropriate guidance to the courts, the recommendations presented by the Work Group and adopted by the Judicial Council on July 19, 2019 specifically require Judicial Council staff to create sample language for policies on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification, and to update those sample policies as necessary. RUPRO anticipates that the sample language created by Judicial Council staff will be disseminated to courts shortly after adoption of the proposed rule, and will provide additional context, examples, and definitions that will guide court compliance with the proposed rule. The examples of inappropriate workplace conduct provided in this comment are</p>

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			<p>protected classification, including but not limited to harassment, discrimination, and retaliation.”</p> <p>If the term “inappropriate workplace conduct” is to be included in the rule, the question becomes whether such conduct should be considered on a par with harassment, discrimination, and retaliation, and subject to all of the same requirements. As stated in the Report Of The Federal Judiciary Workplace Conduct Working Group To The Judicial Conference Of The United States (June 1, 2018) <a href="https://www.uscourts.gov/sites/default/files/workplace_conduct_working_group_final_report_0.pdf">https://www.uscourts.gov/sites/default/files/workplace_conduct_working_group_final_report_0.pdf</a>: “Victims are hesitant to report harassment and other inappropriate behavior for a variety of reasons, including lack of confidence that they will be believed, fear that no action will be taken, and concerns that a complaint will subject them to retaliatory action or affect future job prospects. Additionally, some forms of inappropriate conduct—such as isolated acts, insensitive comments, or unintentional slights—do not lend themselves to a formal complaint process and are better addressed through less formal mechanisms. As explained below, the Working Group found that the Judiciary must both reduce barriers to reporting and provide alternative avenues for seeking advice, counseling, and assistance.” (page 12) A possible option here would be not to add</p>	<p>illustrative of the concerns facing court employees, and RUPRO will forward those comments and suggestions to Judicial Council staff responsible for creating the sample policies.</p> <p>RUPRO anticipates that the examples to be outlined in sample policy language will provide courts, judicial officers, employees, unions, labor arbitrators, and members of the public with sufficient notice and understanding of the conduct that is prohibited by the proposed rule. To the extent there is still insufficient notice and understanding of conduct prohibited by the proposed rule, RUPRO notes that the Work Group recommended, and the Judicial Council approved, a requirement that Judicial Council staff follow up on implementation of the Work Group recommendations by July 2021. RUPRO anticipates that the clarity of the proposed rule will be included in that follow-up evaluation and that any necessary changes will be recommended at that time.</p>

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			<p>“inappropriate workplace conduct” as a separate and distinct category, but to include language to the effect that acts that do not rise to the level of statutorily prohibited discrimination, harassment and retaliation may nonetheless constitute inappropriate workplace conduct, and should be addressed appropriately through either informal or formal means.</p> <p>[The proposal could possibly create additional workload not considered by this <i>Invitation to Comment</i> because]*, if the term “inappropriate workplace conduct” remains as recommended, this could result in employment disputes between courts and their employees due to the failure to have a clearly defined definition for this type of prohibited conduct.</p>	
3.	Superior Court of Shasta County by Summer Ryan, General Counsel	AM	<p>The proposed rule contains the term inappropriate workplace conduct.” Unlike the terms harassment, discrimination and retaliation, “inappropriate workplace conduct” has no defined parameters, and apparently no statutes or case law making it clear as to what is “inappropriate workplace conduct”. Absent a definition or examples, the term is extremely subjective and open to vastly differing interpretations of “inappropriate”. In order to comply with the proposed rule, courts are required to have policies prohibiting “inappropriate workplace conduct” and providing examples, yet it is entirely unclear what such conduct entails as intended by</p>	<p>RUPRO declines to provide specific examples of inappropriate workplace conduct in the proposed rule. The prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification is constantly evolving. Definitions and examples of prohibited and inappropriate workplace conduct have evolved, and will continue to evolve, as employees share their experiences and employers continue to embrace the challenge to provide better, safer, fairer, and more respectful workplaces for their employees. While the desire for greater clarity in the proposed rule is understandable, including specific examples and definitions in the proposed rule</p>

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			<p>RUPRO, and undoubtedly there will be extremely differing policies throughout the state. In order to accomplish the intent of Committee, everyone needs to have a clear understanding of what is meant, and currently the rule is very unclear with respect to the term “inappropriate workplace conduct”, and what kind of conduct might fall within this term that would not be considered within harassment, discrimination or retaliation based on a protected class.</p>	<p>poses risks of those definitions and examples soon becoming outdated and failing to account for the newest developments and best practices in harassment prevention.</p> <p>To balance the competing concerns of creating a robust proposed rule that is flexible enough to adapt to an everchanging landscape, while also providing appropriate guidance to the courts, the recommendations presented by the Work Group and adopted by the Judicial Council on July 19, 2019 specifically require Judicial Council staff to create sample language for policies on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification, and to update those sample policies as necessary. RUPRO anticipates that the sample language created by Judicial Council staff will be disseminated to courts shortly after adoption of the proposed rule, and will provide additional context, examples, and definitions that will guide court compliance with the proposed rule.</p>
4.	The Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Subcommittee	A	<p>The JRS notes the following impact to court operations:</p> <p><b>1. Trial court labor or employment related issues and/or concerns.</b></p> <p>Local courts vary as to the detail and content of current policies they have regarding harassment, discrimination, retaliation and inappropriate workplace conduct. Some courts will need</p>	<p>RUPRO agrees that many courts will have to make at least some changes to their existing policies to comply with the rule, and that those changes may require meet and confer obligations with their unions. While RUPRO agrees that this process may extend beyond the June 30, 2020 implementation date for some courts, the current</p>

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			<p>additional time if their current policies are not as detailed. Many courts will have current policies that meet most of the requirements of the proposed new rule but a change in current policy is nearly unavoidable. Any changes to the court policies will require all courts to meet and confer with their unions.</p> <p><b>2. Results in additional training, which requires the commitment of staff time and court resources</b>                      Training is a minor impact which can be easily addressed by a special one-time training that all courts can do once the rule becomes effective. Then the new requirements can be included in all subsequent periodic harassment and discrimination training.</p> <p><b>3. Proposed date for implementation is problematic.</b>                      Some courts will need additional time if their current policies are not as detailed. However, the new requirement including definitions and examples of harassment, discrimination, retaliation and inappropriate workplace conduct in court personnel policies is a requirement that most courts will need to add to current policies. These changes to the court policies will definitely require all courts to meet and confer with their unions. This may make it difficult for</p>	<p>language of the proposed rule allows courts to go beyond the implementation date if necessary to meet and confer with their unions. RUPRO also notes that Judicial Council staff will provide sample policy language to courts to aid the implementation of the proposed rule.</p> <p>RUPRO agrees that training on the requirements of the rule itself should be minimal. The CJER Advisory Committee is evaluating further training needs related to the Work Group recommendations that were approved by the Judicial Council on July 19, 2019.</p> <p>RUPRO acknowledges that courts will need time to review their existing policies and make changes to their policies to comply with the proposed rule. RUPRO understands that these potential policy changes might make a June 30, 2020 implementation date difficult for some courts, especially if the court is required to meet and confer with its union regarding the proposed changes. RUPRO notes, however, that the current language of the proposed rule allows courts to go beyond the implementation date if necessary to meet and confer with their unions. Given the importance of promptly addressing harassment, discrimination, retaliation, and inappropriate</p>

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All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			courts to meet the implementation deadline of June 30, 2020.	workplace conduct based on a protected classification, RUPRO has maintained its recommendation of a June 30, 2020 implementation date in order to require courts to act quickly on this significant issue, understanding that some courts may need to take advantage of the exception for extra time.

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**       **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Appellate Procedure: Appointment of Counsel in Misdemeanor Appeals

*Committee or other entity submitting the proposal:*

Appellate Advisory Committee

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

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

Approved by RUPRO: 10/28/19 and 10/19/2018

Project description from annual agenda: Consider amending rule 8.851 to (1) conform to the California Supreme Court's opinion in *Gardner v. Superior Court* (2019) 6 Cal.5th 998, which held that a misdemeanor defendant has a right to appointed counsel to respond to a pretrial prosecution appeal; and (2) clarify that an appellate division may deny a request by a defendant convicted of a misdemeanor to be self-represented on appeal and instead appoint appellate counsel (*Martinez v. State of California* (2000) 528 U.S. 152, 161; *People v. Barnett* (2003) 31 Cal.4th 466, 473). Also consider revising form CR-133, Request for Lawyer in Misdemeanor Appeal, to clarify that a defendant need not be the appellant to use the form to request appointment of counsel. Subcommittee: Appellate Division.

*If requesting July 1 or out of cycle, explain:*

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

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

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<b>Title</b>	<b>Action Requested</b>
Appellate Procedure: Appointment of Counsel in Misdemeanor Appeals	Review and submit comments by February 11, 2020
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Amend Cal. Rules of Court, rule 8.851; revise forms CR-131-INFO and CR-133	September 1, 2020
<b>Proposed by</b>	<b>Contact</b>
Appellate Advisory Committee Hon. Louis R. Mauro, Chair	Christy Simons, 415-865-7694 christy.simons@jud.ca.gov

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### Executive Summary and Origin

To implement the California Supreme Court’s decision in *Gardner v. Appellate Division of Superior Court* (2019) 6 Cal.5th 998, the Appellate Advisory Committee proposes amending the rule regarding appointment of counsel in misdemeanor appeals to expand the circumstances under which the appellate division must appoint counsel for an indigent defendant. The proposal would also revise two forms to be consistent with the rule amendments.

### Background

Currently, rule 8.851 of the California Rules of Court provides for the appointment of counsel on appeal only for convicted defendants. On application, the appellate division must appoint appellate counsel for a defendant convicted of a misdemeanor who was represented by appointed counsel in the trial court or establishes indigency and who either “is subject to incarceration or a fine of more than \$500,” or “is likely to suffer significant adverse collateral consequences as a result of the conviction.” (Cal. Rules of Court, rule 8.851(a)(1).) The appellate division “may appoint counsel for any other indigent defendant convicted of a misdemeanor.” (*Id.*, rule 8.851(a)(2).) The rule does not authorize the appointment of counsel for defendants who have not been convicted.

In *Gardner v. Appellate Division of Superior Court* (2019) 6 Cal.5th 998 (*Gardner*), the Supreme Court addressed the question of whether a defendant facing misdemeanor charges, who filed a successful motion to suppress evidence with the help of court-appointed counsel, was entitled to appointed counsel’s assistance in responding to a pretrial prosecution appeal of the

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

suppression order. The court explained that, under the California Constitution, a criminal defendant's right to counsel is not limited to trial; rather, it "extends to other, 'critical' stages of the criminal process." (*Gardner*, 6 Cal.5th at p. 1004 (citations omitted).) Further, "critical stages can be understood as those events or proceedings in which the accused is brought in confrontation with the state, where potential substantial prejudice to the accused's rights inheres in the confrontation, and where counsel's assistance can help to avoid that prejudice." (*Id.*, at pp. 1004-1005.) In light of the consequences to the defendant if she lost the appeal and the difficulty of defending a suppression order without the assistance of counsel, the court held that the pretrial prosecution appeal of an order granting the defendant's motion to suppress evidence was a "critical stage" of the proceedings at which the defendant had a right to appointed counsel as a matter of state constitutional law. (*Id.*, at p. 1005.)

## **The Proposal**

### **Rule 8.851**

This proposal would amend rule 8.851(a) to require the appellate division to appoint counsel in circumstances that qualify as "critical stages" of the proceedings, as prescribed in *Gardner*. A pretrial prosecution appeal of a suppression order is a critical stage for which counsel must be appointed, but, as noted above, the *Gardner* court's holding was not limited to this one situation. Accordingly, the proposed rule language is intended to be broad enough to encompass other possible critical stages in the proceedings for a defendant who has been accused, but not convicted, of a misdemeanor. For clarity and to avoid repetitiveness, the committee proposes reorganizing paragraph (1) of subdivision (a) to include the indigency requirement, keep the provisions regarding convicted defendants in subdivision (a)(1)(A), and draft new language for subdivision (a)(1)(B) regarding accused defendants who are entitled to appointed counsel.

The proposal includes minor conforming changes to other parts of subdivisions (a) and (b) and the existing advisory committee comment. It also includes a new advisory committee comment for subdivision (a)(1)(B) describing the *Gardner* decision.

### **Information on Appeal Procedures for Misdemeanors (form CR-131-INFO)**

The committee proposes revisions to this information sheet that conform to the proposed rule amendments. Item 5 ("How do I get a lawyer to represent me?"), which describes the circumstances in which the appellate division is required to appoint counsel, would be revised to include proceedings before a final judgment in which the defendant faces potential substantial prejudice (i.e., a *Gardner* situation). A reference to rule 8.851 would also be added to item 5.

In addition, the proposal would revise item 4 ("Do I need a lawyer to appeal?") to clarify that a defendant does not have a right of self-representation and to add language advising a defendant whose request for self-representation was denied of the need to either hire an attorney or request that an attorney be appointed.

### ***Request for Court-Appointed Lawyer in Misdemeanor Appeal (form CR-133)***

The committee proposes a number of changes to this form for requesting a court-appointed lawyer, to be consistent with *Gardner*. Currently, the form is addressed exclusively to an appellant who has filed a notice of appeal, and the instructions refer only to a convicted defendant as eligible for appointed counsel. References to “appellant” and “your notice of appeal” in various places on the form would be replaced with “defendant” and “the notice of appeal.” The instructions would be revised to include defendants in *Gardner* situations by adding the same new language proposed for item 5 on form CR-131-INFO.

### **Alternatives Considered**

The committee considered proposing narrower language in rule 8.851 to implement *Gardner*, but concluded that the Supreme Court’s analysis of the right to counsel was broad enough potentially to include proceedings other than a pretrial prosecution appeal of an order granting a motion to suppress evidence that take place before the trial court issues a final judgment.

The committee considered adding language to implement *Gardner* by retaining current rule 8.851(a)(1) regarding convicted defendants for whom the appellate division must appoint counsel and adding a new subdivision (a)(2) regarding defendants accused of a misdemeanor. However, for clarity and to avoid repetitiveness, the committee is proposing to reorganize subdivision (a)(1) as described above.

The committee considered proposing that subdivision (a)(2), which authorizes the appellate division to appoint counsel for any other indigent defendant “convicted of a misdemeanor,” be amended to include any other indigent defendant “accused of a misdemeanor.” However, the committee concluded that this might be an unwarranted expansion of the rule with unintended consequences. The committee is seeking comments on this alternative.

The committee also considered a new subdivision (d) of rule 8.851 regarding appointment of counsel for a defendant whose request for self-representation was denied. The committee decided not to propose a new subdivision because self-representation on appeal is not sufficiently related to the content of rule 8.851 and would be better addressed, if at all in the rules of court, in a separate rule. The proposed revisions to item 4 on form CR-131-INFO, described above, are intended to clarify that a misdemeanor defendant does not have a right of self-representation on appeal.

### **Fiscal and Operational Impacts**

Implementation requirements of this proposal would include education and training for judges and court staff. It might also result in more attorneys appointed to represent misdemeanor defendants on appeal, and a commensurate increase in the cost of providing appointed counsel. However, this proposal is required to respond to a change in the law: providing appointed counsel in circumstances encompassed by *Gardner* is mandatory, not optional, under the state Constitution.

## 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 subdivision (a)(2) of the rule be amended to authorize the appellate division, in its discretion, to appoint counsel for any other indigent defendant *accused* of a misdemeanor?
- Should the committee consider developing a separate rule regarding appointment of counsel in writ proceedings in the appellate division?

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

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

## Attachments and Links

1. Cal. Rules of Court, rule 8.551, at pages 5–6
2. Forms CR-131-INFO and CR-133, at pages 7–17
3. Link A: *Gardner v. Appellate Division of Superior Court* (2019) 6 Cal.5th 998

Rule 8.851 of the California Rules of Court would be amended, effective September 1, 2020, to read:

1 **Rule 8.851. Appointment of appellate counsel**

2  
3 **(a) Standards for appointment**

4  
5 (1) On application, the appellate division must appoint appellate counsel for a  
6 defendant ~~convicted of a misdemeanor~~ who was represented by appointed  
7 counsel in the trial court or establishes indigency and who:

8  
9 (A) Was convicted of a misdemeanor and is subject to incarceration or a  
10 fine of more than \$500 (including penalty and other assessments), or  
11 who is likely to suffer significant adverse collateral consequences as a  
12 result of the conviction; ~~and~~ or

13  
14 (B) ~~Was represented by appointed counsel in the trial court or establishes~~  
15 ~~indigency.~~ Is charged with a misdemeanor and the proceeding qualifies  
16 as a critical stage of the criminal process.

17  
18 (2) On application, the appellate division may appoint counsel for any other  
19 indigent defendant convicted of a misdemeanor.

20  
21 (3) For applications under (1)(A), a defendant is subject to incarceration or a fine  
22 if the incarceration or fine is in a sentence, is a condition of probation, or may  
23 be ordered if the defendant violates probation.

24  
25 **(b) Application; duties of trial counsel and clerk**

26  
27 (1) If defense trial counsel has reason to believe that the client is indigent and  
28 will file an appeal or is a party in a proceeding described in (a)(1)(B), counsel  
29 must prepare and file in the trial court an application to the appellate division  
30 for appointment of counsel.

31  
32 (2) If the defendant was represented by appointed counsel in the trial court, the  
33 application must include trial counsel's declaration to that effect. If the  
34 defendant was not represented by appointed counsel in the trial court, the  
35 application must include a declaration of indigency in the form required by  
36 the Judicial Council.

37  
38 (3) Within 15 court days after an application is filed in the trial court, the clerk  
39 must send it to the appellate division. A defendant may, however, apply  
40 directly to the appellate division for appointment of counsel at any time after  
41 ~~filing~~ the notice of appeal is filed.



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(4) The appellate division must grant or deny a defendant’s application for appointment of counsel within 30 days after the application is filed.

(c) \* \* \*

**Advisory Committee Comment**

*Request for Court-Appointed Lawyer in Misdemeanor Appeal* (form CR-133) may be used to request that appellate counsel be appointed in a misdemeanor case. If the ~~appellant~~ defendant was not represented by the public defender or other appointed counsel in the trial court, the ~~appellant~~ defendant must use *Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form ~~MC-210~~CR-105) to show indigency. These forms are available at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**Subdivision (a)(1)(B).** In *Gardner v. Appellate Division of Superior Court* (2019) 6 Cal. 5th 998, the California Supreme Court addressed what constitutes a critical stage of the criminal process. The court provided the analysis for determining whether a defendant has a right to counsel in confrontational proceedings other than trial, and held that the pretrial prosecution appeal of an order granting the defendant’s motion to suppress evidence was a critical stage of the process at which the defendant, who was represented by appointed counsel in the trial court, had a right to appointed counsel as a matter of state constitutional law.

### 1 What does this information sheet cover?

This information sheet tells you about appeals in misdemeanor cases. It is only meant to give you a general idea of the appeal process, so it does not cover everything you may need to know about appeals in misdemeanor cases. To learn more, you should read rules 8.800–8.816 and 8.850–8.890 of the California Rules of Court, which set out the procedures for misdemeanor appeals. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).

### 2 What is a misdemeanor?

A misdemeanor is a crime that can be punished by jail time of up to one year, but not by time in state prison. (See Penal Code sections 17 and 19.2. You can get a copy of these laws at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.) If you were also charged with or convicted of a felony, then your case is a felony case, not a misdemeanor case.

### 3 What is an appeal?

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

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

- **Prejudicial error:** The party that appeals (called the “appellant”) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”). Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect

For information about appeal procedures in other cases, see:

- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)

You can get these forms at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

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

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

### 4 Do I need a lawyer to appeal?

You will probably need a lawyer. You are **not** allowed to represent yourself in an appeal in a misdemeanor case **unless** the appellate division permits you to do so. But appeals can be complicated, and you would have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If the appellate division permits you to represent yourself, you must put your address, telephone number,



fax number, and email address (if available) on the cover of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

If the appellate division does not permit you to represent yourself, you must hire a lawyer at your own expense or ask the court to appoint a lawyer to represent you.

### 5 How do I get a lawyer to represent me?

The court is required to appoint a lawyer to represent you if you are indigent (you cannot afford to pay for a lawyer) and:

- You were convicted and your punishment includes going to jail or paying a fine of more than \$500 (including penalty and other assessments); or
- You are likely to suffer other significant harm as a result of being convicted; or
- The appeal is before a final judgment, and you are likely to suffer significant harm if you lose the appeal.

See rule 8.851 of the California Rules of Court for more information about when the court is required to appoint a lawyer to represent you.

The court may, but is not required to, appoint a lawyer to represent you on appeal in other circumstances if you are indigent. You are automatically considered indigent if you were represented by the public defender or other court-appointed lawyer in the trial court. You will also be considered indigent if you can show that your income and assets are too low to pay for a lawyer.

If you think you are indigent, you can ask the court to appoint a lawyer to represent you for your appeal. You may use *Request for Court-Appointed Lawyer in Misdemeanor Appeal* (form CR-133) to ask the court to appoint a lawyer to represent you on appeal in a misdemeanor case. You can get form CR-133 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

If you want a lawyer and you are not indigent or if the court turns down your request to appoint a lawyer, you must hire a lawyer at your own expense. You can get

information about finding a lawyer on the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm) at the “Getting Started” tab.

### 6 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative.

The party that is appealing is called the APPELLANT; in a misdemeanor case, this is usually the party convicted of committing the misdemeanor. The other party is called the RESPONDENT; in a misdemeanor case, this is usually the government agency that filed the criminal charges (on court papers, this party is called the People of the State of California).

### 7 Can I appeal any decision that the trial court made?

No. Generally, you may appeal only the final judgment—the decision at the end that decides the whole case. The final judgment includes the punishment that the court imposed. With the exception listed below, rulings made by the trial court before final judgment generally cannot be separately appealed, but can be reviewed only later as part of an appeal of the final judgment. In a misdemeanor case, the party convicted of committing a misdemeanor usually appeals that conviction or the sentence (punishment) ordered by the trial court. In a misdemeanor case, a party can also appeal:

- Before the trial court issues a final judgment in the case, from an order granting or denying a motion to suppress evidence (Penal Code section 1538.5(j))
- From an order made by the trial court after judgment that affects a substantial right of the appellant (Penal Code section 1466(2)(B))

You can get a copy of these laws at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

### 8 How do I start my appeal?

First, you must file a notice of appeal. The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal (Misdemeanor)* (form



CR-132) to prepare and file a notice of appeal in a misdemeanor case. You can get form CR-132 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

Filing the notice of appeal does NOT automatically postpone your punishment, such as serving time in jail, paying fines, or probation conditions.

If you have been sentenced to jail in a misdemeanor case, you have a right to be released either with or without bail while your appeal is waiting to be decided, but you must ask the court to set bail or release you. If the trial court has not set bail or released you after your notice of appeal has been filed, you must ask the trial court to set bail or release you. If the trial court denies your release or sets the bail amount higher than you think it should be, you can apply to the appellate division for release or for lower bail.

Other parts of your punishment, such as fines or probation conditions, will be postponed (“stayed”) only if you request a stay and the court grants your request. If you want a stay, you must first ask the trial court for a stay. You can also apply to the appellate division for a stay, but you must show in your application to the appellate division that you first asked the trial court for a stay and that the trial court unjustifiably denied your request. If you do not get a stay and you do not pay your fine or complete another part of your punishment by the date ordered by the court, a warrant may be issued for your arrest or a civil collections process may be started against you, which could result in a civil penalty being added to your fine.

### 9 Is there a deadline for filing my notice of appeal?

Yes. Except in the very limited circumstances listed in rule 8.853(b), in a misdemeanor case, you must file your notice of appeal within **30 days** after the trial court makes (“renders”) its final judgment in your case or issues the order you are appealing. (You can get a copy of rule 8.853 at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules)). The date the trial court makes its judgment is normally the date the trial court issues its order saying what your punishment is (sentences you). **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

### 10 How do I file my notice of appeal?

To file the notice of appeal in a misdemeanor case, you must bring or mail the original notice of appeal to the clerk of the trial court that made the judgment or issued the order you are appealing. It is a good idea to bring or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

There is no fee for filing the notice of appeal in a misdemeanor case. You can ask the clerk of that court if there are any other requirements for filing your notice of appeal.

After you file your notice of appeal, the clerk will send a copy of your notice of appeal to the office of the prosecuting attorney (for example, the district attorney, county counsel, city attorney, or state Attorney General).

### 11 If I file a notice of appeal, do I still have to go to jail or complete other parts of my punishment?

### 12 What do I need to do after I file my appeal?

You must tell the trial court (1) whether you have agreed with the respondent (“stipulated”) that you do not need parts of the normal record on appeal, and (2) whether you want a record of what was said in the trial court (this is called a record of the “oral proceedings”) sent to the appellate division and, if so, what form of that record you want to use. You may use *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134) for this notice. (You can get form CR-134 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms)). You must file this notice either:

- Within 20 days after you file your notice of appeal; or, if it is later,



- Within 10 days after the court decides whether to appoint a lawyer to represent you (if you ask the court to appoint a lawyer within 20 days after you file your notice of appeal).

local rule permitting this and you and the respondent (the prosecuting agency) agree (“stipulate”) to this, you can use the *official electronic recording* itself as the record, instead of a transcript.

- c. You can use a *statement on appeal*.

Read below for more information about these options.

#### a. Reporter’s transcript

**When available:** In some misdemeanor cases, a court reporter is there in the trial court and makes a record of the oral proceedings. If a court reporter made a record of your case, you can ask to have the court reporter prepare a transcript of those oral proceedings, called a “reporter’s transcript.” You should check with the trial court to see if a court reporter made a record of your case before you choose this option. Some courts also have local rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

**Cost:** Ordinarily, the appellant must pay for preparing a reporter’s transcript. The court reporter will provide the clerk of the trial court with an estimate of the cost of preparing the transcript and the clerk will notify you of this estimate. If you want the reporter to prepare a transcript, you must deposit this estimated amount or one of the substitutes allowed under rule 8.866 with the clerk within 10 days after the clerk sends you the estimate. However, under rule 8.866 you can decide to use a different form of the record or take other action instead of proceeding with a reporter’s transcript.

If, however, you are indigent (you cannot afford to pay the cost of a reporter’s transcript), you may be able to get a free transcript. If you were represented by the public defender or another court-appointed lawyer in the trial court, you are automatically considered indigent. If you were not represented by a court-appointed lawyer in the trial court, you can complete and file *Defendant’s Financial Statement on Eligibility for Appointment*

### 13 In what cases does the appellate division need a record of what was said in the trial court?

You do not *have* to send the appellate division a record of what was said in the trial court. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of these oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings. Since the appellate division judges were not there for the proceedings in the trial court, an official record of these oral proceedings must be prepared and sent to the appellate division for its review.

Depending on what form of the record you choose to use, you will be responsible for paying to have the official record of the oral proceedings prepared (unless you are indigent) or for preparing an initial draft of this record yourself. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. If the appellate division does not receive this record, it will not be able to consider what was said in the trial court in deciding whether a legal error was made and it may dismiss your appeal.

### 14 What are the different forms of the record?

There are three ways a record of the oral proceedings in the trial court can be prepared and provided to the appellate division in a misdemeanor case:

- If a court reporter was there during the trial court proceedings, the reporter can prepare a record called a “*reporter’s transcript*.”
- If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording; or if the court has a





*of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105), to show that you are indigent. You can get form CR-105 at any courthouse or county law library or online at

[www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The court will review this form to decide whether you are indigent.

If the court finds that you are indigent, a court reporter made a record of your case, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a reporter's transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to pick another form of the record or take other actions listed in rule 8.866.

**Completion and delivery:** Once you deposit the estimated cost of the transcript or one of the substitutes allowed under rule 8.866 or show the court you are indigent and need a transcript, the clerk will notify the reporter to prepare the transcript. When the reporter completes the transcript, the clerk will send the reporter's transcript to the appellate division along with the clerk's transcript.

**b. Official electronic recording or transcript from an official recording**

**When available:** In some misdemeanor cases, the trial court proceedings are officially recorded on approved electronic recording equipment. If your case was officially recorded, you can ask to have a transcript prepared from that official electronic recording. You should check with the trial court to

see if your case was officially electronically recorded before you choose this option. As with reporter's transcripts, some courts also have local rules that establish procedures for deciding

whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

If the court has a local rule for the appellate division permitting this and all the parties agree ("stipulate"), a copy of the official electronic recording itself can be used as the record of the oral proceedings instead of preparing a transcript. You should check with the trial court to see if your case was officially electronically recorded and check to make sure there is a local rule permitting the use of the recording itself before choosing this option. If you choose this option, you must attach a copy of your agreement with the other parties (called a "stipulation") to your notice regarding the oral proceedings.

**Cost:** Ordinarily, the appellant must pay for preparing a transcript or making a copy of the official electronic recording. The court will send you an estimate of the cost for this transcript or the copy of the electronic recording. If you still want this transcript or recording, you must deposit this amount with the court. However, you can also choose to use a statement on appeal instead, or take one of the other actions listed in rule 8.868.

If, however, you are indigent (you cannot afford to pay the cost of the transcript or recording), you may be able to get a free transcript or recording. If you were represented by the public defender or another court-appointed attorney in the trial court, you are automatically considered indigent. If you were not represented by a court-appointed lawyer in the trial court, you can complete and file *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105) to show that you are indigent. You can get form CR-105 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The



court will review this form to decide whether you are indigent.

If you are indigent, an official electronic recording of your case was made, and you show that you need a transcript, the court must provide you with a free transcript. As with reporter's transcripts, whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to use a statement on appeal instead or take one of the other actions listed in rule 8.868.

**Completion and delivery:** Once you deposit the estimated cost of the transcript or the official electronic recording with the clerk or show the court you are indigent and need a transcript, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send the transcript or recording to the appellate division along with the clerk's transcript.

### c. **Statement on appeal**

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

**When available:** If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment, or if you do not want to use either of these forms of the

record, you can choose ("elect") to use a statement on appeal as the record of the oral proceedings in

the trial court (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter's transcript or electronic recording, if they are available).

**Contents:** A statement on appeal must include:

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

(See rule 8.869 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get this rule at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).)

**Preparing a proposed statement:** If you choose to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Misdemeanor)* (form CR-135) to prepare your proposed statement. You can get form CR-135 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**Serving and filing a proposed statement:** You must serve and file your proposed statement in the trial court within 20 days after you file your notice regarding the record of the oral proceedings. "Serve and file" means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver ("serve") a copy of the proposed statement to the prosecuting attorney and any other party in the way required by law.
- Make a record that the proposed statement has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)*



(form APP-109) can be used to make this record. The proof of service must show who

served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail or in person), and the date the proposed statement was served.

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

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

**Review and modifications:** The prosecuting attorney and any other party have 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the prosecuting attorney and any other party. The judge will then make or order you to make any corrections or modifications to the statement needed to make sure that the statement provides a complete and accurate summary of the relevant testimony and other evidence.

**Completion and certification:** If the judge makes or orders you to make any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you, the prosecuting attorney, and any other party for your review. If you disagree with anything in the judge’s statement, you will have 10 days from the date the statement is sent you to serve and file objections to the statement. The judge then reviews any objections, makes any additional corrections to the statement, and certifies the

statement as a complete and accurate summary of the relevant testimony and other evidence.

**Sending the statement to appellate division:** Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with the clerk’s transcript.

### 15 Is there any other part of the record that needs to be sent to the appellate division?

Yes. There are two other parts of the official record that need to be sent to the appellate division:

- **Documents filed in the trial court:** The trial court clerk is responsible for preparing a record of the written documents filed in your case, called a “clerk’s transcript,” and sending this to the appellate division. (The documents the clerk must include in this transcript are listed in rule 8.861 of the California Rules of Court. You can get a copy of this rule at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).)
- **Exhibits submitted during trial:** Exhibits, such as photographs, that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court are considered part of the record on appeal. If you want the appellate division to consider such an exhibit, however, you must ask the trial court clerk to send the original exhibit to the appellate division within 10 days after the last respondent’s brief is filed in the appellate division. (See rule 8.870 of the California Rules of Court for more information about this procedure. You can get a copy of this rule at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).) Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for the exhibit to be sent to the appellate division, the party who has the exhibit must deliver that exhibit to the appellate division as soon as possible.





**16 What happens after the record is prepared?**

As soon as the record of the oral proceeding is ready, the clerk of the trial court will send it to the appellate division along with the clerk's transcript. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

**17 What is a brief?**

A brief is a party's written description of the facts in the case, the law that applies, and the party's argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If the appellate division has permitted you to represent yourself, you will have to prepare your brief yourself. You should read rules 8.880–8.891 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in misdemeanor appeals, including requirements for the format and length of those briefs. You can get copies of these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).

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

**Serving and filing:** You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. "Serve and file" means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver ("serve") the brief to the respondent (the prosecuting agency) and any other party in the way required by law.

- Make a record that the brief has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) can be used to

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

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

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

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

**18 What happens after I file my brief?**

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

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

**19 What happens after all the briefs have been filed?**

Once all the briefs have been served and filed or the time to serve and file them has passed, the court will notify you of the date for oral argument in your case unless your case presents no arguable issues for the court to



consider. If your case presents no arguable issues, the court will not hold oral argument.

### **20 What is oral argument?**

“Oral argument” is the parties’ chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” (give up) oral argument by serving and filing a notice within 7 days after the notice of oral argument was sent by the court. You can use *Notice of Waiver of Oral Argument (Misdemeanor)* (form CR-138) to waive oral argument.

If all parties waive oral argument, and the appellate division approves the waiver and takes the oral argument off calendar, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties do not, the appellate division will hold oral argument with any party or parties who choose to participate, including any party who asked to waive oral argument.

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

### **21 What happens after oral argument?**

After the oral argument is held (or all parties waive oral argument and the court approves the waiver), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after oral argument (or the date its waiver was approved) to decide the appeal. The clerk of the court will mail you a notice of that decision.

### **22 What should I do if I want to give up my appeal?**

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called “abandoning”) your appeal. You can use *Abandonment of Appeal (Misdemeanor)* (form CR-137) to file this notice in a misdemeanor case. You can get form CR-137 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

If you decide not to continue your appeal and it is dismissed, you will (with only very rare exceptions) permanently give up the chance to raise any objections to your conviction, sentence, or other matter that you could have raised on the appeal. If you were released from custody with or without bail or your sentence or any probation conditions were stayed during the appeal, you may be required to start serving your sentence or complying with your probation conditions immediately after your appeal is dismissed.

*Clerk stamps date here when form is filed.*

**DRAFT**

**11-21-19**

**Not approved by the Judicial Council**

**Instructions**

- This form is only for requesting that the court appoint a lawyer to represent a defendant in a **misdemeanor** appeal.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- The court is required to appoint a lawyer to represent you if you are indigent (you cannot afford to pay for a lawyer) and:
  - (1) You were convicted and your punishment includes going to jail or paying a fine of more than \$500 (including penalty and other assessments); or
  - (2) You are likely to suffer other significant harm as a result of being convicted; or
  - (3) The appeal is before a final judgment, and you are likely to suffer significant harm if you lose the appeal.
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk’s office for the same trial court where the notice of appeal was filed. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

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

**Superior Court of California, County of**

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

**Trial Court Case Number:**

**Trial Court Case Name:**

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

**Appellate Division Case Number:**

**1 Your Information**

a. Name of **Defendant** (the party who is filing this **request**):

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

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

b. **Defendant’s lawyer** (skip this if the **defendant** is filling out this form):

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Fax: \_\_\_\_\_



Trial Court Case Name: \_\_\_\_\_

**Information About Your Case**

2 Were you/was your client represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case? (Check a or b.)

a.  Yes

b.  No (Complete and attach Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense (form MC-210) showing that you/your client cannot afford to hire a lawyer. You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms.)

3 If you have been convicted, describe the punishment the trial court gave you/your client in this case (check all that apply and fill in any required information):

a.  Jail time

b.  A fine (including penalty and other assessments) (fill in the amount of the fine): \$ \_\_\_\_\_

c.  Restitution (fill in the amount of the restitution): \$ \_\_\_\_\_

d.  Probation (fill in the amount of time on probation): \_\_\_\_\_

e.  Other punishment (describe any other punishment that the trial court gave you/your client in this case):

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

f.  Describe any significant harm that you are/your client is likely to suffer because of this conviction:

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

4 If this appeal is before a final judgment, describe any significant harm that you are/your client is likely to suffer if you lose/your client loses the appeal:

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

**Notice to Defendant:** If you were represented by appointed counsel in the trial court and the trial court finds that you are able to pay all or part of the cost of that counsel, at the conclusion of the proceedings, the court may also determine after a hearing whether you are able to pay all or a portion of the cost of any attorney appointed to represent you in this appeal. If the court determines that you are at that time able to pay, the court will order you to pay all or part of such cost. Such orders will have the same force and effect as a judgment in a civil action and will be subject to enforcement.

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

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

\_\_\_\_\_  
Signature of defendant or attorney

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (July 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Appellate Procedure, Juvenile Law: Access to Juvenile Case Files in Appellate Court Proceedings

*Committee or other entity submitting the proposal:*

Appellate Advisory Committee and Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Christy Simons, 415-865-7694, [christy.simons@jud.ca.gov](mailto:christy.simons@jud.ca.gov) and Daniel Richardson, 415-865-7619, [daniel.richardson@jud.ca.gov](mailto:daniel.richardson@jud.ca.gov)

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

Approved by RUPRO: October 28, 2019

Project description from annual agenda: Implement legislation (AB 1617 (Bloom) Juvenile case files: inspection (Ch. 992, Statutes of 2018)) that allows certain parties involved in appeals of juvenile court orders, who previously had been granted access to the juvenile court case file under a court order, to access the case file for proceedings in the appellate courts. Requires the Judicial Council to adopt rules to implement this provision.

*If requesting July 1 or out of cycle, explain:*

Winter cycle proposal; second circulation

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

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

W20-\_\_

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**Title**

Appellate Procedure, Juvenile Law: Access to Juvenile Case Files in Appellate Court Proceedings

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rules 5.552 and 8.401; approve form JV-291-INFO; revise forms JV-285, JV-290, JV-295, JV-321, JV-325, JV-569, JV-570, JV-571, JV-572, JV-573, JV-574, JV-800, JV-820, and JV-822

**Proposed by**

Appellate Advisory Committee  
Hon. Louis R. Mauro, Chair  
Family and Juvenile Law Advisory Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

**Action Requested**

Review and submit comments by February 11, 2020

**Proposed Effective Date**

September 1, 2020

**Contact**

Christy Simons, 415-865-7694  
[christy.simons@jud.ca.gov](mailto:christy.simons@jud.ca.gov)  
Daniel Richardson, 415-865-7619  
[daniel.richardson@jud.ca.gov](mailto:daniel.richardson@jud.ca.gov)

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### Executive Summary and Origin

To implement recent Judicial Council–sponsored legislation amending the statute that governs access to records in a juvenile case, the Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee propose amending the rules regarding confidentiality in juvenile court and appellate court proceedings. The statutory amendment provides that individuals who petitioned for, and by order of the juvenile court were granted access to, the juvenile case file are entitled to access those same records for purposes of appellate court proceedings in which they are parties. This proposal would revise a number of forms to add a new notice about access to records on review and make other clarifying changes. The committees also propose a new information sheet to assist those litigants who must file a petition to request access to records.

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

## Background

The confidentiality of juvenile case files is established by Welfare and Institutions Code section 827.<sup>1</sup> This confidentiality is intended to protect the privacy rights of the child who is the subject of the juvenile court proceedings. Subdivision (a)(1) of this statute identifies those who may inspect and receive copies of a juvenile court case file, including the child who is the subject of the proceeding, the child's parent or guardian, the attorneys for the parties, the petitioning agency in a dependency action, or the district attorney, city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

Ordinarily, to help resolve these matters as quickly as possible, when an appeal or petition is filed challenging a judgment or order in a juvenile proceeding, the record for that appellate proceeding is prepared and sent to the Court of Appeal and the parties very quickly. The items that must be included in the record on appeal or for certain writ proceedings are listed in California Rules of Court, rules 8.407, 8.450, and 8.454. The trial court is required to begin preparing the record in these proceedings upon filing of the notice of appeal or notice of intent to file a writ petition.

However, some individuals who are authorized to participate in juvenile proceedings and have the right to seek review of certain orders in those proceedings or who have a right to respond to an appeal or petition seeking such review are not entitled under section 827, absent court order, to access (inspect or copy) any records in a juvenile case file. This situation occurs, for example, when the appellant is a family member or other person who files a petition seeking de facto parent status and is appealing the denial of that petition or who files a petition under section 388 to change, modify, or set aside a juvenile court order on grounds of change of circumstance or new evidence and is appealing the denial of that petition. In those cases, before the recent legislation, the juvenile courts and Court of Appeal followed various procedures to decide, on a case-by-case basis, what records such litigants could receive. Doing so took time and resources of the juvenile court, the Court of Appeal, and the persons seeking access to records for such proceedings. It also resulted in delays and, particularly when the appellant or petitioner was self-represented, and failed to obtain the necessary records, procedural dismissals of these appeals without consideration of their merit.

In 2017, the Appellate Advisory Committee, in consultation with the Family and Juvenile Law Advisory Committee, recommended that the Judicial Council sponsor legislation to address this situation. The legislation, Assembly Bill 1617, which added new paragraph (a)(6) to section 827, took effect on January 1, 2019. The new paragraph provides that a person who is not otherwise authorized to access the case file under section 827(a)(1)(A)–(P) and files a notice of appeal or petition for writ challenging a juvenile court order, or who is a respondent or real party in interest in such appellate proceeding may, for purposes of the appellate proceeding, access those records

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<sup>1</sup> All further unspecified statutory references are to the Welfare and Institutions Code, and all rule references are to the California Rules of Court. The full text of this statute is available at

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=827.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=827.&lawCode=WIC).

to which the person was granted access by order of the juvenile court. New paragraph (a)(6) also requires the Judicial Council to adopt rules to implement the new provision.

## **Prior Circulation**

This proposal circulated previously in spring 2019. At that time, the committees proposed amending several rules relating to juvenile appeals and writs to include provisions relating to persons required to petition for access to records in the juvenile case file and the limited record to be prepared and provided to these persons. The proposal included a new information sheet and a notice on certain forms regarding the process to seek authorization from the juvenile court to access records in the juvenile case file.

The committees received a number of public comments raising various concerns with the prior proposal, including, among others, due process issues and perceived gaps in the proposed rules that would require more rules. The committees concluded that, in attempting to provide detailed procedures and information for litigants and courts and to account for various situations that could arise, the proposal's scope and complexity expanded beyond what was necessary to implement the legislation, which was narrow in scope and aimed at a situation that arises relatively infrequently. Accordingly, the committees determined that the best way to move forward would be a more focused rules proposal to add the juvenile court petition process to the appellate rule on access to records in a juvenile case.

## **The Proposal**

### **Rule amendments**

The committees propose amending both the appellate and juvenile rules on confidentiality of documents.

The committees believe that these proposed rule amendments appropriately track the provisions of section 827.

#### ***Rule 5.552***

To be consistent with the language of section 827, the committees propose amending the rule on confidentiality of records in the juvenile court to replace the terms “disclosure” and “disclosed” with “access to” and “released,” respectively. The committees also propose making these changes to the names of several forms that are referenced in the rule and are part of this proposal (see below). These changes would more accurately describe the juvenile court's action in granting a petition as permitting *access* to records in the juvenile case file rather than permitting *disclosure*, which could suggest that the petitioner may disclose the information.

#### ***Rule 8.401***

Rule 8.401 is the appellate rule on confidentiality in juvenile proceedings; subdivision (b) addresses access to documents and records. The proposal would add a new paragraph regarding access to records in the juvenile case file under section 827 stating that individuals who were granted access to records by order of the juvenile court may access the same records for purposes



of an appeal or writ proceeding. A new advisory committee comment would describe the petition process under section 827 and refer to rule 5.552 and the mandatory form a petitioner must use.

Other amendments to this rule would add definitions to clarify terms. Existing rule 8.401(b) refers to “filed documents,” “documents filed by the parties,” “the record on appeal,” and “records” in presenting various rules regarding access to documents and records, and proposed new subdivision (b)(2) would add the term “records in the juvenile case file.” To eliminate confusion and draw clear distinctions, the committees propose defining “filed document,” “record on appeal,” “record on a writ proceeding,” and “records in the juvenile case file.”

### **New and revised forms**

Whereas the rules component of this revised proposal is narrower than what was originally circulated, the forms portion has expanded. As in the prior proposal, the committees suggest a new information sheet for individuals who must use that petition process to access records in the juvenile case file. Also included in the prior proposal, the committees proposed adding a notice regarding the petition process to certain forms. Other revisions to forms are intended to raise awareness of the possible need to petition for access to records and to assist the juvenile court and litigants in that process. In addition, several changes are intended to update or clarify content on the forms.

#### ***Proposed information sheet***

*New Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO) would provide information for individuals with a limited right to seek review of a juvenile court order, such as relatives and de facto parents. This would include information about requesting access to the juvenile case file through a petition under section 827(a)(1)(Q). The form emphasizes that these individuals have a right to appeal or file a writ petition only in limited circumstances. This form is substantially similar to the version included in the earlier proposal, but renamed and with other minor clarifying changes.

#### ***Notice on JV forms***

The committees anticipate that potential parties in appellate proceedings who are not entitled to access records in the juvenile case file absent court order may be unaware of the requirement to petition for such access, and thus might not file such a petition until after the appellate proceeding has begun. This situation could cause delays and difficulties for litigants and the courts—problems the legislation was intended to solve. The committees propose adding a short notice to forms typically used by these litigants in dependency and delinquency cases. The notice would read as follows:

If you are not the child, child’s parent, or child’s legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-

INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

The committees propose adding this notice to the following forms:

- *Relative Information* (form JV-285)
- *Caregiver Information Form* (form JV-290)
- *De Facto Parent Request* (form JV-295)
- *Request for Prospective Adoptive Parent Designation* (form JV-321)
- *Objection to Removal* (form JV-325)
- *Notice of Appeal—Juvenile* (form JV-800)
- *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26* (form JV-820)
- *Notice of Intent to File Writ Petition and Request for Record to Review Order Designating or Denying Specific Placement of a Dependent Child After Termination of Parental Rights* (form JV-822)

***Revisions to notice of appeal and notice of intent to file writ petition forms***

In addition to adding the notice described above, the committees propose adding an item to these forms so that the litigant who has been granted access to records by order of the juvenile court may indicate so and attach the order, if it is available. This item will provide notice to the juvenile court clerk who prepares the record that the litigant’s access to records is specified in the court’s order.

The committees propose adding this item to the following forms:

- *Notice of Appeal—Juvenile* (form JV-800)
- *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26 (California Rules of Court, Rule 8.450)* (form JV-820)
- *Notice of Intent to File Writ Petition and Request for Record to Review Order Designating or Denying Specific Placement of a Dependent Child After Termination of Parental Rights (California Rules of Court, Rule 8.454)* (form JV-822)

***Revisions to mandatory forms for the section 827 petition process***

The Judicial Council adopted mandatory forms for use by litigants and the juvenile courts in the section 827 petition process. The committees propose revisions to update the names of these forms and language within the forms to refer to “access” and “petition for access” rather than “disclosure” and “request for disclosure.”

The committees propose making these revisions to the following forms:

- *Proof of Service—Request for Disclosure* (form JV-569), renamed *Proof of Service—Petition for Access to Juvenile Case File*

- *Request for Disclosure of Juvenile Case File* (form JV-570), renamed *Petition for Access to Juvenile Case File*
- *Notice of Request for Disclosure of Juvenile Case File* (form JV-571), renamed *Notice of Petition for Access to Juvenile Case File*
- *Objection to Release of Juvenile Case File* (form JV-572)
- *Order on Request for Disclosure of Juvenile Case File* (form JV-573), renamed *Order on Petition for Access to Juvenile Case File*
- *Order After Judicial Review* (form JV-574), renamed *Order After Judicial Review on Petition for Access to Juvenile Case File*

***Other revisions to forms***

The committees propose additional changes to the forms as described below.

Form JV-569 is the mandatory form for filing proof of service of the petition under section 827(a)(1)(Q). Under rule 5.552, the petitioner is required to serve notice of the petition on certain individuals and entities, but if the petitioner does not know the names and addresses and is unable to effect service for that reason, the clerk must do it. The revision would add a new item 3 for attorneys who indicate that they were unable to serve county counsel and the child welfare agency (if the petition is filed under section 300), or the district attorney and the probation department (if the petition is filed under section 601 or 602). The new item requires the attorney to describe the efforts to locate the addresses and to provide an explanation for not being able to locate the addresses. This is intended to reduce the number of instances in which attorneys transfer to the court the burden of serving notice on individuals and entities an attorney could reasonably locate if the county of jurisdiction is known.

Form JV-570 is the mandatory form used to petition for access to the juvenile case file. It requires the petitioner to describe in detail the records that are sought and why the records are needed. The committees propose expanding the instructions for item 5, which requires the petitioner to describe the records being sought, and revising item 6 to add the option that records are sought for an appellate court proceeding and provide space for the petitioner to list the relevant hearing dates.

Form JV-573 is the mandatory form for the juvenile court to make its ruling on the petition. The revisions would add check boxes and space in item 1 for the judicial officer to indicate the reason for denying the petition, and add new item 6 to provide space for other orders.

Form JV-574 is the mandatory form for the juvenile court to issue orders after judicial review of the juvenile case file. The revisions would add check boxes and space in item 2 for the judicial officer to indicate the reason for denying the petition, add check boxes to items 3 and 4c for the option of requiring that records released to the petitioner be redacted, and add check boxes to item 6 to permit the petitioner to disseminate records to a specified person and to indicate that the records must be redacted or are subject to a protective order.

Form JV-800, the notice of appeal form, would be revised to add a check box to item 7, which lists appealable orders under different sections of the Welfare and Institutions Code, to include an order under section 388 (request to change a court order).

Form JV-822, the notice of intent to file a writ petition challenging the court's placement order, would be revised to add language to the box on page two titled Signature on *Notice of Intent* to clarify that the notice of intent may be signed by the attorney of record.

### **Alternatives Considered**

The committees did not consider proposing no rule changes because the legislation requires the Judicial Council to adopt implementing rules.

As described above, the committees previously proposed more extensive rule amendments to describe procedures for appellate proceedings involving individuals whose access to records is limited. However, these extensive changes to the juvenile appellate rules would have added numerous new procedures, raised many more issues that would have to be addressed, and went well beyond what is necessary to implement the new statutory provision.

The committees considered making no changes to the JV forms, but rejected this option. Because of the likelihood that individuals may be unaware of the potential need to petition for access to records in the juvenile case file, the committees chose to develop a new information sheet, include a notice on certain forms, and make other changes to improve awareness of the petition process and assist litigants and courts in navigating it.

## **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 adequately address the stated purpose?
- Should the definition of “records in the juvenile case file” in rule 8.401(b) more closely track the definition of “juvenile case file” in rule 5.552(a) or Welfare and Institutions Code section 827(e)?
- Does the proposed information sheet, form JV-291-INFO, provide the information necessary for an individual to understand the right to appeal and the process for requesting access to records in the juvenile case file? Should other information be included?
- Should rule 5.552 require that the parent and county counsel receive notice if a petition for access is filed by an adult who is a former or current dependent and is seeking access to their case file for the purpose of education, employment, immigration, and/or military enlistment?
- Rule 5.552 does not require that a parent’s attorney of record receive notice when a petition for access is filed. Should the rule require such notice?

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

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

### **Attachments and Links**

1. Cal. Rules of Court, rules 5.552 and 8.401, at pages 9–11
2. Forms JV-285, JV-290, JV-291-INFO, JV-295, JV-321, JV-325, JV-569, JV-570, JV-571, JV-572, JV-573, JV-574, JV-800, JV-820, and JV-822, at pages 12–37

Rules 5.552 and 8.401 of the California Rules of Court would be amended, effective September 1, 2020, to read:

1 **Rule 5.552. Confidentiality of Records (§§ 827, 827.12, 828)**

2  
3 (a) \* \* \*

4  
5 (b) **Petition**

6  
7 Juvenile case files may be obtained or inspected only in accordance with sections  
8 827, 827.12, and 828. They may not be obtained or inspected by civil or criminal  
9 subpoena. With the exception of those persons permitted to inspect juvenile case  
10 files without court authorization under sections 827 and 828, and the specific  
11 requirements for accessing juvenile case files provided in section 827.12(a)(1),  
12 every person or agency seeking to inspect or obtain juvenile case files must petition  
13 the court for authorization using *Request for Disclosure of Petition for Access to*  
14 *Juvenile Case File* (form JV-570). A chief probation officer seeking juvenile court  
15 authorization to access and provide data from case files in the possession of the  
16 probation department under section 827.12(a)(2) must comply with the  
17 requirements of subdivision (e) of this rule.

18  
19 (1)–(2) \* \* \*

20  
21 (c) **Notice of petition for disclosure access**

22  
23 (1) At least 10 days before the petition is submitted to the court, the petitioner  
24 must personally or by first-class mail serve *Request for Disclosure of Petition*  
25 *for Access to Juvenile Case File* (form JV-570), *Notice of Request for*  
26 *Disclosure of Petition for Access to Juvenile Case File* (form JV-571), and a  
27 blank copy of *Objection to Release of Juvenile Case File* (form JV-572) on  
28 the following:

29  
30 (A)–(I) \* \* \*

31  
32 (2) The petitioner must complete *Proof of Service—Request for Disclosure*  
33 *Petition for Access to Juvenile Case File* (form JV-569) and file it with the  
34 court.

35  
36 (3) If the petitioner does not know the identity or address of any of the parties in  
37 (c)(1) above, the clerk must:

38  
39 (A) Serve personally or by first-class mail to the last known address a copy  
40 of *Request for Disclosure of Petition for Access to Juvenile Case File*  
41 (form JV-570), *Notice of Request for Disclosure of Petition for Access*

1 *to Juvenile Case File* (form JV-571), and a blank copy of *Objection to*  
2 *Release of Juvenile Case File* (form JV-572); and

3  
4 (B) Complete *Proof of Service—Request for Disclosure Petition for Access*  
5 *to Juvenile Case File* (form JV-569) and file it with the court.

6  
7 (4) For good cause, the court may, on the motion of the person seeking the order  
8 or on its own motion, shorten the time for service of the petition for  
9 disclosure access.

10  
11 **(d) Procedure**

12  
13 (1)–(4) \* \* \*

14  
15 (5) If the court grants the petition, the court must find that the need for ~~discovery~~  
16 access outweighs the policy considerations favoring confidentiality of  
17 juvenile case files. The confidentiality of juvenile case files is intended to  
18 protect the privacy rights of the child.

19  
20 (6) The court may permit ~~disclosure of~~ access to juvenile case files only insofar  
21 as is necessary, and only if petitioner shows by a preponderance of the  
22 evidence that the records requested are necessary and have substantial  
23 relevance to the legitimate need of the petitioner.

24  
25 (7) If, after in-camera review and review of any objections, the court determines  
26 that all or a portion of the juvenile case file may be ~~disclosed~~ accessed, the  
27 court must make appropriate orders, specifying the information to be  
28 disclosed and the procedure for providing access to it.

29  
30 (8) \* \* \*

31  
32 **(e)–(f) \* \* \***

33  
34 **Rule 8.401. Confidentiality**

35  
36 **(a) \* \* \***

37  
38 **(b) Access to filed documents and records**

39  
40 For the purposes of this rule, “filed document” means a brief, petition, motion,  
41 application, or other thing filed by the parties in the reviewing court in a proceeding  
42 under this chapter; “record on appeal” means the documents referenced in rule  
43 8.407; “record on a writ petition” means the documents referenced in rules 8.450

1 and 8.454; and “records in the juvenile case file” means all or part of a document,  
2 paper, exhibit, transcript, opinion, order, or other thing filed in the juvenile court.

3  
4 (1) Except as provided in (2)–(3)(4), a filed document, the record on appeal, or  
5 the record on a writ petition and documents filed by the parties in  
6 proceedings under this chapter may be inspected only by the reviewing court,  
7 and appellate project personnel, the parties, or their attorneys for the parties,  
8 and or other persons the reviewing court may designate.

9  
10 (2) Access to records in the juvenile case file, including any such records made  
11 part of the record on appeal or the record on a writ petition, is governed by  
12 Welfare and Institutions Code section 827. Persons who are not described in  
13 subdivision (a)(1)(A)–(P) and have petitioned the juvenile court under  
14 subdivision (a)(1)(Q) may inspect and copy only those records in the juvenile  
15 case file to which that person was granted access by order of the juvenile  
16 court.

17  
18 (3) A filed documents that protects anonymity as required by (a) may be  
19 inspected by any person or entity that is considering filing an amicus curiae  
20 brief.

21  
22 ~~(3)(4)~~ Access to a filed document or records items in the record on appeal or the  
23 record on a writ petition that are sealed or confidential under authority other  
24 than Welfare and Institutions Code section 827 is governed by rules 8.45–  
25 8.47 and the applicable statute, rule, sealing order, or other authority.

26  
27 (c) \* \* \*

28  
29 **Advisory Committee Comment**

30  
31 Subdivision (b)(2). Welfare and Institutions Code section 827(a)(1)(Q) authorizes a petition by  
32 which a person may request access to records in the juvenile case file. The petition process is  
33 stated in rule 5.552. The Judicial Council has adopted a mandatory form—*Petition for Access to*  
34 *Juvenile Case File* (form JV-570)—that must be filed in the juvenile court to make the request.  
35 This form is available at any courthouse or county law library or online at  
36 [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).



As the relative of a child who has been removed from the home, you may give written information to the court about the child at any time on this form or in a letter. After filling out this form, give it to the clerk of the court.

Please note that other people involved in the case, including the parents, will see your answers on this form. If you prefer to keep your contact information private, fill out *Confidential Information* (form JV-287) and do not write your address or telephone number below.

*Clerk stamps date here when form is filed.*

**DRAFT**  
**Not approved by**  
**the Judicial Council**

*Social worker fills in court name and street address.*

**Superior Court of California, County of**

*Social worker fills in child's name and date of birth.*

**Child's Name:**

**Date of Birth:**

*Social worker fills in case number.*

**Case Number:**

① Your name: \_\_\_\_\_

Your Address: \_\_\_\_\_

Your telephone number: \_\_\_\_\_

Check here if contact information is confidential and form JV-287 is attached.

② Your relation to the child:  maternal  paternal

grandparent  brother/sister  aunt/uncle  cousin

family friend

tribal extended family member

other (specify): \_\_\_\_\_

③ Child's name: \_\_\_\_\_

④  I would like to talk to the judge at the next court hearing.

*Please fill in as much of the following information as you know. If you need more space to respond to any section on this form, attach additional pages as needed and check the box at item 12.*

⑤ Information about the child's medical, dental, and general physical health:

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

⑥ Information about the child's emotional and behavioral health:

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

⑦ Information about the child's education:

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

⑧ Other information that might be helpful to the court:

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



Child's name: \_\_\_\_\_

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

Below are some things you might do to help the child. You can pick some or none of the things listed below. It is up to the social worker and the court whether you will be asked to do these things.

- 9 I want to
- |   |   |
|---|---|
| <input type="checkbox"/> telephone the child.                                   | <input type="checkbox"/> take the child to visits with parents.                       |
| <input type="checkbox"/> write letters to the child.                            | <input type="checkbox"/> take the child to medical appointments.                      |
| <input type="checkbox"/> take the child on outings.                             | <input type="checkbox"/> supervise the child during visits with brothers and sisters. |
| <input type="checkbox"/> take the child to/from school.                         | <input type="checkbox"/> watch the child after school.                                |
| <input type="checkbox"/> take the child to visits with brothers or sisters.     | <input type="checkbox"/> have the child live with me.                                 |
| <input type="checkbox"/> take the child to therapy.                             | <input type="checkbox"/> other (describe): _____                                      |
| <input type="checkbox"/> take the child to family gatherings.                   | _____   |
| <input type="checkbox"/> help the social worker make a case plan for the child. | _____   |

You can also help the parents. For example, you might help with transportation, housing, visits, or child care. It is up to the social worker and the court whether you will be asked to do these things.

10 I want to help the  father  mother  
(Describe): \_\_\_\_\_  
\_\_\_\_\_

- 11 Other relatives who might be able to help the child:
- a. Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
Contact information: \_\_\_\_\_  
or  I want to keep the contact information confidential and ask that the child's social worker get this information from me.
- b. Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
Contact information: \_\_\_\_\_  
or  I want to keep the contact information confidential and ask that the child's social worker get this information from me.
- c. Name: \_\_\_\_\_ Relationship to child: \_\_\_\_\_  
Contact information: \_\_\_\_\_  
or  I want to keep the contact information confidential and ask that the child's social worker get this information from me.

12  If you need more space to respond to any section on this form, please check this box and attach additional pages.  
Number of pages attached: \_\_\_\_\_

**NOTICE**

If you are not the child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

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

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

▶  
\_\_\_\_\_  
Sign your name

<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>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
CHILD'S NAME: HEARING DATE AND TIME:	
<b>CAREGIVER INFORMATION FORM</b>	CASE NUMBER:

**To the current caregiver, preadoptive parent, community care facility, or foster family agency caring for the child: You may submit written information to the court, and you may attend review and permanency hearings. You may use this optional form to provide written information to the court. Please type or print clearly in ink and submit the original and eight copies of the form to the court clerk's office at least five calendar days (or seven calendar days, if filing by mail) before the hearing. Be aware that other individuals involved in the case have access to this information. See form JV-290-INFO for instructions on how to complete this form and file it with the court.**

1. a. Child's name:  
 b. Child's date of birth: c. Child's age:
2. **Caregiver Information** (*Answer only if you are a caregiver, skip #3.*):  
 a. Name of caregiver:  
 b. Type of caregiver:  Foster parent  Relative  Legal guardian  Preadoptive parent  
 Nonrelative extended family member  Other (*specify*):  
 c. The child has been living in my home for (*specify*): years months.
3. **Agency or Facility Information** (*Answer only if you are an agency or facility, skip #2.*):  
 a. Name of agency or facility:  
 b. Address:  
 c. Telephone number:  
 d. Type of facility:  Foster family agency  Community care agency  Other (*specify*):  
 e. The child has been placed with our agency/facility for (*specify*): years months and in the current home for (*specify*): years months.  
 f. Name of person completing form: Title:  
 g. Hours per week the person completing this form spends with the child (*specify*): hours/week.  
 h. The information on this form consists of  
 (1)  the observations and recommendations of the person filling out this form.  
 (2)  the observations and recommendations of a group or team made up of the following individuals (*specify*):
4. **Current Status of Child's Medical, Dental, and General Physical and Emotional Health**  
 a.  There is no new or additional information since the last court hearing.  
 b.  There is new or additional information since the last court hearing, as follows (*do not include the names of doctors*):
5. **Current Status of Child's Education**  
 a.  There is no new or additional information since the last court hearing.  
 b.  There is new or additional information since the last court hearing, as follows (*do not include the names of schools*):

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

- 6. Child's Special Education Status**
- a.  The child is a special education student. Date of last Individualized Education Plan (IEP):
  - b.  The child is not a special education student.
  - c.  I do not know the child's special education status.

- 7. Current Status of Child's Adjustment to Living Arrangement**
- a.  There is no new or additional information since the last court hearing.
  - b.  There is new or additional information since the last court hearing, as follows:

- 8. Current Status of Child's Social Skills and Peer Relationships**
- a.  There is no new or additional information since the last court hearing.
  - b.  There is new or additional information since the last court hearing, as follows:

- 9. Current Status of Child's Special Interests and Activities**
- a.  There is no new or additional information since the last court hearing.
  - b.  There is new or additional information since the last court hearing, as follows:

- 10. Other Helpful Information**
- a.  There is no new or additional information since the last court hearing.
  - b.  There is new or additional information since the last court hearing, as follows:

- 11. Recommendation for Disposition (*Outcome*)**
- a.  I have no recommendation for disposition (*outcome*).
  - b.  I am recommending the following disposition (*outcome*):

12.  If you need more space to respond to any section on this form, please check this box and attach additional pages.  
 Number of pages attached:

**NOTICE**

If you are not the child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

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

(TYPE OR PRINT NAME)
 (SIGNATURE OF CAREGIVER OR FACILITY/AGENCY STAFF PERSON WHO HAS COMPLETED THIS FORM)

Under very limited circumstances, a person who is not the child, parent, or legal guardian in a dependency or delinquency case has the right to seek review of decisions made by the juvenile court by filing an appeal or writ petition in the Court of Appeal. Such an individual, however, is typically not entitled to access records that will be considered on appeal from the juvenile court case file for purposes of an appeal or writ proceeding unless the person gets approval from the juvenile court. The purpose of this information sheet is to inform those individuals who are not the child, parent, or legal guardian, and who may have the right to seek appellate review, of the requirement to file a *Petition for Access to Juvenile Case File* (form JV-570) to have access to the juvenile case file during an appeal or writ.

### 1 When would I have the right to seek review?

To have a right to seek review, you must be harmed by an order or judgment of the juvenile court. In the vast majority of cases, only the child, parent, legal guardian, county welfare department, or district attorney will have the right to file an appeal or a writ petition challenging a juvenile court ruling. However, the law also protects those individuals who have a relationship to the child in certain situations.

You might have a right to appeal or file a writ petition if, for example, you are:

- The child's relative, and the child was removed from your home, or you requested that the child be placed in your home or that your home be assessed for possible placement, and the court denied your request for placement or the placing agency never assessed your home;
- Someone who requested de facto parent status, which was denied;
- Someone who requested a change of court order through a section 388 petition (form JV-180), which was denied; or
- A prospective adoptive parent or de facto parent challenging the juvenile court's decision to remove the child from your home.

### 2 If I want to file an appeal or writ petition, what additional steps must I take?

To have access to records in the juvenile case file for an appeal or writ proceeding, you must request access from

the juvenile court. To make this request, you must file *Petition for Access to Juvenile Case File* (form JV-570). You will need to serve a copy of this form on all interested parties to the case, if you know their names and addresses, including the child, parents, social worker, and probation officer.

On the request form, you will need to identify which specific records you are requesting. Your request for information can include any documents that you are aware of that exist in the juvenile court file or are in the possession of the social worker or probation officer. Be sure to indicate the dates of the hearings that relate to the decision you are challenging. As the basis for the request, you may indicate the appeal or writ proceeding in the Court of Appeal. You will also need to explain why you are requesting the records. Your explanation should show how the records, including any transcripts, relate to the decision you are challenging (for example, a report or court order following a hearing on your issue). The juvenile court will make a decision on your request by issuing an order that identifies the records you are authorized to access. The court's order is made on *Order After Judicial Review on Petition for Access to Juvenile Case File* (form JV-574).

When you file a notice of appeal or a notice of intent to file a writ petition, you should attach the court's order on the JV-574, if you have one. Doing so will alert the clerk that you are authorized to access records in the case file and will ensure that a record will be prepared for you.

**Note:** An order from the juvenile court granting you access to records in the case file is not a condition for filing an appeal or writ petition.

You may wish to consult with an attorney when considering whether to file an appeal or a writ petition and request access to records in the juvenile case file. The timelines for filing an appeal or a writ petition apply whether or not the juvenile court has granted you access to the juvenile case file. A notice of appeal usually must be filed within 60 days of the date the order being appealed was made. For writ review, a notice of intent to file a writ petition must be filed as early as 7 days after the court makes the challenged order, either orally in court or in writing, whichever occurs first. But note that the deadlines for filing a notice of appeal or a notice of intent to file a writ petition may differ, depending on the circumstances. For more information, read rules 8.406, 8.450, and 8.454 of the California Rules of Court.

Clerk stamps date here when form is filed.

**DRAFT**  
**Not approved by**  
**the Judicial Council**

The address of any licensed foster family home must remain confidential unless the judge or the foster parent authorizes release of the address. Court clerks should not send this page to the parties without a court order or authorization of the foster parent. (Welf. & Inst. Code, § 308(a).)

① My/Our name(s): \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

My/Our address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

My/Our phone #: \_\_\_\_\_

② I am/We are asking that I/we be appointed de facto parent(s) of  
(Child's name): \_\_\_\_\_

Court fills in case number when form is filed.

**Case Number:**

Date: \_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of person requesting de facto parent status

Date: \_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of person requesting de facto parent status

Date: \_\_\_\_\_  
Type or print attorney's name

\_\_\_\_\_  
Signature of attorney (if applicable)

Attorney's address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Attorney's phone #: \_\_\_\_\_

**NOTICE**

If you are not the child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

Clerk stamps date here when form is filed.

**DRAFT  
Not approved by  
the Judicial Council**

After filling out this form, bring it to the clerk of the court. If you want to keep an address or telephone number confidential, do not write that information on this form. Instead, include that information in Confidential Information—Prospective Adoptive Parent (form JV-322).

① Information about the person or persons you want to be designated as prospective adoptive parents:

- a. Name: \_\_\_\_\_  
 b. Name: \_\_\_\_\_  
 c. Street address: \_\_\_\_\_  
 d. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 e. Telephone number: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

② If you are not a person in ①, fill out below.

- a. Name: \_\_\_\_\_  
 b. I am the  child  child's attorney  other  
 (specify role): \_\_\_\_\_  
 c. Street address: \_\_\_\_\_  
 d. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 e. Telephone number: \_\_\_\_\_

Fill in child's name and date of birth:

**Child's Name:****Date of Birth:**

Fill in case number:

**Case Number:**

③ If you are not the child's attorney and you know who the child's attorney is, fill out below.

- a. Name of child's attorney: \_\_\_\_\_  
 b. Street address of child's attorney: \_\_\_\_\_  
 c. City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 d. Telephone number of child's attorney: \_\_\_\_\_

④  The child is 10 years of age or older. Child's telephonenumber: \_\_\_\_\_  
 or  Telephone number is confidential.

⑤ The child has lived with the person from (date): \_\_\_\_\_ to the present.  
 In order for the person in ① to become a prospective adoptive parent, the child must be living with that person now.

⑥ Date of Welfare and Institutions Code section 366.26 hearing: \_\_\_\_\_  
 The person in ① should not file this form with the court until a Welfare and Institutions Code section 366.26 hearing has been scheduled.

⑦  The person in ① is committed to adopting the child.



Child's name: \_\_\_\_\_

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

- 8 The person in 1 has (check all that apply):
- a.  Applied for an adoptive home study.
  - b.  In a case in which tribal customary adoption is the permanent plan, been identified by the Indian child's tribe as the prospective adoptive parent.
  - c.  Cooperated with an adoptive home study.
  - d.  Signed an adoptive placement agreement.
  - e.  Requested de facto parent status.
  - f.  Been designated by the juvenile court or the licensed adoption agency as the adoptive parent.
  - g.  Discussed a postadoption contact agreement with the social worker, child's attorney, child's Court Appointed Special Advocate (CASA) volunteer, adoption agency, or court.
  - h.  Worked to overcome any impediments that have been identified by the California Department of Social Services or the licensed adoption agency.
  - i.  Attended any of the classes required of prospective adoptive parent.
  - j.  Taken other steps toward adopting the child (explain): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If you need more space, attach a sheet of paper and write "JV-321, Item 8—Steps Toward Adoption" at the top. Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information in items 1 through 8 is true and correct, which means if I lie on this form, I am committing a crime.

Date: \_\_\_\_\_  
\_\_\_\_\_  
Type or print your name

▶ \_\_\_\_\_  
Sign your name

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

▶ \_\_\_\_\_  
Sign your name

**NOTICE**

If you are not the child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).



Clerk stamps date here when form is filed.

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**the Judicial Council**

If you do not agree with the removal, you can request a court hearing by filling out this form. The following people can object to removal: a current caregiver, the child’s attorney, the child (if 10 years of age or older), the child’s identified Indian tribe or custodian, and the child’s CASA program. Bring this form to the clerk of the court. If you want to keep an address or a phone number confidential, fill out Confidential Information—Prospective Adoptive Parent (form JV-322), and do not write the address or phone number on this form.

If you are a caregiver or the child and you requested the hearing, the clerk will provide notice of the hearing to you and any other participants.

If you are the child’s attorney and you requested the hearing, you must provide notice of the hearing to all other participants.

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:**

Fill in case number:

**Case Number:**

**1** Information about the caregiver or caregivers:

- a. Name: \_\_\_\_\_
- b. Name: \_\_\_\_\_
- c. Address: \_\_\_\_\_
- d. Phone number: \_\_\_\_\_

**2** If you (the person objecting to the removal) are not the caregiver, fill out below.

- a. Name: \_\_\_\_\_
- b. I am the  child  child’s attorney  child’s identified Indian tribe  
 child’s identified Indian custodian  child’s CASA program

- c. Address: \_\_\_\_\_
- d. Phone number: \_\_\_\_\_

**3** If you are not the child’s attorney and you know who the child’s attorney is, fill out below.

- a. Name of child’s attorney: \_\_\_\_\_
- b. Address of child’s attorney: \_\_\_\_\_
- c. Phone number of child’s attorney: \_\_\_\_\_

**4**  The child is 10 years of age or older. Child’s telephonenumber: \_\_\_\_\_  
 Confidential phone number in court file

**5**  The child has an identified Indian tribe (specify tribe): \_\_\_\_\_  
Phone number of tribe: \_\_\_\_\_

**6**  The child has a Court Appointed Special Advocate (CASA) volunteer.  
Phone number of CASA program, if known: \_\_\_\_\_

**7**  The caregiver or caregivers have been designated by the judge as the child’s prospective adoptive parent or parents.



Child's name: \_\_\_\_\_

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

8  The caregiver or caregivers may meet the definition of prospective adoptive parent or parents. *Request for Prospective Adoptive Parent Designation* (form JV-321), will be filed with this objection and request for hearing.

9 The social worker should not remove the child from the caregiver's home because (*give reasons*):

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

*If you need more space, attach a sheet of paper and write "JV-325, Item 9—Reasons to Not Remove Child" at the top. Number of pages attached: \_\_\_\_\_*

I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct, which means that if I lie on this form, I am committing a crime.

Date:

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

\_\_\_\_\_  
*Sign your name*

**NOTICE**

If you are not the child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**What if I am deaf or hard of hearing?**



**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

Clerk stamps date here when form is filed.

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Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known.

Case Number:

1 Your name:
Relationship to child (if any):
Street address:
City: State: Zip:
Telephone number:
Lawyer (if any) (name, address, telephone numbers, and state Bar number):

- 2 I was not able to provide notice of this petition to the following because I did not know their names or addresses. If this is a request for the case file of a living child, the clerk must serve a copy of the petition. If this is a request for the case file of a deceased child, the custodian of records 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

3 If you are an attorney and 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:

4 Copies of Petition for Access to Juvenile Case File (JV-570), Notice of Petition for Access to Juvenile Case File (JV-571), and a blank Objection to Release of Juvenile 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):



Your name: \_\_\_\_\_

4 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): \_\_\_\_\_



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

Your name: \_\_\_\_\_

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*): \_\_\_\_\_

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 am guilty of a crime.

Date:

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



\_\_\_\_\_  
*Sign your name*

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 case file of a child who is alive, 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 Juvenile Case File (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

a. Fill out items 1–4 and 7 on 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.

**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 Your name: \_\_\_\_\_  
 Relationship to child (if any): \_\_\_\_\_  
 Street address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_  
 Lawyer (if any) (name, address, telephone numbers, and State Bar number): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2 Name of child (if known): \_\_\_\_\_

3 Child's date of birth (if known): \_\_\_\_\_

4 a.  A petition regarding the child in 2 has been filed under  
 Welfare and Institutions Code section 300  
 Welfare and Institutions Code section 601  
 Welfare and Institutions Code section 602 or  
 b.  I believe the child in 2 died as a result of abuse or neglect. Approximate date of death: \_\_\_\_\_

**Note: You must provide a copy of this completed form to all interested parties if you know their names and addresses.**



Your name: \_\_\_\_\_

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

5 The records I want are: *(Describe in detail. Attach more pages if you need more space. If you are an individual involved in a pending proceeding in an appellate court or you are preparing to participate in such a proceeding, you should describe in this Petition for Access 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.)*

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

Continued on Attachment 5.

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.  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: \_\_\_\_\_

e.  Other *(specify)*: \_\_\_\_\_

Case number: \_\_\_\_\_ Hearing date: \_\_\_\_\_

7 I need the records because *(describe in detail; attach more pages if you need more space)*:


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

Continued on Attachment 7.

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*

**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 Juvenile Case File (form JV-569).*

TO (names):

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

① Child's name: \_\_\_\_\_

② Information relating to the child named in item ① is being sought by  
(name): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

③ The requested information is described in the attached  
*Petition for Access to Juvenile 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 Juvenile Case File (form JV-572)* and return it to the court listed at the address above within 10 days of the date you received this notice.

Clerk stamps date here when form is filed.

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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:**

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.**



*Clerk stamps date here when form is filed.*

**DRAFT  
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the Judicial Council**

*Objections to the release of information and records described in the attached  
Petition for Access to Juvenile Case File (form JV-570) must be filed with the  
juvenile court.*

1 Name of child: \_\_\_\_\_

2 My relationship to the child, if any, is: \_\_\_\_\_

3 I object to the release of information and records relating to the child  
name in item 1.

4 I do not want the juvenile court to release the records because *(describe  
in detail, attach additional pages if necessary)*:

*Fill in court name and street address:*

**Superior Court of California, County of**

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

**Case Number:**

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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.**

*Clerk stamps date here when form is filed.*

**DRAFT  
Not approved by  
the Judicial Council**

**The Court finds and orders:**

- ①  The child is alive and 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(c).
  - c.  Request for records is overbroad or records sought are insufficiently identified.
  - d.  Other: \_\_\_\_\_

- ②  The child is alive and 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 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 child is alive and the court will conduct a review of the juvenile case file and any filed objections.

- ④  The child is deceased and the court sets a hearing on the request.  
 Date of hearing: \_\_\_\_\_  
 Time of hearing: \_\_\_\_\_  
 Location: \_\_\_\_\_

- ⑤  The child is deceased and the court will conduct a review of the juvenile case file and any filed objections.

- ⑥  Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

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

**Case Number:**

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

\_\_\_\_\_  
*Judicial Officer*

Order After Judicial Review on Petition for Access to Juvenile Case File

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1 Name of petitioner: \_\_\_\_\_

The court finds and orders:

2 [ ] After a review of the juvenile case file and review of 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 a substantial relevance to the legitimate need of the petitioner.
d. [ ] There are no releasable records responsive to petitioner's request.
e. [ ] Other:

Fill in court name and street address: Superior Court of California, County of

Court fills in case number when form is filed. Case Number:

3 [ ] After a review of the juvenile case file and review of 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. [ ] See attached.

4 [ ] This child is deceased, and the request is granted.

a. [ ] The court has read and considered the following:

Your name: \_\_\_\_\_

- 4 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 child who is the subject of the juvenile case file and the interests of other children who may be named in the file with \_\_\_\_\_.
- c.  The following records may be disclosed:  with redactions  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- d.  The procedure for providing access is:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- e. Any information that relates to another child or could identify another child, except for information about the deceased, must be redacted.
- f.  See attached.

- 5  The child is deceased and the request is denied. 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 child who is directly or indirectly connected to the juvenile case that is the subject of the request.

**Additional orders:**

- 6 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

- 7  Disclosure subject to protective order (*list orders*): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- 8  Other: \_\_\_\_\_  
 \_\_\_\_\_

- 9  See attached.

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

\_\_\_\_\_  
*Judicial Officer*

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<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:	
CHILD'S NAME:	
<b>NOTICE OF APPEAL—JUVENILE</b>	CASE NUMBER:

— NOTICE —

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 6–8 on the reverse of this form.
- Rule 8.406 says that to appeal from an order or judgment, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final.
- You are advised that if you wish to file an appeal of an order for transfer to a tribal court, you (1) may ask the juvenile court to stay (delay the effective date of) the transfer order and (2) must file the appeal before the transfer to tribal jurisdiction is finalized. Read rule 5.483 and the advisory committee comment.
- If you are not the county welfare department, district attorney, child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

1. I appeal from the findings and orders of the court (specify date of order or describe order):

2. This appeal is filed by

a. Appellant (name):

b. Address:

c. Phone number:

d. Name, address, and phone number of person to be contacted (if different from appellant):

e.  Appellant has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q), on *Order After Judicial Review on Petition for Access to Juvenile Case File* (form JV-574) if available, is attached.

3.  I request that the court appoint an attorney on appeal. I  was  was not represented by an appointed attorney in the superior court.

Date:

\_\_\_\_\_ ▶ \_\_\_\_\_

TYPE OR PRINT NAME SIGNATURE OF  APPELLANT  ATTORNEY

4. Items 5 through 7 on the reverse are  completed  not completed.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

5. Appellant is the

- a.  child.
- b.  mother.
- c.  father.
- d.  legal guardian.
- e.  de facto parent.
- f.  county welfare department.
- g.  district attorney.
- h.  child's tribe.
- i.  other (state relationship to child or interest in the case):

6. This notice of appeal pertains to the following child or children (specify number of children included):

- a. Name of child: \_\_\_\_\_  
Child's date of birth: \_\_\_\_\_
  - b. Name of child: \_\_\_\_\_  
Child's date of birth: \_\_\_\_\_
  - c. Name of child: \_\_\_\_\_  
Child's date of birth: \_\_\_\_\_
  - d. Name of child: \_\_\_\_\_  
Child's date of birth: \_\_\_\_\_
- Continued in Attachment 6.

7. The order appealed from was made under Welfare and Institutions Code (check all that apply)

- a.  **Section 305.5** (transfer to tribal court)  
 Granting transfer to tribal court  
**Dates of hearing (specify):** \_\_\_\_\_
- b.  **Section 360** (declaration of dependency)     Removal of custody from parent or guardian     Other orders  
 with review of section 300 jurisdictional findings  
**Dates of hearing (specify):** \_\_\_\_\_
- c.  **Section 366.26** (selection and implementation of permanent plan)  
 Termination of parental rights     Appointment of guardian     Planned permanent living arrangement  
**Dates of hearing (specify):** \_\_\_\_\_
- d.  **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)  
**Dates of hearing (specify):** \_\_\_\_\_
- e.  **Section 388** (request to change court order)  
**Dates of hearing (specify):** \_\_\_\_\_
- f.  Other appealable orders relating to dependency (specify): \_\_\_\_\_  
**Dates of hearing (specify):** \_\_\_\_\_
- g.  **Section 725** (declaration of wardship and other orders)  
 with review of section 601 jurisdictional findings  
 with review of section 602 jurisdictional findings  
**Dates of hearing (specify):** \_\_\_\_\_
- h.  Other appealable orders relating to wardship (specify): \_\_\_\_\_  
**Dates of hearing (specify):** \_\_\_\_\_
- i.  Other (specify): \_\_\_\_\_

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY  <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>NOTICE OF INTENT TO FILE WRIT PETITION                  AND REQUEST FOR RECORD TO REVIEW ORDER SETTING A HEARING                  UNDER WELFARE AND INSTITUTIONS CODE SECTION 366.26                  (California Rules of Court, Rule 8.450)</b>	CASE NUMBER: _____

**NOTICE**

The juvenile court has decided it will make a permanent plan for this child that may result in the termination of your parental rights and adoption of the child. If you want a court of appeal to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only seven days from the juvenile court's decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the county welfare department, child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

1. Petitioner's name: \_\_\_\_\_
2. Petitioner's address: \_\_\_\_\_
3. Petitioner's phone number: \_\_\_\_\_
4. Petitioner is
  - a.  parent (name): \_\_\_\_\_
  - b.  legal guardian.
  - c.  county welfare department.
  - d.  child.
  - e.  other (state relationship to child or interest in the case): \_\_\_\_\_
5. Child's name: \_\_\_\_\_ Child's date of birth: \_\_\_\_\_
6. a. On (date): \_\_\_\_\_ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. Petitioner intends to file a writ petition to challenge the findings and orders made by the court on that date and requests that the clerk assemble the record.  
 b. List all known dates of the hearing that resulted in the order: \_\_\_\_\_
7. The hearing under Welfare and Institutions Code section 366.26 is set for (date, if known): \_\_\_\_\_
8.  Petitioner has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q), on form *Order After Judicial Review on Petition for Access to Juvenile Case File* (form JV-574) if available, is attached.

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

SIGNATURE OF  PETITIONER  ATTORNEY

The *Notice of Intent to File Writ Petition* must be signed by the person who intends to file the writ petition or by the attorney of record.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

APPELLATE CASE TITLE:	APPELLATE CASE NUMBER:
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**WHAT WILL HAPPEN AT THE HEARING TO MAKE A PERMANENT PLAN?**

- The court may order the termination of parental rights and adoption of the child.
- The court may order a legal guardianship for the child.
- The court may order a permanent plan of placement of the child with a fit and willing relative.
- The court may order another planned permanent living arrangement if the child is sixteen years old or older.
- The court may order a permanent plan of placement of the child in a foster home.

The above options are listed in the normal order of preference, because the main goal is to give the child a stable and permanent living situation.

**SEE WELF. & INST. CODE, § 366.26 FOR MORE INFORMATION**

**HOW DO I CHALLENGE THE COURT'S DECISION TO SET A HEARING TO MAKE A PERMANENT PLAN?**

- File this Notice of Intent to File Writ Petition and Request for Record in the juvenile court within the time specified below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get copies of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form *Petition for Extraordinary Writ* (form JV-825) to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal, you must send copies of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings. With your writ petition, you must file a Proof of Service confirming you have sent a copy of the petition to these people.

**SEE WELF. & INST. CODE, § 366.26(f); CAL. RULES OF COURT, RULES 8.450–8.452**

**WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?**

- If you were present when the court set the hearing to make a permanent plan, you must file the Notice of Intent within 7 days from the date the court set the hearing.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in California, you must file the Notice of Intent within 12 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in a state other than California, you must file the Notice of Intent within 17 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live outside the United States, you must file the Notice of Intent within 27 days from the date the clerk mailed the notification.
- If you are a party in a custodial institution you must give the Notice of Intent to custodial officials for mailing within the time specified in this box.

**SEE CAL. RULES OF COURT, RULES 8.450, 5.540(c)**

- If the order setting the hearing was made by a referee not acting as a temporary judge, you have an additional 10 days to file the Notice of Intent.

**SEE WELF. & INST. CODE, §§ 248–252; CAL. RULES OF COURT, RULES 5.538, 5.540**

**WHO MUST SIGN THE NOTICE OF INTENT?**

- Must be signed by the person who intends to file the writ petition, or
- By the attorney of record



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <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>NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER DESIGNATING OR DENYING SPECIFIC PLACEMENT OF A DEPENDENT CHILD AFTER TERMINATION OF PARENTAL RIGHTS (California Rules of Court, Rule 8.454)</b>	CASE NUMBER:

**NOTICE**

The juvenile court has ordered or denied a specific placement for this child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's placement decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the county welfare department, child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
  - a.  child's caretaker (specify dates in your care):
  - b.  child.
  - c.  county welfare department.
  - d.  legal guardian.
  - e.  other (state relationship to child or interest in the case):
5. Child's name: \_\_\_\_\_ Child's date of birth: \_\_\_\_\_
6. a. On (date): \_\_\_\_\_ the juvenile court terminated parental rights under Welfare and Institutions Code section 366.26.
- b. On (date): \_\_\_\_\_ the court made a specific placement order or denied a specific placement request that the dependent child is to reside in, be retained in, or be removed from a specific placement. Petitioner intends to file a writ petition to challenge the specific placement order or the denial of a specific placement request made by the court on that date and requests that the clerk assemble the record.
7.  Petitioner has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q), on *Order After Judicial Review on Petition for Access to Juvenile Case File* (form JV-574) if available, is attached.

**PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES**

APPELLATE CASE TITLE:	APPELLATE CASE NUMBER:
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Date:

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(TYPE OR PRINT NAME)

(SIGNATURE OF  PETITIONER  ATTORNEY)

**The *Notice of Intent to File Writ Petition* must be signed by the person intending to file the writ petition or, by the attorney of record. See below for more information.**

**HOW DO I CHALLENGE THE COURT’S PLACEMENT DECISION AFTER TERMINATION OF PARENTAL RIGHTS?**

- File this *Notice of Intent to File Writ Petition and Request for Record* in the juvenile court within the time listed below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get a copy of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal you must send a copy of the petition to all of the parties in the case, to the child’s CASA volunteer, to the child’s present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings.

**SEE CAL. RULES OF COURT, RULES 8.454–8.456**

**WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?**

- If you were present when the court granted or denied the **specific** placement, you must file the *Notice of Intent* within 7 days from the date the court granted or denied the **specific** placement.
- If you were not present in court but were given notice by mail of the court’s decision to grant or deny the **specific** placement, you must file the *Notice of Intent* within 12 days from the date the clerk mailed the notification.
- If the order granting or denying the specific placement was made by a referee not acting as a temporary judge, you must file the *Notice of Intent* within 17 days from the date the court set the hearing.

**WHO MUST SIGN THE NOTICE OF INTENT?**

- **Must be signed:**
  - **By the person who intends to file the writ petition; or**
  - **By the attorney of record;**

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 11, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Unlawful Detainers: Complaint and Answer Forms (approve revised forms UD-100 and UD-105)

*Committee or other entity submitting the proposal:*

Civil and Small Claims Advisory Committee

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

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

Approved by RUPRO: 10/28/19

Project description from annual agenda: Unlawful Detainers: New Legislation. Assembly Bill 1482 (Tenant Protection Act of 2019), with certain exceptions, prohibits an owner of residential real property from terminating without just cause the lease of a tenant who has occupied the property for at least 12 months. . . . Current forms will be revised, or new forms or rules developed as appropriate to implement these bills.

*If requesting July 1 or out of cycle, explain:*

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

# 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

W19-\_\_

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<b>Title</b> Unlawful Detainer: Complaint and Answer Forms	<b>Action Requested</b> Review and submit comments by February 11, 2020
<b>Proposed Rules, Forms, Standards, or Statutes</b> Revise forms UD-100 and UD-105	<b>Proposed Effective Date</b> September 1, 2020
<b>Proposed by</b> Civil and Small Claims Advisory Committee Hon. Ann I. Jones, Chair	<b>Contact</b> Anne M. Ronan 415-865-8933, <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a>

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes revising the Judicial Council unlawful detainer complaint and answer forms to reflect the changes in landlord-tenant law enacted in Assembly Bill 1482, the Tenant Protection Act of 2019.

### The Proposal

Assembly Bill 1482<sup>1</sup> adds several new sections to the Civil Code, one to place restrictions on terminations of tenancies (§ 1946.2<sup>2</sup>) and two relating to caps on rent increases over a 12-month period (§§ 1947.12 and 1947.13). The new laws go into effect January 1, 2020, and will remain in effect until January 1, 2030. Because the new statutory provisions place new requirements on landlords in relation to termination of tenancies, the committee is proposing revisions to the unlawful detainer (UD) complaint form and answer form.

### Complaint—Unlawful Detainer (form UD-100)

The UD complaint form was last revised 15 years ago, to incorporate amendments to Code of Civil Procedure section 1166 requiring that certain documents be attached to an unlawful detainer complaint: a copy of the rental agreement, if available; a copy of the notice of termination of tenancy; and a proof of service of that notice.

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<sup>1</sup> A copy of the bill may be viewed online at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1482](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482).

<sup>2</sup> Unless otherwise noted, all statutory references in this document are to the Civil Code.

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

New section 1946.2 places further requirements on landlords relating to terminations of tenancies: they may only terminate tenants who have been in residence for 12 months or longer with just cause, which must be stated in the notice terminating the tenancy. (§ 1946.2(a).) If the just cause is a curable lease violation, the landlord must issue an initial notice of termination with an opportunity to cure under Code of Civil Procedure section 1161, paragraph 3, and, if that period passes without a cure, then issue a second termination notice. (§ 1946.2(c).) When no-fault just cause applies, the landlord must provide relocation assistance in the form of either a credit for the last month's rent or a direct payment to the tenant in that amount. (§ 1946.2(d)(1).) If the landlord does not comply with this section, the notice of termination is void. If the landlord complies, but the tenant fails to vacate after expiration of the notice to terminate, the amount of relocation paid or credited to the tenant is recoverable as damages in the UD action. (§ 1946.2(d).)

The proposed revised *Complaint—Unlawful Detainer* (form UD-100) adds new items 7 and 8 to reflect the requirements described above.

- Item 7 specifies whether the tenancy at issue in the complaint is subject to the new law. The new law only applies when tenants have been in the property for certain periods of time (see § 1946.2(a)(1) and (2)), and many properties are exempt (see § 1946.2(e)).
- Item 8, to be completed only if the property is subject to the new law, attests to the just cause for the termination and identifies whether it was at-fault just cause or no-fault just cause. If the latter, then the plaintiff must identify which form of the required relocation assistance was paid and the amount. Item 8c allows the plaintiff to claim the relocations assistance as damages.<sup>3</sup>

Item 9 (which is in current *Complaint—Unlawful Detainer* form as item 7) has also been revised. This item addresses the service of notices of termination: the plaintiff must identify which type of notice was given from a list provided, state the date the period in the notice ended, assert that the facts in the notice are true, and provide that a copy of the notice is attached. This item has been revised to attempt to reflect the new provisions regarding the notice required in curable at-fault situations. (See new § 1946.2(c).) That section now requires that when the termination is based on “a curable lease violation,” a landlord must serve two three-day notices to quit:

- (1) A three-day notice under Code of Civil Procedure section 1161, paragraph 3 (a notice to terminate that includes the options of either curing the violation of certain covenants and conditions in the lease or giving up possession of the property); and

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<sup>3</sup> A new item has also been added to item 19, to include recovery of the relocation assistance in the prayer at the end of the complaint.

- (2) If the asserted violations are not cured, another three-day notice to terminate, this time without the option to cure.

Item 9 has been revised to attempt to reflect this double-notice provision. The list of potential notices now includes a notice to quit under Civil Code section 1946.2(c) and requires that a date for the prior required notice under such section also be stated. (See item 9(a)(6).) The instructions in item 9(e) to provide a copy of the termination notice have been revised to require a copy of both notices if required. And the instruction in item 9(f) to complete attachments showing the service of notices not otherwise described in 9 has been expanded to include the prior required notice under section 1946.2(c). Commenters are asked to consider these revisions in particular and provide comments as to whether they are appropriate. (See further discussion below in Alternatives Considered section.)

### **Answer—Unlawful Detainer (form UD-105)**

It is clear from the language of new section 1946.2(a) that lack of just cause is sufficient to block termination of a tenancy in cases where the tenants have been on the property a sufficient period of time and the real property is not exempt from the statute, and can be asserted as an affirmative defense to an unlawful detainer action. While it is not as clear that a violation of the new rent control provisions in section 1947.12, would block termination, it appears that it would at least do so under certain circumstances.<sup>4</sup> In light of this, the committee is proposing that the answer form should be revised to include as a new affirmative defense the failure to comply with the new eviction requirements or with the new rent control requirements. See *Answer—Unlawful Detainer* (form UD-105), at new item 3h. The language mirrors that already on the form (at item 3g) for violation of local rent control and eviction control ordinances.

### **Alternatives Considered**

The committee found the new double-notice requirement in certain circumstances under new section 1946.2(c), at best, ambiguous, because *both* of the notices that the landlord is required to serve on the tenant with a curable lease violation will require that the tenant has three days to quit the property. The first (the Code of Civil Procedure section 1161 notice) will include the option of curing the violations rather than leaving, but will also include the requirement that the tenant must give up possession of the property at the end of the three days if the violations are not cured. The second notice will also require the tenant to leave in three days, but at the end of a different three-day period. Because by law, a tenant is in unlawful detainer at the end of the three-day period provided in the Code of Civil Procedure section 1161 notice if still in possession of the property without having cured, and because nothing in the new statute—which expressly invokes Code of Civil Procedure section 1161—exempts the tenants from that status, it is unclear whether a landlord may start eviction procedures (file an unlawful detainer) at the end of the section 1161 notice period.

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<sup>4</sup> For example, if a landlord raises rent by 12 percent, when the maximum permitted on a particular property under this new law was 10%, and the tenant fails to pay the extra 2%, the tenant may have an affirmative defense to an eviction for failure to pay rent on the grounds that the rent increase violated section 1947.12.

The proposed forms have been revised in such a way that they may be used assuming that the landlord serves the second notice provided for in section 1946.2(c) to terminate before filing the unlawful detainer action. The committee acknowledges that this revision makes the form, already complex, even more complicated to follow.

Alternatives considered by the committee included:

- Annotating the form (which is optional) to preclude its use in cases involving curable lease violations covered by the double-notice requirement of section 1946.2(c);
- Creating a new complaint form to be used for unlawful detainers for tenancies subject to the double notice, with separate items regarding service (items 9 and 10 on the proposed form UD-100) for each of the notices; and
- Creating a new complaint form for unlawful detainers for all tenancies subject to this new law, without any revisions to the current form UD-100.

In light of the ambiguity of the statute, it is not clear that a new form would address the issues raised by the double-notice provision, and the committee decided to circulate the revised form UD-100 attached here. Specific comments are requested on whether an alternative should be developed and, if so, what it should be.

### **Fiscal and Operational Impacts**

While there will need to be training for judicial officers and court legal services and self-help offices on the new statutory requirements, the revisions to the forms should not themselves have fiscal or operational impacts on the courts.

### **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?
- Do the proposed revisions to item 9 in the revised complaint form appropriately reflect the double notice requirements in new Civil Code section 1946.2(c)?
- Should a separate complaint form be developed, either for cases involving the double - notice provisions or for all cases subject to the just cause termination provisions of Civil Code section 1946.2?

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

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

### **Attachments and Links**

1. Forms UD-100 and UD-105, at pages 6–12
2. Link A: AB 1482, at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1482](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482)





PLAINTIFF: DEFENDANT:	CASE NUMBER:
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6. 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).
- b.  is subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2).
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, prior to the rent coming due, pursuant to 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      (5)  3-day notice to quit
- (2)  30-day notice to quit                      (6)  3-day notice to quit under Civil Code, § 1946.2(c).  
Prior required notice served (*date*): \_\_\_\_\_.
- (3)  60-day notice to quit
- (4)  3-day notice to perform covenants or quit      (7)  other (*specify*): \_\_\_\_\_
- b. (1) On (*date*): \_\_\_\_\_ the period stated in the notice 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. If two notices are required under Civil Code, § 1946.2(c), 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.*)

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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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.
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)*: \_\_\_\_\_

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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**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: _____<br>b. Street address, city, and zip code: _____<br><br>_____ | c. Telephone no.: (____) ____ - ____<br>d. County of registration: _____<br>e. Registration no.: _____<br>f. Expires on (date): _____ |
|---|---|

On or about (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 OF PLAINTIFF OR ATTORNEY)
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**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)
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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>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>10-26-19</b>  <b>Not approved by the Judicial Council</b>
Plaintiff: Defendant:	
<b>ANSWER—UNLAWFUL DETAINER</b>	CASE NUMBER:

1. Defendant (each defendant for whom this answer is filed must be named and must sign this answer unless his or her attorney signs):

answers the complaint as follows:

2. **Check ONLY ONE of the next two boxes:**

- a.  Defendant generally denies each statement of the complaint. (Do not check this box if the complaint demands more than \$1,000.)
- b.  Defendant admits that all of the statements of the complaint are true EXCEPT
- (1) defendant claims the following statements of the complaint are false (state paragraph numbers from the complaint or explain below or on form MC-025):  Explanation is on MC-025, titled as Attachment 2b(1).
- (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 on form MC-025):  Explanation is on MC-025, titled as Attachment 2b(2).

3. AFFIRMATIVE DEFENSES (**NOTE:** For each box checked, you must state brief facts to support it in item 3l (page 2).)

- 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.  Plaintiff waived, changed, or canceled the notice to quit.
- e.  Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.
- f.  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.
- g.  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 3m the facts showing violation of the ordinance.)
- h.  Plaintiff's demand for provision violates the Tenant Protection Act, Civil Code section 1946.2 or 1947.12. (briefly state in item 3m the facts showing violation of the statute.)
- i.  Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.

CASE NUMBER:

## 3. AFFIRMATIVE DEFENSES (cont'd.)

- j.  Plaintiff seeks to evict defendant based on an act against defendant or a member of defendant's household that constitutes domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult. *(This defense requires one of the following: (1) a temporary restraining order, protective order, or police report that is not more than 180 days old; OR (2) a signed statement from a qualified third party (e.g., a doctor, domestic violence or sexual assault counselor, human trafficking caseworker, or psychologist) concerning the injuries or abuse resulting from these acts.)*
- k.  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.
- l.  Other affirmative defenses are stated in item 3m.
- m. Facts supporting affirmative defenses checked above *(identify facts for each item by its letter below or on form MC-025)*:
- Description of facts is on MC-025, titled as Attachment 3m.

## 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 on form MC-025)*:  
 Explanation is on MC-025, titled as Attachment 4b.
- c.  Other *(specify below or on form MC-025 in attachment)*:  
 Other statements are on 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 MC-025, titled as Attachment 5e.

CASE NUMBER: \_\_\_\_\_

6. Number of pages attached: \_\_\_\_\_

**UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)**

7. (Must be completed in all cases.) An **unlawful detainer assistant**  did not  did for compensation give advice or assistance with this form. (If defendant has received any help or advice for pay from an unlawful detainer assistant, state):

- a. assistant's name: \_\_\_\_\_
- b. telephone number: \_\_\_\_\_
- c. street address, city, and zip code: \_\_\_\_\_
- d. county of registration: \_\_\_\_\_
- e. registration number: \_\_\_\_\_
- f. expiration date: \_\_\_\_\_

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

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

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 11, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Civil Practice and Procedure: Confidential Information Form Under Code of Civil Procedure, Section 367.3 (adopt form MC-130)

*Committee or other entity submitting the proposal:*

Civil and Small Claims Advisory Committee

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

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

Approved by RUPRO: 10/28/19

Project description from annual agenda: Pseudonymous Parties in Civil Cases: Assembly Bill 800 allows active participants in the Safe at Home address-confidentiality program to participate in civil proceedings, as plaintiffs or defendants, under a pseudonym and provides other protections when that person is a party to the proceedings. Current forms will be revised or new forms or rules developed as appropriate to implement this bill.

*If requesting July 1 or out of cycle, explain:*

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



# JUDICIAL COUNCIL OF CALIFORNIA

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

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## INVITATION TO COMMENT

W19-\_\_

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<b>Title</b> Civil Practice and Procedure: Confidential Information Form Under Code of Civil Procedure Section 367.3	<b>Action Requested</b> Review and submit comments by February 11, 2020
<b>Proposed Rules, Forms, Standards, or Statutes</b> Adopt form MC-130	<b>Proposed Effective Date</b> September 1, 2020
<b>Proposed by</b> Civil and Small Claims Advisory Committee Hon. Ann I. Jones, Chair	<b>Contact</b> Anne M. Ronan 415-865-8933 anne.ronan@jud.ca.gov

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### Executive Summary and Origin

Assembly Bill 800 provides that a party who is participating in the Safe at Home program (an address confidentiality program run by the Secretary of State) may appear pseudonymously in a civil action, and that the true name of the party as well as any other identifying characteristics are to be kept confidential by the court and other parties in the case. The Civil and Small Claims Advisory Committee proposes a new form to be used by pseudonymous parties to provide their true names to the courts and the other parties to the action, and for all parties to the action to use to provide any other identifying characteristics that have been redacted from pleadings or other papers filed with the court.

### Background

The Safe at Home address confidentiality program administered by the Secretary of State is intended to protect the privacy and safety of individuals who have been subject to domestic violence, sexual assault, stalking, human trafficking, or elder or dependent abuse. (Gov. Code, § 6205.) It provides victims with the ability to maintain a confidential mailing address in order to shield their location from abusers. Assembly Bill 800<sup>1</sup> adds section 367.3 to the Code of Civil Procedure,<sup>2</sup> effective January 1, 2020, providing that a party who is an active participant in the Safe at Home address confidentiality program (defined in the bill as a protected party) may

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<sup>1</sup> A copy of AB 800 (Stats. 2019, ch. 439) bill is available online at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB800](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB800).

<sup>2</sup> Unless otherwise noted, all statutory references in this document are to the Code of Civil Procedure.

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

appear in a civil action under a pseudonym (Jane Doe, John Doe, or Doe) and may exclude or redact from all documents the party files any identifying characteristics, including name, addresses (physical or online), age, or marital status. (See full list at § 367.3(a).)

Under the new law, the protected party who files pseudonymously must file with the court and serve all other parties to the proceeding with a “confidential information form” that includes the protected person’s true name and other identifying characteristics that have been excluded or redacted from the document. The court must keep the information, including the party’s true name, confidential. (§ 367.3(b)(1).)

Once a party to a proceeding has been served with this confidential information form, that party and that party’s attorneys must use the pseudonym in all pleadings and other documents filed or served in the action, and must redact any identifying characteristics of the protected party from any documents filed in the case, serving and filing with such documents a confidential information form containing the factual information. (§ 367.3(b)(2).)

The new law also authorizes courts, on motion of a protected person, to order a record or part of a record to be filed under seal in accordance with rules 2.550 and 2.551 of the California Rules of Court. (§ 367.3(b)(4).)

## **The Proposal**

The Civil and Small Claims Advisory Committee is proposing a new *Confidential Information Form Under Code of Civil Procedure Section 367.3* (form MC-130).<sup>3</sup> This form is to be served and filed by a party who is an active participant in the Safe at Home program (“protected party”) who decides to file pseudonymously. The form is to inform the court and the other parties of the protected party’s true name and of any other identifying characteristics (such as address) that have been excluded or redacted from the papers filed with the court. There is a declaration included on the form in which the protected party can assert the required active participation in the Safe at Home program and agree to provide evidence of that participation if required by the court.

The form will also provide notice to the other parties in the case that the protected party is invoking this new law to keep all identifying characteristics, including a name, confidential. While a pseudonymous *plaintiff* must indicate they are invoking this confidentiality in all capital letters on the front of the complaint when they file an action under this section (see new § 367.3(c)), there is no such requirement placed on defendants or respondents who are filing pseudonymously. Receipt of this form is therefore likely to be the primary way plaintiffs and

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<sup>3</sup> The form is similar to *Confidential Information Form Under Civil Code Section 1708.85* (form MC-125) adopted by the council a few years ago for use in pseudonymous cases filed under Civil Code section 1708.85. AB 800 is very similar to provisions authorizing pseudonymous filing in cases challenging unauthorized distribution of material exposing private body parts or sexual acts. (See Civ. Code, § 1708.85(f).) The primary difference between that statute and this new one is that this one allows all parties (not only plaintiffs) to file pseudonymously, and to do so in cases beyond general civil actions, including family and probate matters.

petitioners will learn that a defendant or respondent, or an objector in a probate proceeding, is acting under section 367.3. For this reason, the form notes at the top that instruction for the filer *and* recipient are on the back of the form. Those instructions explain the pseudonymous filing procedures—including the responsibility of the other parties to keep the pseudonymous filer’s name and identifying characteristics confidential—and to use this form if needed to provide the court with information required to be redacted from future filings.

Because the new statute requires that a “confidential information form” be filed with a pseudonymous pleading whenever one is filed, which can occur as soon as the law becomes operative in 2020, the committee is proposing a September 1, 2020 effective date.<sup>4</sup>

## **Alternatives Considered**

### **Establishing active participation in the Safe at Home program**

The new law provides that “protected persons” may file pseudonymously and defines a protected person as “a person who is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.” The committee considered the alternative of including a requirement in this form, or by rule of court, that a party must establish this active participation before being allowed to file pseudonymously. However, because there is no express provision in the new law requiring the party to establish active participation in the program,<sup>5</sup> and because the time involved in establishing such proof in advance of filing a complaint might impact statute of limitations deadlines, the committee decided not to mandate proof of participation prior to filing, but to instead include a declaration under penalty of perjury in the new form asserting active participation in the program. The committee seeks comments on this point.

### **Pseudonymous defendants**

As noted above, this new law allows not only plaintiffs, but all parties, including defendants and respondents, to make use of the pseudonymous filing and confidentiality provisions of section 367.3. However, there is nothing in the new statute that addresses what is to be done with a publicly filed complaint or petition that has the defendant’s true name and other identifiers on it after a defendant files using a pseudonym and invokes the confidentiality provisions of this new law. It is clear that, going forward, the other side must use the pseudonym and keep information

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<sup>4</sup> The statute gives the council until January 1, 2021, to adopt or revise as appropriate rules and forms to implement this law.

<sup>5</sup> Compare, for example, the provision in the name change statutes allowing Safe at Home participants to file pseudonymously for a name change in Code of Civil Procedure section 1277(b)(1):

If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that the petitioner is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

Because of that provision in the name change statutes, the Secretary of State developed a process of issuing letters to active participants who informed the office that they were seeking a confidential name change. AB 800 provides that the council shall coordinate with the Secretary of State on any appropriate rules to implement this action and the committee will reach out to do so in the coming months.

confidential. However, that party is nowhere required to withdraw or amend the original pleading with the true name, nor is the court authorized to redact or change the original pleading in any way based on the filing of a confidential information form by the responding party.

The law states that, “The court shall keep the confidential information form confidential.” (See new § 367.4(b)(1).) The committee considered what this means when the form is filed by a defendant rather than a plaintiff. Obviously, the form itself is to be kept confidential. But does it also mean that from that time forward the court should change the case name on its register of actions, using the Doe name rather than the true name of the defendant? That may have been the intent, but nowhere does the statute specify this result.

Ultimately, the committee concluded that a protected party could obtain the desired confidentiality of information in prior-filed documents and court records, so long as that party takes further steps. In addition to allowing pseudonymous filing, the statute allows the court, upon motion of the protected person, to seal all or part of a record, under the California Rules of Court regarding sealing (rules 2.550 and 2.551). ( See § 367.3(b)(4).) Under this provision, a pseudonymous defendant could move to have the original complaint containing the defendant’s true name and potentially other identifying characteristics sealed, lodging with the motion a redacted copy of the complaint which could be placed in the public record in place of the original. A sealing order may include the sealing not only of the original complaint but of any other information in court records (including the register of action) found to be confidential. (See Cal. Rules of Court, rule 2.551(e)(2).)

The committee included in the instructions on the new form a warning to pseudonymous parties that the requirement that the other side use the pseudonym and redact or exclude other identifying characteristics is prospective only. (See form MC-130, at Instructions, item 3.) The instruction also notes that if the protected party wants to protect the name and identifiers in the publicly filed document, a motion to seal will be necessary. In addition, the committee intends to develop forms for use by a protected party who wants the records sealed in this type of action.

### ***Form prefix***

Although the proposed form is being circulated with prefix MC (standing for Miscellaneous), the committee will, as it develops the forms relating to motions to seal, consider whether all the new forms (including this one) should be assigned to a single form category, with its own prefix. This could make the forms easier for a Safe at Home participant to locate.

### **Fiscal and Operational Impacts**

A confidential information form is expressly required in AB 800. As a result of the enactment of that law, clerks, judicial officers, and court legal services and self-help offices will require training on the new pseudonymous filing process permitted for participants in the Safe at Home program, and on the level of confidentiality to be accorded to certain information relating to such parties. New training materials and internal procedures will need to be developed. Changes may need to be made to computerized case management systems to allow for changing the name of

the case in the public register of actions if a party involves these new provisions after a case has been initiated. This proposal is intended to assist parties and courts in complying with the new procedures.

### **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 proposed form includes a declaration by the protected party to establish, at least initially, a party's status as an active participant of the Safe at Home program. Should an alternative procedure should be used and, if so, what would that alternative be?
- In a case where a protected party invokes the confidentiality protection of section 367.3 *after* an initial pleading has been filed by another party, can a motion to seal under rule 2.551 provide sufficient protection of the protected party's confidential information, or should an alternative be considered? If an alternative is appropriate, describe what that should be.
- Should all Judicial Council forms to be used only by participants in the Safe at Home program be maintained in a single category and given the same identifying form prefix?

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

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

### **Attachments and Links**

1. Form MC-130 at pages 6–7
2. Link A: AB 800 at

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB800](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB800)

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>2019-12-04</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:	
SHORT TITLE:	
<b>CONFIDENTIAL INFORMATION FORM UNDER CODE OF CIVIL PROCEDURE SECTION 367.3</b>	CASE NUMBER:
TO COURT CLERK: THIS FORM IS CONFIDENTIAL TO PARTIES: USE THIS FORM ONLY IF A PARTY IS A PARTICIPANT IN THE SAFE AT HOME PROGRAM	

**(Instructions for filer and recipient are on the back of this form.)**

1. This case includes a party who is enrolled in the Safe At Home address confidentiality program with the Secretary of State, and who is filing using a pseudonym (Jane Doe, John Doe, or Doe) under Code of Civil Procedure section 367.3.
2. The document that this form is being filed with is a (check one):
  - a.  complaint, cross-complaint, or petition.
  - b.  answer, response, objection, or other first paper.
  - c.  discovery document.
  - d.  other (describe):
3. **Name of Party Using Pseudonym**
  - a.  Plaintiff/petitioner is using a pseudonym.
  - b.  Defendant/respondent/objector is using a pseudonym.
  - c. (Complete the following for each party using a pseudonym.)

Pseudonym used

True name of party

4. **Redacted Information** (complete for any pleading or document that includes redactions or blanked-out information)

LOCATION OF REDACTED INFORMATION (page, and item or line number where the redaction occurs)	INFORMATION REDACTED (text that has been blacked out)
a.	
b.	
c.	

Check here if there is not enough space for all the redacted material, and continue on an attached sheet titled Attachment 4.

SHORT TITLE:	CASE NUMBER:
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5. Number of pages attached: \_\_\_\_\_

Date:

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(TYPE OR PRINT NAME)
(SIGNATURE)

### Declaration by Pseudonymous (Doe) Party

I (*true name*) declare under penalty of perjury under the laws of the State of California that I am an active participant in the Safe at Home confidential address program with the California Secretary of State. I agree to provide proof of my participation if required to do so by the court.

Date:

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(TYPE OR PRINT TRUE NAME)
(SIGNATURE)

### INSTRUCTIONS

**(Note: This form may be used only in cases in which one or more parties are enrolled in the Safe at Home program and using a pseudonym under Code of Civil Procedure section 367.3.)**

- The Safe At Home program is an address confidentiality program run by the Secretary of State. Parties who are active participants in that program may use a pseudonym (Jane Doe, John Doe, or Doe) in place of the party's true name in a civil action. (Plaintiffs or petitioners who do this must state on the front of the complaint "ACTION BASED ON CODE OF CIVIL PROCEDURE SECTION 367.3.") Pseudonymous parties may also exclude or redact (black out) other identifying characteristics (defined below) from all pleadings and documents they file, and instead provide that information confidentially to the court and other parties using this form. (See Code Civ. Proc., § 367.3(b)(1).) In such cases, papers filed by other parties in the case also **must** be worded so as to protect the name or other identifying characteristics of the Doe party from public revelation, or have that information redacted (blacked out on the document). Any intentional violations of this law are subject to sanctions. (See Code Civ. Proc., § 367.3(b)(2).)
- This form must be served and filed the first time a party uses a pseudonym (a Doe name) in place of that party's name in a pleading, with items 2 and 3 completed to provide the court and other parties with the Doe party's real name, and item 4 completed if there are other identifying characteristics redacted or blacked out from the pleading. **A party using a pseudonym must also sign the declaration above these instructions, confirming active participation in the Safe at Home program.** The Doe party must also serve and file this form anytime the party files a document in the case with identifying characteristics redacted. Counsel for a party filing under a pseudonym may use the pseudonym for the name of the represented party in the attorney/party information box at the top of this form and any pleadings filed later.
- Warning to pseudonymous party:** If a pseudonymous party initially files using a Doe name after another party has already filed something with the court (for example, if the pseudonymous party is a defendant, respondent, or objector), the statute does not automatically require that first party or the court to redact the true name or other identifying characteristics from documents or records already in the public files. A pseudonymous party who wants to restrict access to the party's name or other identifying characteristics in a document that has already been filed must make a motion (request) that the court seal the record or part of it under rules 2.550 and 2.551 of the California Rules of Court. (See Code Civ. Proc., § 367.3(b)(3).)
- Warning to recipient of this form:** A party who is served with this form is subject to Code of Civil Procedure section 367.3 and required to keep the information on the form, including the pseudonymous (Doe) party's true name, confidential. In addition, a party served with this form is required to use the Doe party's pseudonym in all pleadings and documents in the case from that point forward, to redact (black out) any other identifying characteristics from any pleading or document filed with the court after that point, and to use this form to provide to the court and other parties any information that has been redacted. A completed form MC-130 must be served and filed together with any redacted document.
- "Identifying characteristics" that the party using the pseudonym 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 other party, race or ethnic background, telephone number, email address, social media profiles, online identifiers, contact information, or any other information, including images of the party using a pseudonym from which that party's identity can be discerned. (Code of Civ. Proc., § 367.3(a)(1).) (See Code Civ. Proc., § 367.3(a)(2) for a list of "online identifiers.")

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**       **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 11, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Civil Practice and Procedure: Enforcement of Judgment Forms--Exemptions (revise forms EJ-130, EJ-150, EJ-155, and EJ-156; adopt forms EJ-157, EJ-157 INFO, EJ-158, and EJ-159)

*Committee or other entity submitting the proposal:*

Civil and Small Claims Advisory Committee

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

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

Approved by RUPRO: 10/28/19

Project description from annual agenda: Exemptions to Enforcement of Money Judgments: Senate Bill 616 expands and revises certain exemptions available to judgment debtors and the process under which they may claim exemptions. Current forms will be revised, or new forms or rules developed as appropriate to implement this bill

*If requesting July 1 or out of cycle, explain:*

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

Form EJ-155, the list of exemptions under federal and state law, is being further revised to up-date some of the citations. We will provide you the revised copy as soon as it is available.



# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

W19-\_\_

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<b>Title</b>	<b>Action Requested</b>
Civil Practice and Procedure: Enforcement of Judgment Forms—Exemptions	Review and submit comments by February 11, 2020
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Revise forms EJ-130, EJ-150, EJ-155, and EJ-156; adopt forms EJ-157, EJ-157-INFO, EJ-158, and EJ-159.	September 1, 2020
<b>Proposed by</b>	<b>Contact</b>
Civil and Small Claims Advisory Committee Hon. Ann I. Jones, Chair	Anne M. Ronan, Attorney 415-865-8933 anne.ronan@jud.ca.gov

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### Executive Summary and Origin

Recently enacted Senate Bill 616 amends several laws regarding exemptions to enforcement of civil money judgments. The amendments have two primary purposes: to extend the time for making and opposing claims of exemption, and to create a new automatic exemption for deposit accounts. A new automatic exemption for Federal Emergency Management Agency funds provided to a judgment debtor was also created. The Civil and Small Claims Advisory Committee proposes that the Judicial Council revise several enforcement of judgment forms and approve several new ones to implement the new provisions.

### The Proposal

The proposal would revise the following forms, effective September 1, 2020, to reflect the new provisions enacted in SB 616:

- *Writ of Execution* (form EJ-130);
- *Notice of Levy* (form EJ-150);
- *Exemptions From the Enforcement of Judgments* (form EJ-155); and
- *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156).

The proposal also recommends four new forms, also effective September 1, 2020, to implement the new ex parte process set out in new section 704.220(e) of the Code of Civil Procedure:

- *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157);

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

- *Instructions for Ex Parte Application for Order on Deposit Account Exemptions* (form EJ-157-INFO);
- *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).

Copies of the proposed forms are attached at pages 9–25.

### **Change in time frame for making or opposing claims of exemption (form EJ-150)**

SB 616<sup>1</sup> amends section 703.520(a) of the Code of Civil Procedure<sup>2</sup> to provide that a judgment debtor may make a claim of exemption by filing it with the levying officer within 15 days after the date the notice of levy has been served, or within 20 days if service is by mail. (Under current law, the time frame is within 10 days or 15 days if service is by mail). That same section has also been amended to provide that the date of filing is either (1) the date the levying officer receives the claim; or (2) the postmark date, if the claim was given a tracking number and mailed by the US Post Office. The proposed *Notice of Levy* (form EJ-150) has been revised to reflect these changes. See form EJ-150, page 2, *Information for Judgment Debtor*, at paragraph 2.<sup>3</sup>

### **New automatic exemptions**

SB 616 also creates two new exemptions: section 704.220, creating an automatic exemption for deposit accounts generally, and section 704.230, creating an automatic exemption for money provided to the judgment debtor by the Federal Emergency Management Agency. The statute directs the council to adopt or revise forms to implement the new provisions regarding deposit accounts.<sup>4</sup> The revised and new forms discussed below are primarily the result of that mandate.

### ***Existence and amount of new exemptions (forms EJ-155 and EJ-156)***

The Judicial Council is required to maintain a list of the state and federal exemptions from enforcement of a money judgment, with citations to the relevant statute, and information as to how to find the amount of the exemptions.<sup>5</sup> This list is set out in *Exemptions From the Enforcement of Judgments* (form EJ-155). The committee proposes revising form EJ-155 by adding “Deposit Accounts (generally)” under the existing category for deposit accounts, which has, until now, been limited to specific types of accounts for which exemptions have been

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<sup>1</sup> Sen. Bill 616 (Stats. 2019, ch. 552), [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB616).

<sup>2</sup> All statutory references herein are to the Code of Civil Procedure unless otherwise noted.

<sup>3</sup> Other changes to this form are discussed below. Parallel amendments were made to the statutory provisions relating to the judgment creditor’s opposition (if any) to the claim of exemption (see § 703.550), but because information about such opposition is not included on any Judicial Council forms, no revisions are needed to reflect those statutory changes.

<sup>4</sup> § 704.220(g).

<sup>5</sup> § 681.030(c).

available. An item has also been added to this form for the new exemption for money provided to the judgment debtor by the Federal Emergency Management Agency.<sup>6</sup>

The dollar amounts of certain exemptions are set out in *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). By statute, the Judicial Council is responsible for adjusting the dollar amounts of these exemptions in April of every third year based on changes in the consumer price index and responsible for publishing the revised amounts.<sup>7</sup> Even though the new deposit account exemption will, by the terms of the statute, be adjusted annually by the Department of Social Services,<sup>8</sup> rather than triannually by the council, the committee proposes adding the amount of the new exemption to form EJ-156, along with the information that this exemption amount will be adjusted annually. The current amount of the exemption is \$1,724,<sup>9</sup> but the committee expects that figure to be adjusted effective July 2020, and the amount on the form will be modified as appropriate. The form will need to be revised annually after that point.

A new footnote has also been added to the form, noting that although the new exemption does not preclude or reduce any other exemption applicable to deposit accounts, if the exemption amount for the deposit account applicable under other automatic exemptions—such as those applicable for direct deposit of social security benefits or public benefits—is greater under the other exemptions, then those apply instead of this one.<sup>10</sup>

### ***Exceptions to the deposit account exemption (form EJ-130)***

Although this new deposit account exemption is an automatic exemption, which does not require a party to make a claim for the exemption to be applied by a financial institution, the exemption does not apply in all cases. Enforcement of judgments for wages owed, child or spousal support, or liability to the state government are not subject to the exemption.<sup>11</sup> In order to ensure that financial institutions are aware of whether a levy is based on a judgment to which this exemption does not apply, the new law amends section 699.520, mandating that the content of a writ of

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<sup>6</sup> This is the only proposed form revision relating to new section 704.230.

<sup>7</sup> § 703.150; and see form EJ-156.

<sup>8</sup> The amount of the new direct deposit exemption is not stated as a dollar amount, but defined in section 704.220(a) as:

an amount equal to or less than the minimum basic standard of adequate care for a family of four for Region 1, established by Section 11452 of the Welfare and Institutions Code and as annually adjusted by the State Department of Social Services pursuant to Section 11453 of the Welfare and Institutions Code.

Welfare and Institutions Code section 11453 provides that the amounts in section 11452 are to be adjusted annually, effective July 1 by the Department of Social Services.

<sup>9</sup> See Dept. of Social Services, All County Letter No. 19-47 (issued May 15, 2019) (available at [www.cdss.ca.gov/Portals/9/ACL/2019/19-47.pdf?ver=2019-05-15-133708-453](http://www.cdss.ca.gov/Portals/9/ACL/2019/19-47.pdf?ver=2019-05-15-133708-453)).

<sup>10</sup> § 704.220(b).

<sup>11</sup> § 704.220(c).

execution now include information as to whether the underlying judgment is for wages owed or child or spousal support.<sup>12</sup>

This information has been added to the revised *Writ of Execution* (form EJ-130; see the instruction following item 5 and new item 22 on back.) An instruction has been put on the front of the form (the complete item could not fit there) so that it will be seen when a party completing the form would otherwise only complete the first page.

### **Notice of Levy (form EJ-150)**

SB 616 expressly requires that a levy against a deposit account include a written description of the requirements of new section 704.220.<sup>13</sup> The information provided on the back of the *Notice of Levy* (form EJ-150) has been expanded to include this information, as follows:

- Information for Judgment Debtor—New item 3 notes that financial institutions should be applying automatic exemptions and directs the reader below for more information.
- Information for Person Other Than Judgment Debtor—New item 2 provides a similar advisement to those who have received the levy.
- Information About Deposit Accounts—This section has been added to:
  - Describe the new exemption and list the exceptions thereto, noting that no claim is required (§ 704.220(a));
  - Note that if there are other applicable automatic exemptions, the larger of the exemptions should be applied (§ 704.220(b)) and to give examples of such other exemptions; and
  - Advise both judgment debtor and judgment creditor that if they want to designate to which of multiple accounts the automatic exemption should apply, the party should file an ex parte application with the court, as provided in section 704.220(e). It also advises they do so promptly, because nothing in the new section requires the financial institution to delay in determining to which of multiple accounts to apply the exemption.

In addition, an item identical to new item 22 on the *Writ of Execution* has been added to form EJ-150, as well (see new item 2), to communicate clearly to the financial institution that receives the levy whether the judgment is excepted from the automatic exemption for deposit accounts.

### ***New Ex Parte Application Process (forms EJ-157, EJ-157-INFO, EJ-158, and EJ-159)***

SB 616 added provisions for determining to which deposit account this new exemption should be applied in situations where a judgment debtor has more than one deposit account. See

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<sup>12</sup> The new law does not mandate that the writ of execution include whether the underlying action is based on a state claim. Because the state has a separate set of levy forms that, by their use, will indicate to the financial institution that the underlying judgment is for liability to the state, identifying whether the exemption applies to such judgments should not be a problem.

<sup>13</sup> § 704.220(d).

704.220(e)(2) (regarding a judgment debtor having multiple accounts in one bank) and (e)(3) (regarding a judgment debtor having accounts in more than one bank). If the former (multiple accounts in a single institution), either party may apply for an order determining how and to which accounts the exemption is to be applied. If the latter (the judgment debtor has deposit accounts in multiple financial institutions), the judgment creditor must, and the judgment debtor may, apply for a determination as to which account the exemption is to apply to. If no order is served on a financial institution designating the specific account, each institution is to apply the exemption.

The statute provides that the parties may obtain a determination by filing “an ex parte application . . . for a hearing to establish how and to which account the exemption should be applied.” This instruction is somewhat confusing because generally a party either (1) makes an ex parte application for an order and no hearing is held or (2) moves for an order with a noticed hearing date. The committee has interpreted the new process as allowing either a hearing on shortened time or a true ex parte order, with no further hearing, if the circumstances warrant (i.e., the applicant can show irreparable harm to the property being levied if immediate action is not taken).<sup>14</sup> The proposed forms reflect this interpretation.

The statute is somewhat confusing as to exactly what kind of order a judgment debtor with multiple accounts may obtain. The statutory language is clear that either party can obtain an order determining *to which* account the exemption should apply,<sup>15</sup> but the committee also considered whether a judgment debtor may obtain an order that the exemption be spread *among* multiple accounts. Although the legislative history on this point is contradictory,<sup>16</sup> section 704.220(e)(1) states: “the exemption applies per debtor, not per account.” In light of that provision and the language in the statute that the court is to determine “*how* and to which account the exemption should be applied (italics added),” the committee is proposing forms that allow for designation of the exemption spread among accounts, as well as to a single account. The committee is seeking specific comments on this point.

### ***Form EJ-157***

The proposed *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157) is to be signed under penalty of perjury, and includes the following:

- Check boxes at the top to indicate whether the application is being made for an ex parte order or for a hearing at which the court can make the requested designation;

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<sup>14</sup> The applicant need not show irreparable harm or immediate danger to file the application because the new statute expressly allows for an ex parte application. (See Cal. Rules of Court, rule 3.1202(c).) But because the new statute provides for a hearing on the application, a factual showing is necessary if a party is seeking to avoid the hearing.

<sup>15</sup> § 704.220(e)(2) and (3).

<sup>16</sup> An Assembly Floor Analysis (09/06/19) summarizes the bill as, among other things, providing a procedure for seeking a court order allocating the exemption among multiple accounts. On the other hand, a Senate Floor Analysis (09/10/19) states on page 3 that the new law “limits the automatic exemption to one bank account per debtor.” Both reports are available at [http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB616).

- A pointer to the new information sheet, noting that it describes the notice and service requirements;
- A statement explaining why the party is making the application;
- Identification of the writ of execution and notice of levy that the application pertains to, and instructions to attach copies;
- Designation of how and to which account the applicant is requesting that the exemption be applied; and
- The factual basis for the request that an order be issued without any further hearing, if there is such a request.

### ***Form EJ-157-INFO***

Because the committee expects self-represented parties to be among those making the applications, a detailed *Instructions for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157-INFO) is included with the new proposed forms. The instruction sheet is intended to help a party understand the requirement of an ex parte application, in general, as well as this new application, in particular. The party is directed to check with the court regarding scheduling of ex parte applications and any applicable local rules, and to review the statewide rules of court relating to ex parte applications—particularly the rules on notice, service, and appearance. (Cal. Rules of Court, rules 3.1203–3.1207.) The rules are also summarized in the instructions.

The instruction sheet also includes a warning, in bold, that a judgment debtor applicant should act promptly, because nothing in the new law instructs a financial institution to defer complying with a notice of levy to await a court order.

### ***Form EJ-158***

Because the requirements of notice and service of ex parte applications are complex, the proposal includes a *Declaration Regarding Notice and Service for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-158). This form is based on a similar Judicial Council form declaration regarding notice and service of ex parte applications in family law cases (form FL-303). It contains all the content required for notice and service in compliance with rules 3.1203 and 3.1204.

### ***Form EJ-159***

Finally, the proposed forms also include an *Order on Application for Designation of Deposit Account Exemption* (form EJ-159). The proposed order is designed to be used by the court for several alternative rulings:

- To deny the application;
- To set a hearing on shortened time (with an item for setting the hearing, plus items for time for service and time for filing any opposition);
- To rule on the application ex parte without a further hearing; or
- To rule on the application after hearing.

Each type of ruling is a separate item (see items 3, 4, 5, and 6), with a check box to indicate which ruling the court is making. If the court were making a substantive ruling (checking item 5 or 6), the court would then proceed to items 7 (findings) and 8 (designating the account or accounts to which the exemption is to apply).

### **Alternatives Considered**

Because, as of September 1, 2020, current forms EJ-130, EJ-150, and EJ-156 would be out of compliance with law if not revised, the committee did not consider the alternative of not revising those forms.

In addition, because the new statute expressly mandates the council to revise or adopt forms to implement the provisions in new section 704.220, the committee did not consider not developing the new proposed forms. The committee did, however, consider alternatives while developing those forms. In addition to those discussed above, the committee considered whether to include in the application and order items addressing a potential stay of enforcement of judgment while the application was pending for designation of which deposit account to apply the amount to. The committee declined to do so for a couple of reasons.

First, nothing in the new statute authorizes a stay of enforcement: no provision requires the bank to delay providing funds to the levying officer to allow for the filing of the ex parte application, nor the financial institution (or levying officer) to be given notice of an application or to take any action (or delay taking any action) if such notice is provided.

Second, the exemption is to be applied automatically, meaning that a judgment debtor should still have the exempted funds in the bank without a stay, even if the funds are not in the specific account that the judgment debtor prefers. In fact, if the judgment debtor has deposit accounts at multiple financial institutions, \$1,784 will be in each account unless the judgment creditor obtains an order under section 704.220(e)(3) that the exemption be applied to a particular account.

The committee requests specific comments on this point.

### **Fiscal and Operational Impacts**

Because SB 616 requires a new item in the writ of execution and provides a new ex parte application, the change in law will result in the need for additional training for clerks, judicial officers, and court legal services and self-help offices on the change in the writ form and the new type of application. The new forms proposed here are intended to assist parties and courts in complying with the new procedures.

### **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 it appropriate for the application and order to include items allowing the exemption to be allocated among multiple accounts? If not, why not?
- Would adding an optional request for stay of enforcement of judgment to the new *ex parte* application form be appropriate or helpful?

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

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

### **Attachments and Links**

1. Forms EJ-130, EJ-150, EJ-155, EJ-156, EJ-157, EJ-157-INFO, EJ-158, and EJ-159
2. Link A: Sen. Bill 616,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB616)
3. Link B: Bill Analysis of Sen. Bill 616,  
[http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB616](http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB616)



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): <input type="checkbox"/> ORIGINAL JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>12-02-19</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:	CASE NUMBER:
<b>WRIT OF</b> <input type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input type="checkbox"/> Real Property	<input type="checkbox"/> Limited Civil Case (including Small Claims) <input type="checkbox"/> Unlimited Civil Case (including Family and Probate)

1. To the Sheriff or Marshal of the County of:

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accordance with CCP 699.080 or CCP 715.040.

3. (Name):

is the  original judgment creditor     assignee of record    whose address is shown on this form above the court's name.

4. Judgment debtor (name, type of legal entity if not a natural person, and last known address):

9.  See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10.  This writ is issued on a sister-state judgment.

**For items 11–17, see form MC-012 and form MC-013-INFO.**

11. Total judgment (as entered or renewed)    \$ \_\_\_\_\_

12. Costs after judgment (CCP 685.090)    \$ \_\_\_\_\_

13. Subtotal (add 11 and 12)    \$ \_\_\_\_\_

14. Credits to principal (after credit to interest)    \$ \_\_\_\_\_

15. Principal remaining due (subtract 14 from 13)    \$ \_\_\_\_\_

16. Accrued interest remaining due per CCP 685.050(b) (not on GC 6103.5 fees)    \$ \_\_\_\_\_

17. Fee for issuance of writ    \$ \_\_\_\_\_

18. Total (add 15, 16, and 17)    \$ \_\_\_\_\_

19. Levying officer:

a. Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees)    \$ \_\_\_\_\_

b. Pay directly to court costs included in 11 and 17 (GC 6103.5, 68637; CCP 699.520(i))    \$ \_\_\_\_\_

20.  The amounts called for in items 11–19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

\_\_\_\_\_

\_\_\_\_\_

Additional judgment debtors on next page

5. Judgment entered on (date):

(See type of judgment in item 22.)

6.  Judgment renewed on (dates):

7. Notice of sale under this writ

- a.  has not been requested.
- b.  has been requested (see next page).

8.  Joint debtor information on next page.

[SEAL]

Issued on (date): \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**NOTICE TO PERSON SERVED: SEE PAGE 3 FOR IMPORTANT INFORMATION.**

Plaintiff: Defendant:	CASE NUMBER:
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21.  Additional judgment debtor (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.  other.

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


24.  Joint debtor was declared bound by the judgment (CCP 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>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> |
|---|---|


c.  Additional costs against certain joint debtors are itemized  Below  on Attachment 23c.

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* was served in compliance with CCP 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 CCP 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 CCP 415.46 and 1174.3(a)(2).)
  - (4) If the unlawful detainer resulted from a foreclosure (item 24a(3)), or if the *Prejudgment Claim of Right to Possession* was not served in compliance with CCP 415.46 (item 24a(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 CCP 1174.3 on the following dates (specify):

Item 25 continued on next page

Plaintiff: Defendant:	CASE NUMBER:
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- 25. b.  Possession of personal property.  
 If delivery cannot be had, then for the value (*itemize in 24e*) 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 24e.

**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 CCP 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.

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and address):  
After recording, return to:

TEL NO.: \_\_\_\_\_ FAX NO. (optional): \_\_\_\_\_

E-MAIL ADDRESS (optional): \_\_\_\_\_

ATTORNEY FOR  JUDGMENT CREDITOR  ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY AND ZIP CODE: \_\_\_\_\_

BRANCH NAME: \_\_\_\_\_

DRAFT

12-02-19

Not approved by the Judicial Council

FOR RECORDER'S USE ONLY

PLAINTIFF: DEFENDANT:	LEVYING OFFICER (name and address):
<b>NOTICE OF LEVY</b> under Writ of <input type="checkbox"/> Execution (Money Judgment) <input type="checkbox"/> Sale	LEVYING OFFICER FILE NO.: _____ COURT CASE NO.: _____

TO THE PERSON NOTIFIED (name):

- The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:
  - Judgment debtor (name):
  - The property to be levied upon is described
    - in the accompanying writ of possession or writ of sale.
    - as follows:

2. The judgment is for (check one)

- wages owed.  child/spousal support.  other

3. The amount necessary to satisfy the judgment creditor's judgment is

- |  |    |
|--|----|
| a. Total amount due (less partial satisfactions) ..... | \$ |
| b. Levy fee .....                                      | \$ |
| c. Sheriff's disbursement fee .....                    | \$ |
| d. Recoverable costs .....                             | \$ |
| e. Total (a through d) .....                           | \$ |
| f. Daily interest .....                                | \$ |

4. You are notified as

- a judgment debtor.
- a person other than the judgment debtor (state capacity in which person is notified):

(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on page two.)

Notice of Levy was

- |   |  |
|---|--|
| <input type="checkbox"/> mailed on (date):    | <input type="checkbox"/> posted on (date):   |
| <input type="checkbox"/> delivered on (date): | <input type="checkbox"/> filed on (date):    |
|   | <input type="checkbox"/> recorded on (date): |

Date:

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

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

- Levying officer  Registered process server

SHORT TITLE:

LEVYING OFFICER FILE NO.:

COURT CASE NO.:

**–INFORMATION FOR JUDGMENT DEBTOR–**

1. The levying officer is required to take custody of the property described in item 1 in your possession or under your control.
2. You may claim any available exemption for your property. A list of exemptions is attached. **If you wish to claim an exemption for personal property, you must do so within 15 days after this notice was delivered to you or 20 days after this notice was mailed to you** by filing a claim of exemption and one copy with the levying officer as provided in section 703.520 of the Code of Civil Procedure. **The date of filing is calculated as the date it is received by the levying officer, or the date of the postmark if mailed and assigned a tracking number by the US Postal Service. If you do not claim an exemption, you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.**
3. There are automatic exemptions that financial institutions should apply to a deposit account before providing funds to the levying officer. See below for more information.
4. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
5. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
6. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
7. All sales at an execution sale are final; there is no right of redemption.

**– INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR –**

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien, which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. If you are a financial institution, you are required to apply applicable exemptions to deposit accounts. See below.
3. You must complete the accompanying Memorandum of Garnishee.
4. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property under sections 720.010–720.800 of the Code of Civil Procedure.
5. **Make checks payable to the levying officer.**

**– INFORMATION ABOUT DEPOSIT ACCOUNTS –**

1. If the levy is **not** to satisfy a judgment for wages owed, child or spousal support, or liability to the state government, there is an automatic exemption for money in a deposit account up to a certain dollar amount, under section 704.220 of the Code of Civil Procedure, with no claim of exemption required. See form EJ-156 for the exemption amount.
2. Other automatic exemptions may apply to deposit accounts, such as exemptions for directly deposited social security or public benefits under section 704.080. (See form EJ-156 for the exemption amounts.) Generally, the financial institution should apply the larger set of exemptions that apply to an account. See section 704.220(b).
3. If a judgment debtor has multiple accounts in one or more financial institutions, either the judgment creditor or judgment debtor (defendant) may file an application in the superior court identified in the front of this form for an order as to which account the exemption should apply. (See section 704.220(e).) To get such an order, file an *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157) as soon as possible. (There are instructions on the form.) If the judgment debtor has more than one account in a financial institution, that institution may decide how and to which account to apply the exemption, unless it is served with a court order directing how to apply the exemption.

**EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS**

The following is a list of assets that may be exempt from levy in enforcing a judgment.

Exemptions are found in the United States Code (**USC**) and in the California codes, primarily the Code of Civil Procedure (**CCP**).

Because of periodic changes in the law, the list may not include all exemptions that apply in your case. The exemptions may not apply in full or under all circumstances. Some are not available after a certain period of time. You or your attorney should read the statutes.

If you believe the assets that are being levied on are exempt, file the claim of exemption form that you received from the levying officer.

**AMOUNT OF EXEMPTIONS:** For the exemption amount, please refer to the code section listed below for each type of property. The current amounts of certain exemptions are listed in *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). The amounts of some of the exemptions are amended every three years and become effective immediately on April 1 under the provisions of Code of Civil Procedure section 703.150.

<u>Type of Property</u>	<u>Code and Section</u>	<u>Type of Property</u>	<u>Code and Section</u>
ABLE Accounts . . . . .	Welf & I C § 4880(c)	Benefit Payments ( <i>cont.</i> )	
Accounts ( <i>See Deposit Accounts</i> )		Relocation Benefits . . . . .	CCP § 704.180
Appliances . . . . .	CCP § 704.020	Retirement Benefits	
Art and Heirlooms . . . . .	CCP § 704.040	and Contributions:	
Automobiles . . . . .	CCP § 704.010	Private . . . . .	CCP § 704.115
BART District Benefits . . . . .	CCP § 704.110	Public . . . . .	CCP § 704.110
	Pub Util C § 28896	Segregated Benefit Funds . . . . .	Ins C § 10498.5
Benefit Payments:		Social Security Benefits . . . . .	42 USC § 407
BART District Benefits . . . . .	CCP § 704.110	Strike Benefits . . . . .	CCP § 704.120
	Pub Util C § 28896	Transit District Retirement	
Charity . . . . .	CCP § 704.170	Benefits (Alameda and	
Civil Service Retirement		Contra Costa Counties) . . . . .	CCP § 704.110
Benefits (Federal) . . . . .	5 USC § 8346		Pub Util C § 25337
County Employees		Unemployment Benefits	
Retirement Benefits . . . . .	CCP § 704.110	and Contributions . . . . .	CCP § 704.120
	Govt C § 31452	Veterans Benefits . . . . .	38 USC § 3101
Disability Insurance Benefits . . . . .	CCP § 704.130	Veterans Medal of Honor	
Fire Service Retirement		Benefits . . . . .	38 USC § 562
Benefits . . . . .	CCP § 704.110	Welfare Payments . . . . .	CCP § 704.170
	Govt C § 32210		Welf & I C § 17409
Fraternal Organization		Workers Compensation . . . . .	CCP § 704.160
Funds Benefits . . . . .	CCP § 704.130	Boats . . . . .	CCP § 704.060
	CCP § 704.170		CCP § 704.710
Health Insurance Benefits . . . . .	CCP § 704.130	Books . . . . .	CCP § 704.060
Irrigation System		Building Materials (Residential) . . . . .	CCP § 704.030
Retirement Benefits . . . . .	CCP § 704.110	Business:	
Judges Survivors Benefits		Licenses . . . . .	CCP § 695.060
(Federal) . . . . .	28 USC § 376(n)		CCP § 699.720(a)(1)
Legislators Retirement		Tools of Trade . . . . .	CCP § 704.060
Benefits . . . . .	CCP § 704.110	Cars and Trucks (including	
	Govt C § 9359.3	proceeds) . . . . .	CCP § 704.010
Life Insurance Benefits:		Cash . . . . .	CCP § 704.070
Group . . . . .	CCP § 704. 100	Cemeteries:	
Individual . . . . .	CCP § 704. 100	Land Proceeds . . . . .	Health & SC § 7925
Lighthouse Keepers		Plots . . . . .	CCP § 704.200
Widows Benefits . . . . .	33 USC § 775	Charity . . . . .	CCP § 704.170
Longshore & Harbor Workers		Claims, Actions and Awards:	
Compensation or Benefits . . . . .	33 USC § 916	Personal Injury . . . . .	CCP § 704.140
Military Benefits:		Worker's Compensation . . . . .	CCP § 704.160
Retirement . . . . .	10 USC § 1440	Wrongful Death . . . . .	CCP § 704.150
Survivors . . . . .	10 USC § 1450	Clothing . . . . .	CCP § 704.020
Municipal Utility District		Condemnation Proceeds . . . . .	CCP § 704.720(b)
Retirement Benefits . . . . .	CCP § 704.110	County Employees Retirement	
	Pub Util C § 12337	Benefits . . . . .	CCP § 704.110
Peace Officers Retirement			Govt C § 31452
Benefits . . . . .	CCP § 704.110	Damages ( <i>See Personal Injury</i>	
	Govt C § 31913	and <i>Wrongful Death</i> )	
Pension Plans		Deposit Accounts:	
(and Death Benefits):		Deposit Accounts (generally) . . . . .	CCP § 704.220
Private . . . . .	CCP § 704.115	Escrow or Trust Funds . . . . .	Fin C § 17410
Public . . . . .	CCP § 704.110	Social Security Direct	
Public Assistance . . . . .	CCP § 704.170	Deposits . . . . .	CCP § 704.080
	Welf & I C § 17409		

**EXEMPTIONS FROM THE ENFORCEMENT OF JUDGMENTS**

(Continued)

<u>Type of Property</u>	<u>Code and Section</u>	<u>Type of Property</u>	<u>Code and Section</u>
Direct Deposit Account:		Motor Vehicle (Including	
Social Security .....	CCP § 704.080	Proceeds) .....	CCP § 704.010
Disability Insurance Benefits .....	CCP § 704.130		CCP § 704.060
Dwelling House .....	CCP § 704.740	Municipal Utility District	
Earnings .....	CCP § 704.070	Retirement Benefits .....	CCP § 704.110
	CCP § 706.050		Pub Util C § 12337
	15 USC § 1673(a)	Peace Officers Retirement	
Educational Grant .....	Ed C § 21116	Benefits .....	CCP § 704.110
Employment Bonds .....	Lab C § 404	Pension Plans:	Govt C § 31913
<b>Federal Emergency Management</b>		Private .....	CCP § 704.115
Agency (FEMA) funds .....	<b>CCP § 704.230</b>	Public .....	CCP § 704.110
Financial Assistance:		Personal Effects .....	CCP § 704.020
Charity .....	CCP § 704.170	Personal Injury Actions	
Public Assistance .....	CCP § 704.170	or Damages .....	CCP § 704.140
	Welf & I C § 17409	Prisoner's Funds .....	CCP § 704.090
Student Aid .....	CCP § 704.190	Property Not Subject to	
Welfare (See Public Assistance)		Enforcement of Money	
Fire Service Retirement .....	CCP § 704.110	Judgments .....	CCP § 704.210
	Govt C § 32210	Prosthetic and Orthopedic	
Fraternal Organizations		Devices .....	CCP § 704.050
Funds and Benefits .....	CCP § 704.130	Provisions (for Residence) .....	CCP § 704.020
	CCP § 704.170	Public Assistance .....	CCP § 704.170
Fuel for Residence .....	CCP § 704.020		Welf & I C § 17409
Furniture .....	CCP § 704.020	Public Employees:	
General Assignment for		Death Benefits .....	CCP § 704.110
Benefit of Creditors .....	CCP § 1801	Pension .....	CCP § 704.110
Health Aids .....	CCP § 704.050	Retirement Benefits .....	CCP § 704.110
Health Insurance Benefits .....	CCP § 704.130	Vacation Credits .....	CCP § 704.113
Home:		Railroad Retirement Benefits .....	45 USC § 2281
Building Materials .....	CCP § 704.030	Railroad Unemployment	
Dwelling House .....	CCP § 704.740	Insurance .....	45 USC § 352(e)
Homestead .....	CCP § 704.720	Relocation Benefits .....	CCP § 704.180
	CCP § 704.730	Retirement Benefits and	
House trailer .....	CCP § 704.710	Contributions:	
Mobilehome .....	CCP § 704.710	Private .....	CCP § 704.115
Homestead .....	CCP § 704.720	Public .....	CCP § 704.110
	CCP § 704.730		Ins C § 10498.5
Household Furnishings .....	CCP § 704.020	Segregated Benefit Funds .....	Ins C § 10498.6
Insurance:		Servicemembers Property .....	50 USC § 523(b)
Disability Insurance .....	CCP § 704.130	Social Security .....	42 USC § 407
Fraternal Benefit Society .....	CCP § 704.110	Social Security Direct Deposit	
Group Life .....	CCP § 704.100	Account .....	CCP § 704.080
Health Insurance Benefits .....	CCP § 704.130	Strike Benefits .....	CCP § 704.120
Individual .....	CCP § 704.100	Student Aid .....	CCP § 704.190
Insurance Proceeds—		Tools of Trade .....	CCP § 704.060
Motor Vehicle .....	CCP § 704.010	Transit District Retirement	
Irrigation System .....	CCP § 704.040	Benefits (Alameda and Contra	
Retirement Benefits .....	CCP § 704.110	Costa Counties) .....	CCP § 704.110
Jewelry .....			Pub Util C § 25337
Judges Survivors Benefits		Travelers Check Sales Proceeds .....	Fin C § 1875
(Federal) .....	28 USC § 376(n)	Unemployment Benefits and	
Legislators Retirement		Contributions .....	CCP § 704.120
Benefits .....	CCP § 704.110	Uniforms .....	CCP § 704.060
	Govt C § 9359.3	Vacation Credits (Public	
Licenses .....	CCP § 695.060	Employees) .....	CCP § 704.113
	CCP § 720(a)(1)	Veterans Benefits .....	38 USC § 3101
Lighthouse Keepers Widows		Veterans Medal of Honor	
Benefits .....	33 USC § 775	Benefits .....	38 USC § 562
Longshore and Harbor Workers		Wages .....	CCP § 704.070
Compensation or Benefits .....	33 USC § 916		CCP § 706.050
Military Benefits:			CCP § 706.051
Retirement .....	10 USC § 1440	Welfare Payments .....	CCP § 704.170
Survivors .....	10 USC § 1450		Welf & I C § 17409
Military Personnel—Property .....	50 USC § 523(b)	Workers Compensation	
		Claims or Awards .....	CCP § 704.160
		Wrongful Death Actions or	
		Damages .....	CCP § 704.150



**CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS**  
**Code of Civil Procedure sections 703.140(b) and 704.010 et seq.**

**EXEMPTIONS UNDER SECTION 703.140(b)**

The following lists the current dollar amounts of exemptions from enforcement of judgment under Code of Civil Procedure section 703.140(b).

These amounts are effective April 1, 2019. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

<u>Code Civ. Proc., § 703.140(b)</u>	<u>Type of Property</u>	<u>Amount of Exemption</u>
(1)	The debtor's aggregate interest in real property or personal property that the debtor or a dependent of the debtor uses as a residence, or in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence,	\$ 29,275
(2)	The debtor's interest in one or more motor vehicles	\$ 5,850
(3)	The debtor's interest in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor (value is of any particular item)	\$ 725
(4)	The debtor's aggregate interest in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor	\$ 1,750
(5)	The debtor's aggregate interest, plus any unused amount of the exemption provided under paragraph (1), in any property	\$ 1,550
(6)	The debtor's aggregate interest in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor	\$ 8,725
(8)	The debtor's aggregate interest in any accrued dividend or interest under, or loan value of, any unmaturing life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent	\$ 15,650
(11)(D)	The debtor's right to receive, or property traceable to, a payment on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent	\$ 29,275



**CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS****Code of Civil Procedure sections 703.140(b) and 704.010 et seq.****EXEMPTIONS UNDER SECTION 704.010 et seq.**

The following lists the current dollar amounts of exemptions from enforcement of judgment under title 9, division 2, chapter 4, article 3 (commencing with section 704.010) of the Code of Civil Procedure.

The amount of the automatic exemption for a deposit account under section 704.220(a) is effective September 1, 2020, and unless otherwise provided by statute after that date, will be adjusted annually effective July 1 by the Department of Social Services.\*

The other amounts are all effective April 1, 2019. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(d).)

<u>Code Civ. Proc. Section</u>	<u>Type of Property</u>	<u>Amount of Exemption</u>
704.010	Motor vehicle (any combination of aggregate equity, proceeds of execution sale, and proceeds of insurance or other indemnification for loss, damage, or destruction)	\$ 3,325
704.030	Material to be applied to repair or maintenance of residence	\$ 3,500
704.040	Jewelry, heirlooms, art	\$ 8,725
704.060	Personal property used in debtor's or debtor's spouse's trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$4,850)	\$ 8,725
704.060	Personal property used in debtor's and spouse's common trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$9,700)	\$ 17,450
704.220	Deposit account, generally (exemption without claim; amount per judgment debtor, section 704.220(a),(e)) <sup>1</sup>	\$ 1,724*
704.080	Deposit account with direct payment of social security or public benefits (exemption without claim, section 704.080(b)) <sup>2</sup>	
	• Public benefits, one depositor is designated payee	\$ 1,750
	• Social security benefits, one depositor is designated payee	\$ 3,500
	• Public benefits, two or more depositors are designated payees <sup>3</sup>	\$ 2,600
	• Social security benefits, two or more depositors are designated payees <sup>3</sup>	\$ 5,250
704.090	Inmate trust account	\$ 1,750
	Inmate trust account (restitution fine or order)	\$ 325 <sup>4</sup>
704.100	Aggregate loan value of unmaturing life insurance policies	\$ 13,975

<sup>1</sup> This exemption does not preclude or reduce other exemptions for deposit accounts. However, if the exemption amount for the deposit account applicable under other automatic exemptions—such as those applicable for direct deposit of social security benefits or public benefits—is greater under the other exemptions, then those apply instead of this one. (Code Civ. Proc., § 704.220(b).)

<sup>2</sup> The amount of a deposit account with direct deposited funds that exceeds exemption amounts shown is also exempt to the extent it consists of payments of public benefits or social security benefits. (Code Civ. Proc., § 704.080(c).)

<sup>3</sup> If only one joint payee is a beneficiary of the payment, the exemption is in the amount available to a single designated payee. (Code Civ. Proc., § 704.080(b)(3) and (4).)

<sup>4</sup> This amount is not subject to adjustments under Code Civ. Proc., § 703.150.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>name and address</i> ): After recording, return to:  TEL NO.: _____ FAX NO. (optional): _____ E-MAIL ADDRESS ( <i>optional</i> ): _____ <input type="checkbox"/> ATTORNEY FOR <input type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>12-02-19</b>  <b>Not approved by the Judicial Council</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____  STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER ( <i>name and address</i> ): _____
PLAINTIFF: _____ DEFENDANT: _____	LEVYING OFFICER FILE NO.: _____    COURT CASE NO.: _____
<b>EX PARTE APPLICATION FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION</b>  <input type="checkbox"/> Without hearing <input type="checkbox"/> Hearing on shortened time	

Read *Instructions for Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157-INFO) before filing this application. That form describes the requirements for giving notice of this application.

1. Applicant (*check one*)
  - Judgment Debtor (defendant) (*name*): \_\_\_\_\_
  - Judgment Creditor (plaintiff or assignee of record) (*name*): \_\_\_\_\_

applies for a court order as to how and to which of the judgment debtor's multiple deposit accounts the exemption from enforcement of a civil money judgment under Code of Civil Procedure section 704.220 should be applied.
2. This application is being made because
  - a.  judgment debtor has multiple deposit accounts in one financial institution.
  - b.  judgment debtor has deposit accounts in multiple financial institutions.
3. A *Writ of Execution (Money Judgment)* was issued in this case and states that the underlying judgment is not for unpaid wages, child support, or spousal support. *Date issued*: \_\_\_\_\_ . (*Attach a copy.*)
4. A *Notice of Levy* has been issued based on the writ in item 3 to the following financial institutions (*identify and attach copy of each notice*):

<b><u>Financial Institution</u></b>	<b><u>Date of Issuance</u></b>
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Check here if there is not enough space to list all current notices of levy, and continue the list on an attached sheet titled Attachment 3.

SHORT TITLE:	LEVYING OFFICER FILE NO.:	COURT CASE NO.:
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5. Applicant requests that the judgment creditor's deposit account exemption under Code of Civil Procedure section 704.220(a) be applied (*check one*)

- a.  to deposit account number (*last four digits only*): \_\_\_\_\_ at (*financial institution*): \_\_\_\_\_
- b.  spread across multiple deposit accounts as follows:

<u>Name of financial institution</u>	<u>Deposit account number</u> <i>(last four digits only)</i>	<u>Amount of exemption to be applied to account</u> <i>(Total cannot exceed total amount of exemption (See form EJ-156).)</i>
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- 6. a.  This matter may be set for hearing.
- b.  Applicant is seeking this order without further hearing to help prevent immediate loss to a deposit account subject to exemption or enforcement. The facts supporting this need for immediate issuance of an order are (*explain circumstances*):

Check here if there is not enough space, and continue the item on an attached sheet titled Attachment 6.

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

(TYPE OR PRINT NAME)	▶	(SIGNATURE)
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**Declaration by Applicant**

I \_\_\_\_\_ declare under penalty of perjury under the law of the State of California that the foregoing is true and correct.

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

(TYPE OR PRINT NAME)	▶	(SIGNATURE)
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- Judgment creditor       Judgment debtor
- Assignee of record

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

1. **Applicable Law.** Code of Civil Procedure section 704.220 provides that financial institutions must apply an automatic exemption when served a *Notice of Levy* on a judgment debtor's deposit account, if the underlying judgment is not based on wages owed or child or spousal support. The exemption (the amount of which can be found on form EJ-156) is per judgment debtor, not per account. If the judgment debtor has multiple deposit accounts, either the judgment debtor or judgment creditor may make an ex parte application to a court for an order designating how and to which deposit account the automatic exemption is to be applied. (See Code Civ. Proc., § 704.220(e).)
2. **A judgment debtor (defendant) applying for an order to designate a specific account or how to allocate the exemption among multiple accounts should do so as soon as receiving a notice of a levy, because the financial institution is required to act promptly in sending funds to the levying officer.**
3. **Rules for Making the Application.** The ex parte application must be filed in the court in which the judgment was issued. The applicant must check with that court for local rules and timing as to when and where the applicant is to appear at court to have the court consider the ex parte application. The applicant must follow the rules relating to ex parte applications that are set out in California Rules of Court, rules 3.1203-3.1207, which describe the following requirements:

**Notice of the application.** Notice of the ex parte application must generally be given to the other party in the case. Notice may be in person or by phone, fax, overnight mail, or email (if permitted in the case already). The party must be informed by 10:00 a.m. the day before the ex parte application is to be considered by the court, unless there is a good reason such notice could not or should not be given. How the notice was given, or why it was not, must be described in the declaration regarding notice and service (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 Cal. Rules of Court, rule 3.670(d), which requires that the application papers must be filed by 10:00 a.m. *two court days* before the application is to be considered.)

4. **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);
  - *Order on Application for Designation of Deposit Account Exemption* (form EJ-159) (complete caption and item 1 only).

Take note of the following when completing form EJ-157:

- The contents of the application must be provided under penalty of perjury.
  - If the applicant has good cause for why the court should act immediately, with no further hearing or briefing, the box under the title of form EJ-157 stating "Without hearing" should be checked and item 6b completed to explain why. Otherwise the box under the title for "Hearing on shortened time" and 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 order that the exemption apply. If the judgment debtor is asking that the exemption be allocated among multiple accounts, the total amount allocated may not be more than the total amount of the deposit account exemption. (See form EJ-156 for the amount.)
5. **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.
  6. **What to Do With 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, it 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 designates the deposit account or accounts to which the exemption applies, without any further hearing, the applicant should serve 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.

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>12-02-19</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>DECLARATION REGARDING NOTICE AND SERVICE OF EX PARTE APPLICATION FOR ORDER ON DEPOSIT ACCOUNT EXEMPTION</b>	CASE NUMBER:

*This form must be filed anytime an Ex Parte Application (form EJ-157) is filed.*

1. I am (specify)  attorney for  judgment creditor  judgment debtor
2. I  did  did not give notice that papers will be submitted to the court asking a judicial officer how and to which of judgment debtor's deposit accounts the exemption under Code of Civil Procedure section 704.220 should apply, and that the court will consider the request on the date, time, and location indicated below:

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.:

b. Address of court:  same as noted above  other (specify): \_\_\_\_\_

3. **NOTICE** (If you gave notice, complete item 3a. If you did not give notice, complete item 3b or 3c.)

a.  I gave notice as described in items (1) through (5):

(1) I gave notice to (select all that apply)

- judgment debtor.  judgment debtor's attorney.  
 judgment creditor.  judgment creditor's attorney.  
 Other (specify): \_\_\_\_\_

(2) I gave notice on (date): \_\_\_\_\_ at:  a.m.  p.m.

- personally at (location): \_\_\_\_\_, California.  
 by telephone using telephone no.: \_\_\_\_\_  
 by fax using fax no.: \_\_\_\_\_  
 by voicemail using voicemail no.: \_\_\_\_\_  
 by electronic means (if permitted) (specify electronic service address of person): \_\_\_\_\_  
 by overnight mail or other overnight carrier (specify address of delivery): \_\_\_\_\_

(3) I gave notice (select one)

- by 10 a.m. the court day before this ex parte appearance.  
 after 10 a.m. the court day before this ex parte appearance because of the following exceptional circumstances (specify): \_\_\_\_\_

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

3. a. (4) I notified the person in 3a(1) that an order is being requested designating that the exemption under section 704.220 should be applied to the following accounts (*specify*):

(5) The person in 3a(1) responded as follows:

(6) I  do  do not believe that the person in 3a(1) will oppose the ex parte application.

b.  **Request for waiver of notice.** I did not give notice about the ex parte application. I ask that the court waive notice to the other party for the following reasons (*identify the exceptional circumstances*):

Attachment 3b.

c.  **Unable to provide notice.** I did not give notice about the ex parte application. I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were (*specify below*):

Attachment 3c.

4.  **SERVICE OF FORMS**

a. An unfiled copy of *Ex Parte Application for Order on Deposit Account Exemption* (form EJ-157) and related documents were served on

- judgment debtor.       judgment debtor's attorney.
- judgment creditor.       judgment creditor's attorney.
- Other (*specify*):

b. Documents were served on (*date*): \_\_\_\_\_ at:  a.m.  p.m.  
 personally      at (*location*): \_\_\_\_\_, California.  
 by fax      using fax no.: \_\_\_\_\_  
 by electronic means (*if permitted*) (*specify electronic service address of person*): \_\_\_\_\_  
 by overnight mail or other overnight carrier (*specify address of delivery*): \_\_\_\_\_

c.  **Documents were not served on the opposing party** because of the exceptional circumstances specified in  3b, above     3c, above     Attachment 4c.

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 ( <i>name and address</i> ): After recording, return to:  TEL NO.: _____ FAX NO. (optional): _____ E-MAIL ADDRESS ( <i>optional</i> ): _____ <input type="checkbox"/> ATTORNEY FOR <input type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>12-02-19</b>  <b>Not approved by the Judicial Council</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	LEVYING OFFICER ( <i>name and address</i> ): _____
PLAINTIFF: _____ DEFENDANT: _____	LEVYING OFFICER FILE NO.: _____    COURT CASE NO.: _____
<b>ORDER ON APPLICATION FOR DESIGNATION OF DEPOSIT ACCOUNT EXEMPTION</b>	

1. Applicant (*check one*)

- Judgment Debtor (defendant) (*name*): \_\_\_\_\_
- Judgment Creditor (plaintiff or assignee) (*name*): \_\_\_\_\_

applied ex parte for an order as to how and to which of the judgment debtor's multiple deposit accounts the exemption from enforcement of a civil money judgment under Code of Civil Procedure section 704.220 should be applied.

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

3.  **Application Denied.** The court denies the application.

- a.  The application is incomplete.
- b.  The application did not meet the requirements for providing notice or service of the application.
- c.  There is no showing that judgment debtor has multiple deposit accounts subject to the deposit account exemption in section 104.220.
- d.  Other: \_\_\_\_\_

4.  **Order Shortening Time.** A hearing will be held on the application, as follows.

a. The hearing will be on the date, time, and location indicated below:

Date: _____	Time: _____	<input type="checkbox"/> Dept.: _____	<input type="checkbox"/> Room: _____
Address of court: <input type="checkbox"/> same as noted above <input type="checkbox"/> other ( <i>specify</i> ): _____			

b. Applicant must serve this order and the *Ex Parte Application* (form EJ-157) on all other parties by (*date*): \_\_\_\_\_

c. Any papers in opposition must be served on all other parties and filed by (*date*): \_\_\_\_\_

5.  **Ex Parte Order.** The court finds that delay in ruling would result in loss or damage to deposit accounts subject to enforcement of judgment in this matter, and therefore rules ex parte to designate the account subject to exemption, as stated below.6.  **Order After Hearing.** This ruling is made after the application was heard on shortened time at

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_  Room: \_\_\_\_\_

b. The following were present at the hearing:

- Judgment debtor     Judgment debtor's attorney
- Judgment creditor     Judgment creditor's attorney
- Other: \_\_\_\_\_



SHORT TITLE:	LEVYING OFFICER FILE NO.:	COURT CASE NO.:
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7.  **Findings.** The court makes the following findings:

- a.  The underlying judgment in this case is not based on unpaid wages or child or spousal support.
- b.  A *Notice of Levy* has been issued in this case to the following financial institutions (*identify*):

<b>Financial Institution</b>	<b>Date of Issuance</b>
------------------------------	-------------------------

- c. Applicant has requested that the court designate to which among multiple deposit accounts the exemption under Code of Civil Procedure section 704.220(a) be applied, and has specified that account or accounts in the application.
- d.  An alternative designation was requested by  judgment debtor  judgment creditor.
- e.  Other findings:

8. **Designation of Deposit Account.** The exemption under Code of Civil Procedure section 704.220(a) from enforcement of civil money judgment is to be applied (*check one*)

- a.  to deposit account number (*last four digits only*) \_\_\_\_\_ at (*financial institution*) \_\_\_\_\_.
- b.  spread across multiple deposit accounts, because the exemption amount is greater than the amount in a single deposit account, as follows:

<b><u>Name of financial institution</u></b>	<b><u>Deposit accounts</u></b> <i>(last four digits only)</i>	<b><u>Amount of exemption to be applied</u></b>
---	--	---

9. **Other Rulings.**

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

\_\_\_\_\_  
Judicial Officer

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Rules and Forms: Mandatory Form for Notification of a Party's Military Status (amend form MIL-100)

*Committee or other entity submitting the proposal:*

Collaborative Justice Court Advisory Committee

*Staff contact (name, phone and e-mail): Jenie Chang, 415-865-4268*

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

Approved by RUPRO: March 13, 2019

Project description from annual agenda:

Collaborative Justice Courts Advisory Committee Annual Agenda: Item 1: Amend the Notification of Military Service form to better meet the requirements of Penal Code section 858, which requires judicial officers to notify defendants at arraignment that there are certain provisions of law specifically designed for individuals who have active duty or veteran status and who have been charged with a crime. Primary reasons to amend the form includes title clarification, to include veterans and address issues of form usability, especially in non-criminal case types. Project supports ongoing project/activity # 6.

*If requesting July 1 or out of cycle, explain:*

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

# INVITATION TO COMMENT

## W20-\_\_

**Title**

Rules and Forms: Mandatory Form for Notification of a Party's Military Status

**Action Requested**

Review and submit comments by February 12, 2020.

**Proposed Rules, Forms, Standards, or Statutes**

Revise form MIL-100

**Proposed Effective Date**

September 1, 2020

**Proposed by**

Collaborative Justice Courts Advisory Committee  
Hon. Richard Vlavianos, Chair

**Contact**

Jenie Chang, 415-865-4268  
[jenie.chang@jud.ca.gov](mailto:jenie.chang@jud.ca.gov)

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## Executive Summary and Origin

The Collaborative Justice Courts Advisory Committee proposes revising *Notification of Military Status* (form MIL-100), which informs the court that a party in a court case is or was in the military, to change the form from optional to mandatory. This would require those individuals who choose to file with the court information on their military status to do so with the proposed form. The revisions to the current form will enable courts to improve early identification of court litigants in all case types who have a military affiliation and will assist courts in complying with Penal Code section 858 requirements.

## Background

In 2012 the Judicial Council of California received a letter, jointly authored by members of the judicial and legal communities, requesting that all mandatory Judicial Council forms be amended to include information about whether a party is a veteran of any branch of the U.S. armed forces. The request was rooted in the belief that providing the court with this information would allow it to better administer justice and better enable attorneys to represent the interests of their clients. The committee considered this request but determined that revising numerous forms, some of which have limited space, would create an undue workload burden on courts. Instead, the MIL-100 form was proposed and adopted in 2014 to provide a way for military service information to be provided to the court in all case types without the need to amend individual forms.

Senate Bill 1110 (Stats. 2014, ch. 655) amended Penal Code section 858, effective January 1, 2015, to direct the Judicial Council to revise the military service form to include information explaining the rights of individuals who have active duty or veteran status under Penal Code section 1170.9 and related statutes, and to include a space for the local court to provide contact

information for the county veterans service office. Revisions to the form incorporating these changes went into effect July 1, 2015. After the revised form was in use, confusion was expressed about the case-types for which the form should be used. Although the military or veteran status of a party may be relevant in many kinds of court cases, the 2015 revisions made to be responsive to the requirements of Penal Code sections 858 and 1170.9 unintentionally gave the appearance that the MIL-100 was for use solely in criminal cases. Concerns were also raised that the form requested information that was not needed by the court, making it unnecessarily difficult to complete the form.

### **Prior Circulation**

In May 2019, a proposal to revise the MIL-100 was circulated for public comment. The proposed revisions were intended to make the MIL-100 easier to use in non-criminal cases, as well as to ensure consistent information by making the form mandatory. Due to the feedback received from commenters, the proposal to revise the MIL-100 was deferred from the Spring 2019 to the current cycle. This allowed the committee to incorporate changes suggested by commenters including honing the informational language on the form for clarity and comprehension, and addressing the effect of changing the form from optional to mandatory. Due to these suggested changes, the committee also wanted to allow for a period of additional public comment.

Of particular note, during the prior circulation the committee received a comment inquiring about the applicability of a filing fee for using this form. Because the intention of the form is to encourage sharing information that will improve case processing and court administration, the committee felt that a filing fee should not be required. The committee revised the form with the inclusion of additional language set off in a box at the bottom of the first page of the form that states: “No Filing Fee. No filing fee or court costs are to be charged for this form.”

Several public comments received during the prior circulation revealed some confusion about the effect that changing the form from optional to mandatory would have. Some commenters understood the proposed change to mean that individuals would have to disclose their former or current military status to the courts, regardless of their desire to do so, or that they would need to complete the form in every case, regardless of its applicability. California Rules of Court, rule 1.31 provides that mandatory forms are to be used wherever applicable and must be accepted for filing by all courts. In response to the comments received, clarifying language that disclosure of military history information is optional and voluntary has been added to the form.

The committee also received several comments with suggestions for improving the form’s instructions to make it easier for court users to understand how and why to complete the form. The MIL-100 form was revised to incorporate these suggestions.

Because the MIL-100 form can be filed in any case type, the Collaborative Justice Courts Advisory Committee also sought input from the Civil and Small Claims Advisory Committee, Family & Juvenile Law Advisory Committee, and the Criminal Law Advisory Committee. The Collaborative Justice Courts Advisory Committee provided copies of the revised proposal and

form and asked for input from these committees on the potential impact in different case types. Suggested changes to the MIL-100 form from the committees were then made to the form. Each of the committees agreed with moving forward on the proposed revisions and circulating the proposal for comment.

## **The Proposal**

### **Form Content**

The Collaborative Justice Courts Advisory Committee proposes revising the MIL-100 to better inform users of the broad applicability of the form, while retaining all required notifications and information for parties in criminal cases. The revisions aim to employ user-friendly language and a simpler format.

Revisions to form MIL-100 include:

- Clarifying that that the form can be used by both former and current members of the state and federal armed services, including the reserves, by adding “Veteran/Reserve/Active” to the title of the form.
- Providing information as to when and how often the form may be filed.
- Indicating that no filing fees apply to this form by adding “No Filing Fee. No filing fee or court costs are to be charged for this form” to the bottom of the form.
- Better providing information on the form’s purpose by adding clarifying language and the statement “Filling out the MIL-100 form is a way you can let the court know about your military experience. This information may help the court consider possible benefits and protections in your case. This form can be filled out at any time.” to page 2.
- Ensuring understanding that disclosure of one’s military status is optional by including additional language and the statement in bold “You do not have to provide this information to the court” to the top of page 2 of the form, and stating “Giving this information to the court is voluntary” in the instructions.

### **Mandatory Form**

The committee proposes that form MIL-100 be changed from an optional form to one that is mandatory. A mandatory form will ensure that, when an individual choose to disclose military status, the necessary information is obtained in a consistent manner and will give parties in criminal matters the information that Penal Code section 858 requires be provided on the MIL-100. Making the form mandatory would not require an individual to disclose their military status to the court nor would it create a penalty if a person chose not to share their military history. The Collaborative Justice Courts Committee believes courts will be able to process cases more efficiently while improving the fair administration of justice through the consistent application and early consideration of possible benefits and protections across all case types in which military status is relevant.

## Alternatives Considered

The issue of inconsistent identification of the military status of parties, especially in non-criminal cases, could be left unaddressed, however, this would not meet the needs of the former and current members of the military who are court involved. Revisions to form MIL-100 aim to simplify the form for ease of use, as well as make clear the broad applicability of the form and the possible relevance of military status to non-criminal cases. The committee carefully considered possible effects of a mandatory form and concluded that the interests of justice would best be served by requiring those individuals who choose to disclose a military status to do so through a uniform, mandatory form.

## Fiscal and Operational Impacts

This proposal to make changes to an existing form is unlikely to generate significant cost or operational impacts. The court is currently required to provide and accept the form for filing. The revisions to MIL-100 may impose additional printing costs for any courts that need to replace existing copies of this form with the revised form. There is the potential for cost savings if a court is aware at an early stage of a proceeding that a party to an action has a military affiliation, as it may reduce the chance of needing additional hearings to address this issue.

### Request for Specific Comments

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

- Do the revisions to the form appropriately address the stated purpose?
- Should the form include identification of different case types? (Civil, Criminal, Family, Juvenile?)
- Should the form remain an optional form or should it become mandatory for those individuals who choose to file with the court information about their military status?
- Are any additional revisions recommended?

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

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

## Attachments and Links

1. Form MIL-100, at page 6

PERSON COMPLETING THIS FORM: NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: STATE BAR NUMBER (IF APPLICABLE):	<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>NOTIFICATION OF MILITARY VETERAN/RESERVE/ACTIVE STATUS</b>	CASE NUMBER:

1. This form is about (*name*): \_\_\_\_\_ who is a party in this case.
  
  2. The person listed in item 1 is:
    - A current member of the state or federal armed services or reserves.
    - A veteran of the state or federal armed services or reserves.  
 Discharge Date: \_\_\_\_\_
  
  3. I am  the person listed in item 1.  
 an attorney in the above entitled case.  
 other (*specify*): \_\_\_\_\_
- I am providing this notification to the court based on information and belief.

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

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

(TYPE OR PRINT NAME OF PERSON FILING THIS FORM) (SIGNATURE)

**Notice**

This form can be filed in any case type. If this form is being submitted in a criminal case, the court will send copies of the form to the county veterans service officer and the Department of Veterans Affairs.

Local County Veterans Services Office Information  
 (to be provided by local court):

**For court use only**

**No Filing Fee**

No filing fee or court costs are to be charged for this form

**YOU SHOULD TALK WITH YOUR ATTORNEY (IF YOU HAVE ONE) ABOUT THE  
FOLLOWING INFORMATION**

**You do not have to provide this information to the court.**

**If you are a current or former member of the state or federal armed services or reserves, you may be entitled to certain rights under the law.** Filling out the MIL-100 form is a way you can let the court know about your military experience. This information may help the court consider possible benefits and protections in your case. This form can be used for any type of case and can be filled out at any time. Giving this information to the court is voluntary. The MIL-100 only needs to be filled out with the court one time per case.

**NON-CRIMINAL CASES**

**If you are a party to a non-criminal case, (i.e. civil, family, juvenile, etc.) be sure to complete all the appropriate forms needed for your court case.**

For example, filing of this form does not substitute for the filing of other required forms or petitions in cases where you are filing:

- For relief from financial obligation during military service;
- A notification of military deployment and request to modify a support order; or
- For other relief under the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901–4043);

Please see *Notice of Petition and Petition for Relief From Financial Obligation During Military Service* (form MIL-010) and *Notice of Activation of Military Service and Deployment and Request to Modify a Support Order* (form FL-398).

**CRIMINAL CASES**

**If you are a party to a criminal case, you are not required to have an honorable discharge, to have combat service, or to be accepted into or involved in a Veterans Court to be eligible for the possible rights and protections under the law.**

If you are a current or former member of the state or federal armed services or reserves who may be suffering from sexual trauma, also known as military sexual trauma (MST), traumatic brain injury (TBI), post traumatic stress disorder (PTSD), substance abuse, or mental health issues as a result of your military service, and charged with a crime, you may be eligible for certain rights under the law. Some examples of benefits for a defendant in a criminal case who is a veteran or is on active duty or in the reserves include possible consideration for alternative sentencing, restorative relief such as sealing your record, and diversion in misdemeanor cases.

Below is a brief description of possible rights and protections under the following California laws:

**California Penal Code section 1170.9**

- Treatment instead of prison or jail time for certain crimes;
- A greater chance of receiving probation;
- Conditions of probation deemed satisfied early, other than any victim restitution ordered;
- Felonies reduced to misdemeanors;
- Restoration of rights, dismissal of penalties, and/or setting aside of conviction for certain crimes

**California Penal Code section 1001.80**

- Pretrial diversion program instead of trial and potential conviction and incarceration;
- Dismissal of eligible criminal charges following satisfactory performance in program;
- Arrest deemed to have "never occurred" as part of restoration of rights following successful completion of program

**California Penal Code section 1170.91**

- The court must consider circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could result in a more lenient sentence.

**If you submit this form in a criminal case, you or your attorney must file it with the court and serve a copy of it on the prosecuting attorney and defense counsel.**



## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Submit to JC (without circulating for comment)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Rules and Forms: Family Law: Technical Change to Declaration for Default or Uncontested Dissolution

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Bonnie Hough, 415-865-7668, [bonnie.hough@jud.ca.gov](mailto:bonnie.hough@jud.ca.gov)

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

Approved by RUPRO: October 28, 2019

Project description from annual agenda: 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.

*If requesting July 1 or out of cycle, explain:*

This is a technical error that could cause significant confusion.

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

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 17, 2020 revise Declaration for Default or Uncontested Dissolution (form FL-170) to replace the word "Without" with "With" in item 4b.



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 17, 2020

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**Title**

Rules and Forms: Family and Juvenile Law:  
Technical Change to *Declaration for Default  
or Uncontested Dissolution* and *Orders  
Under Welfare and Institutions Code  
Sections 366.24, 366.26, 727.3, 727.31*

**Rules, Forms, Standards, or Statutes Affected**

Revise forms FL-170 and JV-320

**Recommended by**

Family and Juvenile Law Advisory  
Committee  
Hon. Jerilyn Borack, Co-Chair  
Hon. Mark A. Juhas, Co-Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 17, 2020

**Date of Report**

December 9, 2019

**Contact**

Bonnie Hough, 415-865-7668  
bonnie.hough@jud.ca.gov

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## Executive Summary

The Family and Juvenile Law Advisory Committee recommends revising one form for use in default or uncontested divorces to correct a technical error in the form in which a heading entitled 4 b should read “Default With Agreement” instead of “Default Without Agreement.” The committee further recommends revising one mandatory form used in termination of parental rights proceedings in dependency cases, to correct a technical error in item 15d that left out the word “not.”

## Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 17, 2020 revise *Declaration for Default or Uncontested Dissolution* (form FL-170) to replace the word “Without” with “With” in item 4b, and *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (form JV-320) to insert the word “not” in item 15d.

The revised forms are attached at pages 3–9.

### **Relevant Previous Council Action**

On September 24, 2019, the Judicial Council revised the *Declaration for Default and Uncontested Dissolution* (FL-170) in response to amendments to the Family Code.<sup>1</sup> On that same, date the Council revised *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (JV-320) to conform to changes to the Indian Child Welfare Act regulations and guidelines.

### **Analysis/Rationale**

The Family and Juvenile Law Advisory Committee recommends revising the *Declaration for Default or Uncontested Dissolution* (form FL-170) to correct an error that was introduced into the form when it was modified in response to amendments in the Family Code effective January 1, 2020. The header in item 4(b) was inadvertently amended to read “Default Without Agreement” instead of “Default With Agreement.” This error makes the form, which is often used by self-represented litigants, quite confusing and the Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 17, 2020 revise *Declaration for Default or Uncontested Dissolution* (form FL-170) to replace the word “Without” with “With” in item 4b.

Similarly, the word “not” was inadvertently left out of item 15d when *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (JV-320) was revised. It is recommended that this error be corrected before the form becomes effective to ensure the form remains legally accurate.

### **Policy implications**

The recommended revisions promote two Judicial Council policy objectives—modernization of the rules of court and promotion of access to the courts—by ensuring that the Judicial Council forms reflect accurate legal information that will make it easier for litigants to gain access to the family court.

### **Comments**

The recommendation has not circulated for public comment because the proposal satisfies the requirement of California Rules of Court, rule 10.22(d)(2):. it presents a technical change that is unlikely to create controversy.

### **Alternatives considered**

The committee did not consider any alternatives to the recommended action because the revision is required to eliminate confusion.

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<sup>1</sup> See Judicial Council report: Rules and Forms/Family Law: Changes to Parentage Rules and Forms <https://jcc.legistar.com/View.ashx?M=F&ID=7693361&GUID=0723E145-B444-4B7F-8762-0F753FD3E01F>

## **Fiscal and Operational Impacts**

This proposal should not have any fiscal or operational impact on courts or litigants other than the costs of replacing outdated forms. Courts and self-help centers have been alerted to this change so that they minimize the number of new forms printed with inaccurate information.

## **Attachments and Links**

1. Form FL-170
2. Form JV-320.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<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:		
CHILD'S NAME:		
<b>ORDERS UNDER WELFARE AND INSTITUTIONS CODE</b> <b>SECTIONS 366.24, 366.26, 727.3, 727.31</b>		CASE NUMBER:

Child's name: \_\_\_\_\_

Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_

Parent's name (if known): \_\_\_\_\_  Mother  Father

Parent's name (if known): \_\_\_\_\_  Mother  Father

1. a. Hearing date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- b. Judicial officer: \_\_\_\_\_
- c. Parties and attorneys present: \_\_\_\_\_

2.  The court has read and considered the assessment prepared under Welfare and Institutions Code section 361.5(g), 366.21(i), 366.22(c), 366.25(b), or 727.31(b) and the report and recommendation of the  social worker  probation officer  and other evidence.
3.  The court has considered the wishes of the child, consistent with the child's age, and all findings and orders of the court are made in the best interest of the child.

**THE COURT FINDS AND ORDERS**

4. a.  Notice has been given as required by law.
- b.  This case involves an Indian child, and the court finds that notice has been given to the parents, Indian custodian, Indian child's tribe, and the Bureau of Indian Affairs (BIA) in accordance with Welfare and Institutions Code section 224.3; the original certified mail receipts, return cards, copies of all notices, and any responses to those notices are in the court file.
5.  **For child 10 years of age or older who is not present:** The child was properly notified under Welfare and Institutions Code section 349(d) of his or her right to attend the hearing, was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
6.  The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.
7.  The court previously made a finding denying or terminating reunification services under Welfare and Institutions Code section 361.5, 366.21, 366.22, 366.25, 727.2, or 727.3, for
- parent (name): \_\_\_\_\_  Mother  Father
- parent (name): \_\_\_\_\_  Mother  Father

CHILD'S NAME:	CASE NUMBER:
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8. a.  There is clear and convincing evidence that it is likely the child will be adopted.
- b.  The child is an Indian child or  there is reason to know that the child is an Indian child, and
- (1)  Qualified expert witness testimony was provided by \_\_\_\_\_ ; and  
(Name of Witness)
- (2)  Evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
- (3)  The court finds by evidence beyond a reasonable doubt that continued physical custody by the  mother  
 father  Indian custodian  other: \_\_\_\_\_ is likely to result in  
 serious emotional or physical damage to the child.

9. The parental rights of
- a.  parent (name): \_\_\_\_\_  Mother  Father
- b.  parent (name): \_\_\_\_\_  Mother  Father
- c.  alleged fathers (names): \_\_\_\_\_
- d.  unknown mother  all unknown fathers
- are terminated, adoption is the child's permanent plan, and the child is referred to the California Department of Social Services or a local licensed adoption agency for adoptive placement.
- e. **The adoption is likely to be finalized by (date):**  
*(If item 9 is checked, go to item 18.)*

10. This case involves an Indian child. The parental rights of
- a.  parent (name): \_\_\_\_\_
- b.  parent (name): \_\_\_\_\_
- c.  Indian custodians (names): \_\_\_\_\_
- d.  alleged fathers (names): \_\_\_\_\_
- e.  unknown mother  all unknown fathers
- are modified in accordance with the tribal customary adoption order of the (specify): \_\_\_\_\_ tribe,  
 dated \_\_\_\_\_ and comprising \_\_\_\_\_ pages, which is accorded full faith and credit and fully incorporated herein.  
 The child is referred to the California Department of Social Services or a local licensed adoption agency for tribal customary  
 adoptive placement in accordance with the tribal customary adoption order.  
*(If item 10 is checked, go to item 18.)*

11.  The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship. Removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child. *(If item 11 is checked, go to item 15 or 16.)*

12.  Termination of parental rights would be detrimental to the child for the following reasons: *(If item 12 is checked, check reasons below and go to item 15 or 16.)*
- a.  The parents or guardians have maintained regular visitation and contact with the child, and the child would benefit from continuing the relationship.
- b.  The child is 12 years of age or older and objects to termination of parental rights.
- c.  The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- d.  The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment. Removal of the child from the physical custody of the foster parent or Indian custodian would be detrimental to the emotional well-being of the child. This clause does not apply to any child who is either
- (1) under the age of 6; or
- (2) a member of a sibling group with at least one child under the age of 6 and the siblings are or should be placed together.

CHILD'S NAME:	CASE NUMBER:
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- 12. e.  There would be substantial interference with the child's sibling relationship.
- f.  The child is an Indian child, and there are compelling reasons for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:
  - (1) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.
  - (2) The child's tribe has identified guardianship or another permanent plan for the child.
  
- 13.  Termination of parental rights would not be detrimental to the child, but no adoptive parent has been identified or is available, and the child is difficult to place because the child (*if item 13 is checked, check reasons below and go to item 14*):
  - a.  is a member of a sibling group that should stay together.
  - b.  has a diagnosed medical, physical, or mental disability.
  - c.  is 7 years of age or older.
  
- 14. a.  Termination of parental rights is not ordered at this time. Adoption is the permanent plan, and efforts are to be made to locate an appropriate adoptive family. A report to the court is due by (*date, not to exceed 180 days from the date of this order*):
 

*(Do not check in the case of a tribal customary adoption. If item 14a is checked, provide for visitation in items 14b and 14c as appropriate, and go to item 18.)*

  - b.  Visitation between the child and
    - parent (*name*):  Mother     Father
    - parent (*name*):  Mother     Father
    - legal guardian (*name*):
    - other (*name*):
 is scheduled as follows (*specify*):
  - c.  Visitation between the child and (*names*):
    - is detrimental to the child's physical or emotional well-being and is terminated.
  
- 15.  The child's permanent plan is legal guardianship.
  - (*Name*):
    - is appointed legal guardian of the child, and *Letters of Guardianship* will issue. (*Do not check in case of a tribal customary adoption. If item 15 is checked, provide for visitation in items 15a and 15b as appropriate, and go to item 15c or 15d.*)
  - a.  Visitation between the child and
    - parent (*name*):  Mother     Father
    - parent (*name*):  Mother     Father
    - legal guardian (*name*):
    - other (*name*):
 is scheduled as follows (*specify*):
  - b.  Visitation between the child and (*names*):
    - is detrimental to the child's physical or emotional well-being and is terminated.
  - c.  Dependency     Wardship    is terminated.
  - d.  Dependency     Wardship    is **not** terminated. The likely date for termination of the dependency or wardship is (*date*): *(If this item is checked, go to item 17.)*

The juvenile court retains jurisdiction of the guardianship under Welfare and Institutions Code section 366.4.

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16. a.  The child remains placed with *(name of placement)*:  
with a permanent plan of *(specify)*:
- |  |   |
|--|---|
| (1) <input type="checkbox"/> Returning home            | (5) <input type="checkbox"/> Permanent placement with a fit and willing relative  |
| (2) <input type="checkbox"/> Adoption                  | (6) <input type="checkbox"/> Independent living with identification of a caring adult to serve as a lifelong connection |
| (3) <input type="checkbox"/> Tribal customary adoption |   |
| (4) <input type="checkbox"/> Legal guardianship        |   |

**The child's permanent plan is likely to be achieved by *(date)*:**  
*(If item 16a is checked, provide for visitation in items 16b and 16c as appropriate, and go to item 18.)*

- b.  Visitation between the child and
- |   |                                 |                                 |
|---|---------------------------------|---------------------------------|
| <input type="checkbox"/> parent <i>(name)</i> :         | <input type="checkbox"/> Mother | <input type="checkbox"/> Father |
| <input type="checkbox"/> parent <i>(name)</i> :         | <input type="checkbox"/> Mother | <input type="checkbox"/> Father |
| <input type="checkbox"/> legal guardian <i>(name)</i> : |                                 |                                 |
| <input type="checkbox"/> other <i>(name)</i> :          |                                 |                                 |
- is scheduled as follows *(specify)*:

- c.  Visitation between the child and *(names)*:  
is detrimental to the child's physical or emotional well-being and is terminated.

17.  The child is an Indian child. The court finds that the child's permanent plan complies with the placement preferences because:

- a.  The permanent plan is not adoption, and *(choose one)*:
- (1)  The child is placed with a member of the child's extended family as defined by Welf. & Inst. Code, § 224.1(c); or
  - (2)  A diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
  - (3)  A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, the efforts are documented in detail in the record, and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
  - (4)  A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe or an Indian foster home licensed or approved by an authorized non-Indian licensing authority, the efforts are documented in detail in the record, and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
  - (5)  The child is placed in accordance with the preferences established by the tribe; or
  - (6)  The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
- b.  The permanent plan is adoption *(choose one)*:
- (1)  The child is placed with a member of the child's extended family; or
  - (2)  A diligent search was made for a placement with a member of the child's extended family, those efforts are documented in detail in the record, and the child is placed with other members of the child's tribe; or
  - (3)  An diligent search was made for a placement with a member of the child's extended family or other member of the child's tribe, those efforts are documented in detail in the record, and the child is placed with another Indian family; or
  - (4)  The child is placed in accordance with the preferences established by the tribe; or
  - (5)  The court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in detail in the record.



CHILD'S NAME:	CASE NUMBER:
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- 18.  The child's placement is necessary.
- 19.  The child's placement is appropriate.
- 20.  The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent plan. If this case involves an Indian child, the court finds that the agency has made active efforts to provide remedial and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proven unsuccessful.
- 21.  The child is an Indian child and active efforts as detailed in the record  were  were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. If active efforts were made, those efforts have proved  successful  unsuccessful.
- 22.  The child is, or there is reason to know the child is, an Indian child. Notice has been provided as required by Welf. & Inst. Code, § 224.3, and proof of such notice has been filed with the court.
- 23.  The child remains a  dependent  ward of the court. *(If this box is checked, go to items 22 and 23 if applicable, and items 24 and 25.)*
- 24.  All prior orders not in conflict with this order will remain in full force and effect.
- 25.  Other *(specify)*:

26.  Next hearing date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- a.  Continued hearing under section 366.26 for receipt of report on attempts to locate an adoptive family
  - b.  Continued hearing under section 366.24(c)(6) for receipt of the tribal customary adoption order
  - c.  Six-month postpermanency review

27. The  Parent *(name)*:  Mother  Father  
 Parent *(name)*:  Mother  Father  
 Indian custodian *(name)*:  
 Child  
 Other *(name)*:  
 have been advised of their appeal rights (under Cal. Rules of Court, rule 5.590).

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

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

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
<b>DECLARATION FOR DEFAULT OR UNCONTESTED</b> <input type="checkbox"/> <b>DISSOLUTION</b> <input type="checkbox"/> <b>LEGAL SEPARATION</b>	CASE NUMBER:

**(NOTE: Items 1 through 12 apply to both dissolution and legal separation proceedings.)**

1. I declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. I agree that my case will be proven by this declaration and that I will not appear before the court unless I am ordered by the court to do so.
3. All the information in the  amended  Petition  Response is true and correct.
4. **Type of case (check a, b, or c):**
  - a.  **Default without agreement**
    - (1) No response has been filed and there is no written agreement or stipulated judgment between the parties;
    - (2) The default of the respondent was entered or is being requested, and I am not seeking any relief not requested in the petition; and
    - (3) The following statement is true (check one):
      - (A)  There are no assets or debts to be disposed of by the court.
      - (B)  The community and quasi-community assets and debts are listed on the **completed** current *Property Declaration* (form FL-160), which includes an estimate of the value of the assets and debts that I propose to be distributed to each party. The division in the proposed *Judgment* (form FL-180) is a fair and equal division of the property and debts, or if there is a negative estate, the debts are assigned fairly and equitably.
  - b.  **Default with agreement**
    - (1) No response has been filed and the parties have agreed that the matter may proceed as a default matter without notice; and
    - (2) The parties have entered into a written agreement regarding their property and their marriage or domestic partnership rights, including support, the original of which is being or has been submitted to the court. I request that the court approve the agreement.
  - c.  **Uncontested**
    - (1) Both parties have appeared in the case; and
    - (2) The parties have entered into a written agreement regarding their property and their marriage or domestic partnership rights, including support, the original of which is being or has been submitted to the court. I request that the court approve the agreement.
5. **Declaration of disclosure (check a, b, or c):**
  - a.  Both the parties have filed, or are filing concurrently, a *Declaration Regarding Service of Declaration of Disclosure* (form FL-141) and an *Income and Expense Declaration* (form FL-150).
  - b.  This matter is proceeding by default. I am the petitioner in this action and have filed a proof of service of the preliminary *Declaration of Disclosure* (form FL-140) with the court. I hereby waive receipt of the final *Declaration of Disclosure* (form FL-140) from the respondent.
  - c.  This matter is proceeding by default. I am the petitioner in this action, and service of the summons on respondent was done by publication or posting under court order. Service of the preliminary *Declaration of Disclosure* (form FL-140) is not required. I hereby waive receipt of the final *Declaration of Disclosure* (form FL-140) from the respondent.

PETITIONER: RESPONDENT:	CASE NUMBER:
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- d.  This matter is proceeding as an uncontested action. Service of the final *Declaration of Disclosure* (form FL-140) is mutually waived by both parties. A waiver provision executed by both parties under penalty of perjury is contained on the *Stipulation and Waiver of Final Declaration of Disclosure* (form FL-144), in the settlement agreement or proposed judgment, or in another, separate stipulation.
  
- 6.  **Child custody and visitation (parenting time)** should be ordered as set forth in the proposed *Judgment* (form FL-180).
  - a.  The information in *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act* (UCCJEA) (form FL-105)  has  has not changed since it was last filed with the court. *(If changed, attach updated form.)*
  - b.  There is an existing court order for custody/parenting time in another case in (*county*):  
The case number is (*specify*):
  - c.  The current custody and visitation (parenting time) previously ordered in this case, or the current schedule is (*specify*):
  
  - Contained on Attachment 6c.
  - d.  The facts that support the requested judgment are (*In a default case, state your reasons below*):
  
  - Contained on Attachment 6d.
  
- 7.  **Child support** should be ordered as set forth in the proposed *Judgment* (form FL-180).
  - a. If there are minor children, check and complete item (1) if applicable and item (2) or (3):
    - (1)  Child support is being enforced in another case in (*county*):  
The case number is (*specify*):
    - (2)  The information in the child support calculation attached to the proposed judgment is correct based on my personal knowledge.
    - (3)  I request that this order be based on the  Petitioner's  Respondent's earning ability. The facts in support of my estimate of earning ability are (*specify*):
  
    - Contained on Attachment 7a(3).
  - b. Complete items (1) and (2) regarding public assistance.
    - (1) I  am receiving  am not receiving  intend to apply for public assistance for the child or children listed in the proposed order.
    - (2) To the best of my knowledge, the other party  is  is not receiving public assistance.  
 Petitioner  Respondent is presently receiving public assistance, and all support should be made payable to the local child support agency at the address set forth in the proposed judgment. A representative of the local child support agency has signed the proposed judgment.
  
- 8. **Spousal, Partner, and Family Support** (*If a support order or attorney fees are requested, submit a completed Income and Expense Declaration (form FL-150) unless a current form is on file. Include your best estimate of the other party's income. Check at least one of the following.*)
  - a.  I knowingly give up forever any right to receive spousal or partner support.
  - b.  I ask the court to reserve jurisdiction to award spousal or partner support in the future to:  
 Petitioner  Respondent
  - c.  I ask the court to terminate forever spousal or partner support for:  Petitioner  Respondent
  - d.  Spousal support or domestic partner support should be ordered as set forth in the proposed *Judgment* (form FL-180) based on the factors described in:
    - Spousal or Partner Support Declaration Attachment* (form FL-157)
    - written agreement
    - attached declaration (*Attachment 8d*)
  - e.  Family support should be ordered as set forth in the proposed *Judgment* (form FL-180).
  - f.  Other (*specify*):

PETITIONER: RESPONDENT:	CASE NUMBER:
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9.  **Parentage** of the children of the petitioner and respondent born prior to their marriage or domestic partnership should be ordered as set forth in the proposed *Judgment* (form FL-180).
- a.  A voluntary declaration of parentage or paternity is attached.
- b.  Parentage was previously established by the court in (*county*):  
 The case number is (*specify*):
- The written agreement of the parties regarding parentage is attached here (Attachment 9b) or to the proposed *Judgment* (form FL-180).
10.  **Attorney fees** should be ordered as set forth in the proposed *Judgment* (form FL-180).
- The facts in support of this request are on *Request for Attorney's Fees and Costs Attachment* (form FL-319).
- Other (*specify facts below*):

11.  The judgment should be entered nunc pro tunc for the following reasons (*specify*):

12.  Petitioner  Respondent requests restoration of the former name as set forth in the proposed *Judgment* (form FL-180) (*proceedings for dissolution or nullity of marriage only*).

13. Irreconcilable differences have led to the irremediable breakdown of the marriage or domestic partnership, and there is no possibility of saving the marriage or domestic partnership through counseling or other means.

14. This declaration may be reviewed by a commissioner sitting as a temporary judge, who may determine whether to grant this request or require my appearance under Family Code section 2336.

**STATEMENTS IN THIS BOX APPLY ONLY TO DISSOLUTIONS**

15. If this is a dissolution of a marriage or domestic partnership created in another state, the petitioner or the respondent has been a resident of this county for at least three months and of the state of California for at least six months continuously and immediately preceding the date of the filing of the petition for dissolution of marriage or domestic partnership.
16. I ask that the court grant the request for a judgment of dissolution of marriage or domestic partnership based on irreconcilable differences and that the court make the orders set forth in the proposed *Judgment* (form FL-180) submitted with this declaration.
17.  **Status only judgment:** This declaration is only for the termination of marital or domestic partner status. I ask the court to reserve jurisdiction over all other issues not requested in this declaration for later determination.

**THIS STATEMENT APPLIES ONLY TO LEGAL SEPARATIONS**

18. I ask that the court grant the request of a judgment for legal separation based on irreconcilable differences and that the court make the orders set forth in the proposed *Judgment* (form FL-180) submitted with this declaration.

**I understand that a judgment of legal separation does not terminate a marriage or domestic partnership, and that I am still married or a partner in a domestic partnership.**

19.  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 OF DECLARANT)

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Juvenile Law: Psychotropic Medication Information Release (Adopt Cal. Rules of Court, rule 5.642; amend rule 5.640; approve forms JV-228, JV-228-INFO, and JV-229; amend forms JV-223, JV-224, and JV-287)

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

Family and Juvenile Law Advisory Committee

**Staff contact** (*name, phone and e-mail*): Kerry Doyle, 415-865-8791, [kerry.doyle@ca.gov](mailto:kerry.doyle@ca.gov)

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

Approved by RUPRO: October 28, 2019

Project description from annual agenda:

Family and Juvenile Law Advisory Committee Annual Agenda: Item 1: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration.

Item 1o. SB 377 (McGuire) Juveniles: psychotropic medications: medical information (Ch. 547, Statutes of 2019)

Requires the Judicial Council to include in its forms for authorizing the administration of psychotropic drugs to a child dependent or ward of the court to include a request for authorization by the child or the child's attorney to release the child's medical information to the Medical Board of California to ascertain whether there is excessive prescribing of psychotropic medication

*If requesting July 1 or out of cycle, explain:*

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

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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**Title**

Juvenile Law: Psychotropic Medication  
Information Release

**Action Requested**

Review and submit comments by February 12,  
2020

**Proposed Rules, Forms, Standards, or Statutes**

Adopt Cal. Rules of Court, rule 5.642; amend  
rule 5.640; approve forms JV-228, JV-228-  
INFO, and JV-229; amend forms JV-223, JV-  
224, and JV-287

**Proposed Effective Date**

September 1, 2020

**Contact**

Kerry Doyle, 415-865-8791  
[kerry.doyle@jud.ca.gov](mailto:kerry.doyle@jud.ca.gov)

**Proposed by**

Family and Juvenile Law Advisory  
Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends adopting one rule, amending one rule, approving three forms, and amending three forms to conform to recent statutory changes regarding a child for whom the juvenile court has approved a request for a prescription of psychotropic medication, which were enacted by Senate Bill 377 (McGuire; Stats. 2019, ch. 547).

### Background

As indicated in the legislative history for SB 377, in 1999, the Legislature passed Senate Bill 543 (Bowen; Stats. 1999, ch. 552) to provide that only a juvenile court judicial officer has the authority to make orders regarding the administration of psychotropic medications for children in foster care and that the juvenile court may issue a specific order delegating this authority to a parent if the parent poses no danger to the child and has the capacity to authorize psychotropic medications. This legislation was passed in response to concerns that foster children were being subjected to excessive use of psychotropic medication, and that judicial oversight was needed to reduce the risk of unnecessary medication. The Judicial Council was required to adopt rules of court to implement the new requirement. Accordingly, California Rules of Court, rule 5.640 was adopted and specified the process for juvenile courts to follow in authorizing the administration

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

of psychotropic medications and permits courts to adopt local rules to further refine the approval process.

In 2004, the provisions of Senate Bill 543 were amended by Assembly Bill 2502 (Keene, Ch. 329, Stats. 2004) to require a judicial officer to approve or deny, in writing, a request for authorization to administer psychotropic medication, or set the matter for hearing, within seven days. This amendment was intended to ensure timely consideration of requests for authorization to administer psychotropic medication to dependent children.

In 2015, SB 238 (Monning; Stats. 2015, ch. 534) further amended these provisions to, among other things, require the rules of court and corresponding forms to address specified concerns. These concerns included ensuring that the dependent or ward and the dependent's or ward's caregiver (or court-appointed special advocate, if any) are allowed an opportunity to provide input on the medications being prescribed, and that guidance be provided to the court on how to evaluate the request for authorization. The bill also required the rules of court and forms to include a process for periodic oversight by the court of orders regarding the administration of psychotropic medications.

In 2017, Senate Bill 1174 (McGuire; Stats. 2017, ch. 840), required the Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) to provide data, pursuant to a specified data-sharing agreement, to the Medical Board of California (the Board) regarding Medi-Cal physicians and their prescribing patterns of psychotropic medications and related services for dependents or wards of the court, and provided that personal identifiers were to be removed from the data before providing it. That bill also required the Board to contract with a psychiatrist who has expertise and specializes in pediatric care for the purpose of reviewing the data provided to the Board to ensure the appropriate standard of care was being met.

The Board's expert reviewing the data provided by CDSS flagged 86 patients who fit the description of being on three or more psychotropic medications for 90 days or more.<sup>1</sup> In order to assess if the psychotropic medications were prescribed appropriately and consistent with the standard of care, the Board must review the patient's medical record. Under existing law, the Board is required to obtain authorization to contact the individual before it can even ask for authorization to review the patient's medical record. Through administrative efforts with CDSS, the Board received authorization to contact five individuals and was only able to get three authorizations for release of a patient's medical record. This resulted in the Board only being able to investigate three of the 86 cases originally identified.<sup>2</sup>

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<sup>1</sup> Welfare and Institutions Code section 14028 requires CDSS to share with the Board data for all foster children who are or have been on three or more psychotropic medications for 90 days or more.

<sup>2</sup> Sen. Com. on Judiciary, Analysis of Sen. Bill No. 377 (2019–2020 Reg. Sess.) Apr. 23, 2019, p. 5

Senate Bill 377 attempts to allow the Board to get the information it needs to investigate more cases of potential over prescription of psychotropic medication. The bill revises Welfare and Institutions Code section 369.5 and 739.5 regarding psychotropic medication prescriptions, and requires the Judicial Council to develop a form to include a request for authorization by the child or child's attorney for CDSS to release the child's identification information to the Board, so it can ascertain whether there is excessive prescribing of psychotropic medication.<sup>3</sup>

## **The Proposal**

### **Rule 5.640**

Rule 5.640 would be amended to add two new forms (discussed below) to the list of the documents the applicant must provide the child's attorney when providing notice of the request for psychotropic medication.

### **Rule 5.642**

Rule 5.642 would be adopted to provide the process for processing the forms including providing the forms to the child and child's attorney, signing the authorization form, and sending the authorization form to CDSS.

### ***Authorization for Release of Information to the Medical Board of California (form JV-228)***

This would be a mandatory form for the child or child's attorney to indicate whether the child authorizes CDSS to release the child's identification information to the Board, so it can ascertain whether there is excessive prescribing of psychotropic medication. It would also authorize the Board to obtain the child's medical records to determine if there are any potential violations of the law or excessive prescribing of psychotropic medication.

### ***Background on Authorization for Release of Information to the Medical Board of California (form JV-228-INFO)***

This form would be provided to the child and child's attorney to explain why form JV-228 is being provided, what information may be revealed to the Board, the confidentiality of the information revealed to the Board, and a description of the process to withdraw any authorization. This form is critical for this process because most attorneys practicing in juvenile court are unaware of the Board's investigatory role in psychotropic medication prescriptions, and are also unaware of the process by which CDSS provides information to the Board. In order for attorneys to be able to understand and explain this important process to their child clients, this form is necessary.

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<sup>3</sup> All further statutory references are to the Welfare and Institutions Code and all further rule references are to the California Rules of Court, unless otherwise indicated.



***Withdrawal of Authorization for Release of Information to the Medical Board of California (form JV-229)***

This would be an optional form for the child or child’s attorney to use to withdraw any authorization to release information to the Board.

***Order on Application for Psychotropic Medication (form JV-223)***

A new item would be added to this form for the court to indicate whether the authorization is for three or more psychotropic medications for 90 days or more and if so, ordering the applicant to provide the child and the child’s attorney a blank copy of *Authorization for Release of Name, Contact, and Other Information to the Medical Board of California* (form JV-228) and a copy of *Background on Authorization Form* (form JV-228-INFO). The order would also indicate that the procedures in California Rules of Court, rule 5.642 must be followed. This item would also alert the court that such a prescription meets the description in Welfare and Institutions Code section 14028 of the data DHCS and CDSS must share with the Board in order to ascertain whether there is excessive prescribing of psychotropic medication. This information could be beneficial to new juvenile court bench officers who are not familiar with the psychotropic medication application process.

***County Report on Psychotropic Medication (form JV-224)***

A new item would be added to this form for the social worker or probation officer to indicate whether the court order is for three or more psychotropic medications for 90 days or longer. If so, the item would ask whether form JV-228 has been filed with the court.

***Confidential Information (form JV-287)***

The instructions on form JV-287 would be amended to indicate the form can be used with form JV-228, that the form must be kept under seal in the court file, and that only the court, the agency, and the child’s attorney can look at the information.

**Alternatives Considered**

The committee considered requiring that the court provide a blank authorization form and Information Sheet to the child and the child’s attorney when the court ordered three or more psychotropic medication for ninety days or longer. This process, however, would not result in the receipt of these forms immediately when the order was made. Since most orders for psychotropic medications are made ex parte without attorneys present, the forms would likely not be provided to the court until the next status review hearing, which could be months from when the order was made. There also would be no reminder to the court that the documents needed to be provided. The committee concluded that having the applicant (typically the social worker or probation officer) provide the forms when providing notice of the application was a better approach. The applicant is already required under rule 5.640 to provide five documents to the child’s attorney when they provide notice. The committee concluded that it was most efficient to add two more potential documents to the notice at the beginning of the request for psychotropic medications. The committee also concluded that it was more efficient since the social workers and probation

officers have a better understanding of the forms and when they are needed than a courtroom clerk.

The committee considered having CDSS notify the court when the Board is requesting the identifying information of a child, however this approach would not be helpful for prescriptions made several years ago, as the child's case would likely be closed. That approach would only address data recently submitted to the Board, but the issue the Board has is its inability to obtain information on children that may have been in foster care several years ago. The Board is looking at prescription patterns and as such, is not only requesting the identifying information for children in the most recent data set, but also for children prescribed medication by that same doctor for what could be years ago.

The committee also considered creating a form that could be sent to CDSS without filing it with the court. However, the committee concluded that the form could easily be lost or misplaced if it was not kept in the child's court file. Filing the form also allows the court the ability to review the file to determine if the form has been filled out.

The committee considered placing a one-year limit on the duration of the authorization. Since the Board, however, is looking at prescribing practices of physicians, the Board may need to obtain information on children in past data sets. A one-year limit on the authorization would only address data recently submitted to the Board. The issue the Board has, however, is its inability to obtain information on children that may have been in foster care several years ago. The Board is looking at prescription patterns and as such, is not only requesting the identifying information for children in the most recent data set, but also for children prescribed medication by that same doctor for what could be years ago. The committee concluded that a three-year limitation may be more appropriate and is seeking specific public comment on this timeframe.

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

The proposal includes an added requirement that notice to the child's attorney include copies of *Authorization for Release of Information to the Medical Board of California* (form JV-228) and *Background on Authorization for Release of Information to the Medical Board of California* (form JV-228-INFO). Providing notice with two additional documents will likely result in minimal implementation costs and a slight increase in workload for the person or persons providing notice to the parties and attorneys. The proposal also includes an added requirement that the court clerk send the filed copy of *Authorization for Release of Information to the Medical Board of California* (form JV-228) to CDSS. This will likely result in minimal implementation costs and a slight increase in workload for the court clerk. In implementing the revised forms, courts will incur standard reproduction costs.

## Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should the authorization to release information last until it is withdrawn, last for three years, or is there a more appropriate time limit when it should expire?

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

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 3 ½ 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 [Heading 1 - Arial 12, bold]

1. Proposed Cal. Rules of Court, rules 5.640 and 5.642, attached at pages 7–10
2. Proposed forms JV-223, JV-224, JV-228, JV-228-INFO, JV-229, and JV-287, attached at pages 11–21
3. Senate Bill 377,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB377](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB377)

Rule 5.640 would be amended, effective September 1, 2020, to read:

1 **Rule 5.640. Psychotropic medications**

2  
3 (a) – (b) \* \* \*

4  
5 (c) **Procedure to obtain authorization**

6  
7 (1) – (9) \* \* \*

8  
9 (10) \* \* \*

10  
11 (A) – (B) \* \* \*

12  
13 (C) Notice must be provided as follows:

14  
15 (i) – (ii) \* \* \*

16  
17 (iii) Notice to the child’s attorney of record and any Child Abuse  
18 Prevention and Treatment Act guardian ad litem for the child  
19 must include:

20  
21 a. – c. \* \* \*

22  
23 d. A blank copy of *Input on Application for Psychotropic*  
24 *Medication* (form JV-222) or information on how to obtain  
25 a copy of the form; ~~and~~

26  
27 e. A blank copy of *Child’s Opinion About the Medicine* (form  
28 JV-218) or information on how to obtain the form; and

29  
30 f. If the application is a request for authorization of three or  
31 more psychotropic medications for 90 days or longer,  
32 notice must also include a blank copy of *Authorization for*  
33 *Release of Information to the Medical Board of California*  
34 (form JV-228), a blank copy of *Background on*  
35 *Authorization for Release of Information to the Medical*  
36 *Board of California* (form JV-228-INFO), and the  
37 procedures in rule 5.642 must be followed.

38  
39 (iv) \* \* \*

40  
41 (11) – (12) \* \* \*

Rule 5.640 would be amended, effective September 1, 2020, to read:

1  
2  
3

**(d) – (k) \* \* \***

DRAFT

Rule 5.642 would be adopted, effective September 1, 2020, to read:

1 **Rule 5.642 Authorization to release psychotropic medication prescription**  
2 **information to Medical Board of California**

3  
4 **(a) Providing authorization forms**

5  
6 Whenever there is an *Application for Psychotropic Medication* (form JV-220) filed  
7 with the court under rule 5.640, the applicant must review the *Physician's*  
8 *Statement—Attachment* (form JV-220(A)) or *Physician's Request to Continue*  
9 *Medication—Attachment* (form JV-220(B)) to determine if the request is for three  
10 or more concurrent psychotropic medications for 90 days or more, as described in  
11 section 14028. If there is a request to order three or more psychotropic medications  
12 for 90 days or more, the applicant must provide a copy of *Authorization for Release*  
13 *of Information to the Medical Board of California* (form JV-228), and *Background*  
14 *on Authorization for Release of Information to the Medical Board of California*  
15 (form JV-228-INFO) to the child and the child's attorney.

16  
17 **(b) Signing authorization form**

18  
19 Either the child or the child's attorney, with the informed consent of the child if the  
20 child is found by the court to be of sufficient age and maturity to consent, which  
21 must be presumed, subject to rebuttal by clear and convincing evidence if the child  
22 is 12 years of age or over, may sign *Authorization for Release of Information to the*  
23 *Medical Board of California* (form JV-228). If the child does not want to sign form  
24 JV-228, the child's attorney may not sign it. The child's attorney may sign form  
25 JV-228 with the approval of a child 12 years of age or older, if the child is under 12  
26 years of age, or if the court finds the child not to be of sufficient age and maturity  
27 to consent.

28  
29 **(c) Filing and sending authorization form**

- 30  
31 (1) The child's attorney must review *Authorization for Release of Information to*  
32 *the Medical Board of California* (form JV-228) with the child and file it with  
33 the superior court.
- 34  
35 (2) Within three days of filing, the clerk of the superior court must send  
36 *Authorization for Release of Information to the Medical Board of California*  
37 (form JV-228) to the California Department of Social Services at the address  
38 indicated on the form.

39  
40 **(d) Withdrawal of Authorization**

41  
42 At any time, the child, nonminor dependent, or attorney may withdraw the  
43 authorization to release information to the Medical Board of California.

Rule 5.642 would be adopted, effective September 1, 2020, to read:

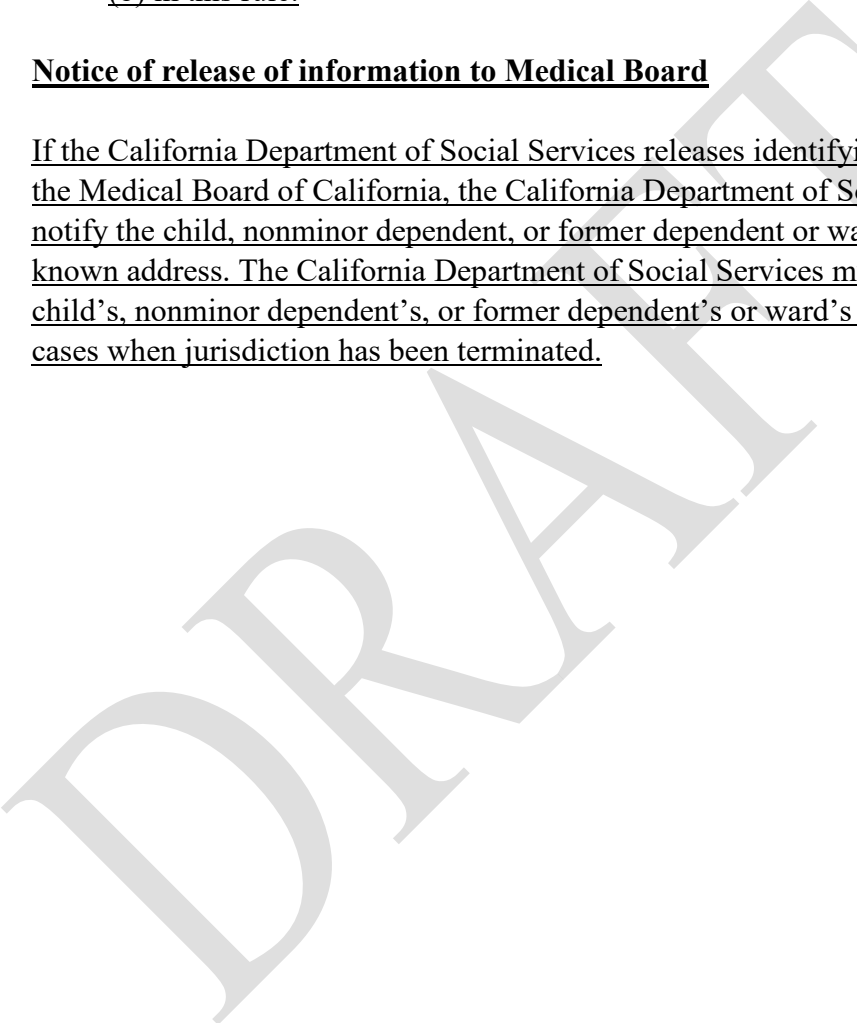
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(1) Withdrawal can be by *Withdrawal of Authorization for Release of Information to the Medical Board of California* (form JV-229) or by letter to the California Department of Social Services.

(2) Either the child or the attorney can sign *Withdrawal of Authorization for Release of Information to the Medical Board of California* (form JV-229) or send a letter to the California Department of Social services as described in (b) in this rule.

**(e) Notice of release of information to Medical Board**

If the California Department of Social Services releases identifying information to the Medical Board of California, the California Department of Social Services must notify the child, nonminor dependent, or former dependent or ward, at the last known address. The California Department of Social Services must also notify the child’s, nonminor dependent’s, or former dependent’s or ward’s attorney, including cases when jurisdiction has been terminated.



Clerk stamps date here when form is filed.

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the Judicial Council**

**The Court read and considered:**

- a. Form JV-220, *Application for Psychotropic Medication*, and form JV-220 (A), *Physician’s Statement—Attachment*, or JV-220(B), *Physician’s Request to Continue Medication—Attachment* filed on (date): \_\_\_\_\_
- b.  Form JV-218, *Child’s Opinion About the Medicine*, filed on (date): \_\_\_\_\_
- c.  Form JV-219, *Statement About Medicine Prescribed*, filed on (date): \_\_\_\_\_
- d.  Form JV-219, *Statement About Medicine Prescribed*, filed on (date): \_\_\_\_\_
- e.  Form JV-222, *Input on Application for Psychotropic Medication*, filed on (date): \_\_\_\_\_
- f.  Form JV-222, *Input on Application for Psychotropic Medication*, filed on (date): \_\_\_\_\_
- g.  CASA report
- h.  Other (specify): \_\_\_\_\_

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:**

**The Court finds and orders:**

- ① a.  Notice requirements were met.
- b.  Notice requirements were *not* met. Proper notice was not given to: \_\_\_\_\_

②  The matter is set for hearing on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in (dept.): \_\_\_\_\_

③  Application was made for authorization to begin or to continue giving the child the psychotropic medication listed in ⑰ on page 5 of form JV-220(A) or ⑱ on page 4 of form JV-220(B).

**Copies of pages 5 and 6 of form JV-220(A) or pages 3 and 4 of form JV-220(B) are attached to this order.**

The application is (check one):

- a.  Granted as requested.
- b.  Granted with the following modifications or conditions to the request as made in ⑰ on page 5 of form JV-220(A) or ⑱ on page 4 of form JV-220(B) (specify all modifications and conditions): \_\_\_\_\_

c.  Denied (specify reason for denial): \_\_\_\_\_

If the application was for medication the child is currently taking, the social worker or probation officer must consult with the prescribing physician to determine whether the physician is recommending that the medication should be stopped immediately or gradually reduced over time.





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

Child's name: \_\_\_\_\_

- 4 a.  This authorization is not for three or more psychotropic medications at the same time for 90 days or more.
- b.  This authorization is for three or more psychotropic medications at the same time for 90 days or more which meets the description in Welfare and Institutions Code section 14028 of the data the California Department of Health Care Services and the California Department of Social Services must share with the Medical Board of California in order to ascertain whether there is excessive prescribing of psychotropic medication. The applicant must provide the child and the child's attorney a blank copy of *Authorization for Release of Information to the Medical Board of California* (form JV-228) and a blank copy of *Background on Authorization for Release of Information to the Medical Board of California* (form JV-228-INFO). The procedures in California Rules of Court, rule 5.642 must be followed.

5  The applicant must resubmit the application no later than (date): \_\_\_\_\_ with the missing information, which is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The matter is set for hearing on (date): \_\_\_\_\_ at (time): \_\_\_\_\_  
 in (dept.): \_\_\_\_\_

6 The

- a.  social worker
- b.  probation officer
- c.  person who submitted application

is ordered to give a copy of this order, including pages 5 and 6 of form JV-220(A) or pages 3 and 4 of form JV-220(B) and the medication monograph attached to the form JV-220(A) to the child's caregiver either in person or by mail within two court days.

7  Other (specify): \_\_\_\_\_

\_\_\_\_\_

8 The order is set for a progress review on (date): \_\_\_\_\_ at (time): \_\_\_\_\_  
 in (dept.): \_\_\_\_\_

This order is effective until terminated or modified by court order or until 180 days from the date of this order, whichever is earlier. If the prescribing physician is no longer treating the child, this order extends to subsequent treating physicians. A change in the child's placement does not require a new order regarding psychotropic medication. Except in an emergency situation, a new application must be submitted and consent granted by the court before giving the child medication not authorized in this order or increasing medication dosage beyond the maximum daily dosage authorized in this order.

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

▶  
 \_\_\_\_\_  
*Signature of judge or judicial officer*

*Clerk stamps date here when form is filed.*

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the Judicial Council**

The social worker or probation officer must file this form for any hearing for which the court is providing oversight of psychotropic medications. This includes all scheduled progress reviews on orders authorizing psychotropic medication and every status review hearing. If you are filing this form for a status review hearing, file it with the status review hearing report. If you need more space for any of the items, write the item number and additional information on page 4 of this form. If you need more space than page 4, attach a sheet or sheets of paper. If you do not know the answer to a question, write "I do not know."

*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:**

① Your name: \_\_\_\_\_

② Your relationship to the child:  
 Social worker       Probation officer  
 Other county staff (*specify*): \_\_\_\_\_  
 \_\_\_\_\_

③ a. Caregiver's relationship to child: \_\_\_\_\_  
 b. Date of last communication with caregiver: \_\_\_\_\_

④ Child Information

a. Child's height: \_\_\_\_\_ b. Child's weight: \_\_\_\_\_

c. Prescribing physician's name: \_\_\_\_\_

d. Date last seen by prescribing physician: \_\_\_\_\_

e. Next appointment date: \_\_\_\_\_

f. Therapist's name: \_\_\_\_\_

g. Date last seen by therapist: \_\_\_\_\_

⑤ List current court-approved psychotropic medications. (*Verify that this is what child is taking.*)

Name of Medication	Dosage	Name of Medication	Dosage

⑥  The child is taking the medication in ⑤. This was verified by  child  caregiver  other (*specify*): \_\_\_\_\_  
 \_\_\_\_\_

⑦  The child is not taking the following medication in ⑤ (*specify*): \_\_\_\_\_  
 This was verified by  child  caregiver  other (*specify*): \_\_\_\_\_

Case Number:

Child's name: \_\_\_\_\_

- 8 a.  The court has not approved three or more psychotropic medications for 90 days or more.
- b.  The court has approved three or more psychotropic medications for 90 days or more.

Does the court case file contains a signed copy of *Authorization for Release of Information to the Medical Board of California* (form JV-228)?

- (1)  Yes
- (2)  No
- (3)  I do not know

9 Describe the caregiver's observations regarding how the child's behaviors and/or symptoms have changed since the medication was begun.

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10 Describe the caregiver's observations regarding the side effects of the medication.

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11 Describe any concerns the caregiver has regarding the medication.

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12 Describe what the child says about whether his or her behaviors and/or symptoms have changed since the medication was begun.

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Case Number:

Child's name: \_\_\_\_\_

**13** Describe what the child says about the side effects of the medication.

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**14** Describe any concerns or complaints the child has regarding the medication.

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**15** List the dates of all medication management appointments since the last court hearing.

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**16** List the dates and reasons of other follow-up medical appointments since the last court hearing.

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**17** Describe other mental health treatments that are part of the child's overall treatment plan (for example, frequency and type of counseling, wraparound, etc.) or attach mental health treatment plan from treating clinician.

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**Authorization for Release of Information to the Medical Board of California**

Clerk stamps date here when form is filed.

You have been prescribed three or more psychotropic medications at the same time for 90 days or longer. The California Medical Board will look into the care your doctor provided you and may want additional information to determine if the doctor appropriately prescribed medication for you. You may use this form to authorize the California Department of Social Services and the California Department of Health Care Services to give your name and contact information to the Medical Board of California, if the Board requests, so the Board can look more closely at your care. You can also use this form to authorize the release of limited information to the Board.

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**the Judicial Council**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

- ① Your information:
- a. I am the  
 child or youth  
 nonminor dependent  
 child or youth's attorney
- b. My name: \_\_\_\_\_
- c. My address, city, state, and zip code (*If confidential, see item 2*):  
 \_\_\_\_\_
- d. My telephone number: \_\_\_\_\_
- e. My email address: \_\_\_\_\_
- f. *If you are an attorney:*  
 My client's name: \_\_\_\_\_  
 My client's address, city, state, and zip code (*If confidential, see item 2*):  
 \_\_\_\_\_
- My client's telephone number: \_\_\_\_\_
- My client's email address: \_\_\_\_\_
- My state bar number: \_\_\_\_\_

- ② *If you want to keep your or your client's address confidential in the juvenile court file, fill out Confidential Information (form JV-287) and do not write the address on this form.*

*Check here if form JV-287 is attached.*

- ③ I understand that I cannot be denied the receipt of government services, treatment, and care just because I choose not to authorize a release of my information.

- ④ a.  I authorize  my name and contact information  my client's name and contact information to be shared with the Medical Board of California (Board), and authorize Board staff to contact  me  my client for further details about medical care.
- b.  I do not authorize  my name and contact information  my client's name and contact information to be shared with the Medical Board of California (Board), and do not authorize Board staff to contact me my client for further details about medical care.

*If you check item 4b, you can skip to the signature line at the end of this form.*



- 5 a.  I authorize the California Department of Health Care Services and the California Department of Social Services to connect  my name  my client's name to the prescribing data and other information about me that was previously provided under a unique number.
- b.  I do not authorize the California Department of Health Care Services and the California Department of Social Services to connect  my name  my client's name to the prescribing data and other information about me that was previously provided under a unique number.
- 6 a.  I authorize the Medical Board of California to obtain my medical records to determine if there are any potential violations of the law or excessive prescribing of psychotropic medication.
- (1) The authorization is limited to medical information relevant to the investigation of the prescription of psychotropic medication only.
- (2) The information may only be used for the purpose of the investigation.
- (3) If the medical information is admitted as an exhibit in an administrative hearing, the medical board must request the medical information obtained pursuant to this release be sealed.
- b.  I do not authorize the Medical Board of California to obtain my medical records to determine if there are any potential violations of the law or excessive prescribing of psychotropic medication.

7 This authorization will remain valid for three years, unless I cancel it in writing.

8 I understand that I may cancel this authorization by filing *Withdrawal of Authorization for Release of Information to the Medical Board of California* (form JV-229) or by sending a written letter to the California Department of Social Services at:

California Department of Social Services  
 Attention: Information Release for California Medical Board  
 744 P Street  
 Sacramento, CA 95814

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

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



\_\_\_\_\_  
*Signature of*

- Child or youth  
 Nonminor dependent  
 Attorney for child, youth, or nonminor dependent

Whenever a child, nonminor dependent, or attorney signs this form, the child or nonminor dependent's attorney must file the form with the juvenile court. The clerk of the court must mail a copy of the form to the California Department of Social Services (CDSS). CDSS must maintain all forms received to review whether the child has signed form JV-228 and given permission to release their information to the Medical Board.

California Department of Social Services  
 Attention: Information Release for California Medical Board  
 744 P Street  
 Sacramento, CA 95814

**1 Reason you are receiving these forms**

You have been prescribed three or more psychotropic medications at the same time for 90 days or longer. The California Medical Board will look into the care your doctor provided you and may want additional information to determine if the doctor appropriately prescribed medication for you.

The Medical Board of California (Board), as required by California law, is doing an ongoing review of medical doctors prescribing psychotropic medication to youth in foster care. As part of this review, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) provide prescribing and other data to the Board under a unique number assigned to you, but with no personal identifying information. This means that the Board does not know your name or other personal information about you, and does not know how to contact you.

The data provided by DHCS and CDSS will be reviewed by a medical expert who may decide that prescribing practices by one or more doctors involved in your care require further review. In order to look into the quality of medical care you were provided, the Board may request that you provide your name and contact information to the Board, so Board staff can contact you to get further details about your care and get your authorization to review your medical records. You do not need to respond to contacts from the Board, even if you authorized the release of your information. The decision to respond to the Board is up to you.

The Board encourages you to authorize this review, as it is important to ensure doctors are appropriately prescribing medications to youth in foster care.

**2 Information that may be made known**

The Medical Board may also request that you give your permission to DHCS and CDSS to connect your name to the prescribing and other data that was provided to the Board under a unique number. This means the Medical Board will know:

- your name and that you are or were in foster care
- your contact information
- what psychotropic medications you were prescribed

- how much of each medication you were prescribed
- the start and stop dates for each medication
- who prescribed them to you and
- your age and weight at the time you were prescribed these medications.

This information may help the Board evaluate the quality of care you received from your doctor(s).

You may also authorize the Board to obtain your medical records if the Board decides that one or more of the doctors involved in your care require further review to determine if the doctor broke the law or prescribed too much psychotropic medication to you.

**You are not required to release any information to the Board, and you may choose not to share your information with the Board. Further, if you do not give authorization, there will be no impact or changes to your receipt of government services, treatment, or care.**

**3 Confidentiality of information**

Please be aware that all of the state agencies involved are committed to protecting your privacy. The Board is required by law to keep all information about their investigations confidential.

**4 Withdrawal of authorization**

You are allowed to change your mind and can withdraw your authorization to give information to the Board. You can do this by signing, or having your attorney sign, *Withdrawal of Authorization for Release of Information to the Medical Board of California* (form JV-229) or by sending a letter to the California Department of Social Services.



**Withdrawal of Authorization for Release of Information to the Medical Board of California**

*Clerk stamps date here when form is filed.*

**DRAFT**  
**Not approved by**  
**the Judicial Council**

You may use this form to stop your authorization for the California Department of Social Services and the California Department of Health Care Services to give your name and contact information to the Medical Board of California, and to stop your authorization for the Medical Board of California to review limited medical records.

You do not have to use this form. You may also stop your authorization by sending a letter to the California Department of Social Services.

- 1 Your information:
  - a. I am the
    - child or youth
    - nonminor dependent
    - child or youth's attorney
  - b. My name: \_\_\_\_\_
  - c. My address, city, state, and zip code (*If confidential, see item 2*):  
\_\_\_\_\_
  - d. My telephone number: \_\_\_\_\_
  - e. My email address: \_\_\_\_\_
  - f. *If you are an attorney:*  
 My client's name: \_\_\_\_\_  
 My client's address, city, state, and zip code (*If confidential, see item 2*):  
\_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

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

**Case Number:**

- 2 *If you want to keep your or your client's address confidential in the juvenile court file, fill out Confidential Information (form JV-287) and do not write the address on this form.*  
 *Check here if form JV-287 is attached.*
- 3 I DO NOT authorize  my name and contact information  my client's name and contact information to be shared with the Medical Board of California (Board), and DO NOT authorize Board staff to contact me or my client for further details about medical care.
- 4 I DO NOT authorize the California Department of Health Care Services and the California Department of Social Services to connect my name to the prescribing data and other information about me that was previously provided under a unique number.
- 5 I DO NOT authorize the Medical Board of California to obtain my medical records to determine if there are any potential violations of the law or excessive prescribing of psychotropic medication.

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

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



\_\_\_\_\_  
*Signature of*

- Child or youth
- Nonminor dependent
- Attorney for child, youth, or nonminor dependent

This form is used to keep contact information confidential. It may be used along with any Judicial Council Juvenile Court form, including *Request to Change Court Order* (form JV-180), *Application and Affidavit for Restraining Order* (form JV-245), *Relative Information* (form JV-285), *Caregiver Information Form* (form JV-290), *De Facto Parent Request* (form JV-295), and *Authorization for Release of Information to the Medical Board of California* (form JV-228).

*You do not need to fill out this entire form, only the information that you know.*

This information must be kept under seal in the court file. Only the court, the agency, and the child's attorney may look at this information.

*Clerk stamps date here when form is filed.*

**DRAFT**  
**Not approved by**  
**the Judicial Council**

*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:**

① Your name: \_\_\_\_\_  
Your telephone number: \_\_\_\_\_  
Your address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

② Child's name: \_\_\_\_\_  
Child's telephone number, if known: \_\_\_\_\_  
Child's address, if known: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

③ If known:  
Child's Indian custodian, if any (*name each*): \_\_\_\_\_  
Custodian's telephone number: \_\_\_\_\_  
Custodian's address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

④ If known:  
Child's caregiver (*name each*): \_\_\_\_\_  
Caregiver's telephone number: \_\_\_\_\_  
Caregiver's address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Juvenile Law: Educational Rights Holders

*Committee or other entity submitting the proposal:*

Family and Juvenile Law Advisory Committee

*Staff contact (name, phone and e-mail):* Chris Cleary, (415) 865-8792, christine.cleary@jud.ca.gov

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

Approved by RUPRO: 10/28/19

Project description from annual agenda: Juvenile Law: Revise Form JV-535

Project Summary: In response to multiple concerns about the accuracy and usability of this form, the Committee will revise form JV-535 to ensure it is legally accurate and user-friendly.

*If requesting July 1 or out of cycle, explain:*

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

The Family and Juvenile Law Advisory Committee recommends amending California Rules of Court, rule 5.649 (Right to make educational or developmental-services decisions); revising Order Designating Educational Rights Holder (form JV-535) and its attachment (form JV 535(A)); and adopting form JV 535-INFO to clarify requirements, alleviate confusion, and provide more guidance on service of process. The committee considers this proposal a matter of some urgency because it has received several comments and requests for improvements to forms JV 535, JV 535(A), and rule 5.649 from court clerks, attorneys, and judges primarily expressing confusion about what the rule requires, inadequate guidance on service requirements, and a lack of clarity and insufficient information on the forms. This proposal details suggested amendments to the rule, revisions to the forms, and the adoption of a new form, JV 535-INFO, to further clarify the procedural requirements regarding educational rights holders.

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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**Title**

Juvenile Law: Educational Rights Holders

**Action Requested**

Review and submit comments by February 11, 2020

**Proposed Rules, Forms, Standards, or Statutes**

Amend California Rules of Court rule 5.649; revise forms JV-535 and JV-535(A); adopt form JV-535-INFO

**Proposed Effective Date**

September 1, 2020

**Proposed by**

Family and Juvenile Law Advisory Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

**Contact**

Chris Cleary  
[christine.cleary@jud.ca.gov](mailto:christine.cleary@jud.ca.gov)  
415-865-8792

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**Executive Summary and Origin**

The Family and Juvenile Law Advisory Committee recommends amending California Rules of Court, rule 5.649 (Right to make educational or developmental-services decisions); revising *Order Designating Educational Rights Holder* (form JV-535) and its attachment (form JV-535(A)); and adopting form JV-535-INFO to clarify requirements, alleviate confusion, and provide more guidance on service of process. The committee considers this proposal a matter of some urgency because it has received several comments about and requests for improvements to forms JV-535, JV-535(A), and rule 5.649 from court clerks, attorneys, and judges primarily expressing confusion about what the rule requires, inadequate guidance on service requirements, and a lack of clarity and insufficient information on the forms. This proposal details suggested amendments to the rule, revisions to the forms, and the adoption of a new form, JV-535-INFO, to further clarify the procedural requirements regarding educational rights holders.

**Background**

Forms JV-535 and JV-535(A) were last revised effective 2014 to conform to legislation that amended many sections of the Welfare and Institutions Code, the Education Code, and the Government Code to promote access to education and developmental and other legally mandated services for children and nonminors who are the subject of juvenile court proceedings and to ensure that all children and nonminors in foster care are able to maintain connections to relatives and other adults important to them. Rule 5.649 was also adopted effective 2014.

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

## **The Proposal**

The committee proposes the following:

1. Amend rule 5.649;
2. Revise *Order Designating Educational Rights Holder* (form JV-535);
3. Revise *Attachment to Order Designating Educational Rights Holder* (form JV-535(A));  
and
4. Adopt *Information on Educational Rights Holders* (form JV-535-INFO).

Education is an issue at every juvenile court hearing and must be addressed in agency reports. Courts need complete information to address educational needs. Child welfare and probation agencies are required to provide a comprehensive report on a child's or youth's educational progress and recommendations on how to meet any educational needs at all hearings. The initial report is recorded on *Your Child's Health and Education* (form JV-225) and is updated at every hearing in the social worker's or probation officer's report.

When an educational rights holder (ERH) is appointed by the court, that order is recorded on form JV-535 as are any subsequent orders that limit, restore, or modify education rights, or where there is a need to update contact or other information, in any juvenile proceeding. Other information about the child's school, social worker or probation officer, foster youth educational liaison, and general findings and orders regarding educational decisions can be recorded on form JV-535(A). Rule 5.649 applies to these hearings and the use of the two forms.

The committee has received several comments about and requests for improvements to forms JV-535, JV-535(A), and rule 5.649 from court clerks, attorneys, and judges primarily expressing confusion about what the rule requires, inadequate guidance on service requirements, and a lack of clarity and insufficient information on the forms. This proposal details suggestions for revisions and the adoption of new form JV-535-INFO.

This proposal is responsive to identified concerns or problems; and is otherwise helpful in advancing Judicial Council goals and objectives. It will provide more clarity and ease of use for the forms and will clarify that the rule does not require a new JV-535 to be filed unless the court has limited, modified, or restored educational rights or there has been changes to contact or other information. It will clarify a confusing rule and will make the forms more user friendly so that key information about the child and other interested parties will be more readily accessible to assist the court, the parties, and their attorneys.

### **Rule 5.649**

The following issues have been addressed in the proposed amended rule:

Courts and attorneys have been confused about whether there needs to be a new JV-535 at each hearing. The committee believes that a new form should only be needed at the first hearing and at any subsequent hearing where the court limits, restores, or modifies educational rights, or

where there is a need to update contact or other information. Otherwise, if there has been no change, the prior form JV-535 should remain in effect. The committee recommends amending the introduction to Rule 5.649 as follows:

The court must identify the educational rights holder for the child ~~on form JV-535~~ at each hearing in a dependency or delinquency proceeding. At the first hearing, and at any subsequent hearing where the court limits, restores, or modifies educational rights; or where there are updates to any contact or other information, in any juvenile proceeding, the findings and orders must be documented on form JV-535. Unless his or her rights have been limited by the court under this rule, the parent or guardian holds the educational and developmental-services decisionmaking rights for his or her child. In addition, a nonminor or nonminor dependent youth holds the rights to make educational and developmental-services decisions for himself or herself unless rule 5.650(b) applies.

Rule 5.649(d) and (e) states that if the court determines that the child needs any assessments, evaluations, or services, it is the judge's responsibility to direct the appropriate person to request such. That person then has the responsibility to file a new form JV-535 reflecting the change. Rule 5.649(e) further requires the child's attorney to file a form JV-535 if there has been no request for change. The committee recommends that be stricken and replaced with the following language:

If there has been no request for modification, limitation, or restoration of educational or developmental-services decisionmaking rights, or there are no required updates to contact or other information, there is no need to file a new form JV-535. If a new form JV-535 is filed, the most recent form JV-535(A) must be attached. The court may instead direct the appropriate party to attach a new form JV-535(A) to document the court's findings and orders.

### **Form JV-535**

The following issues have been addressed on this proposed revised form:

1. In the caption, the "Child's Name" section does not include the child's date of birth, which causes problems for the form user. The committee recommends adding "Child's Date of Birth." directly under the child's name in the caption.
2. The key information for the court is currently in item 6 on page 2 of the form, which is the information on whether the educational rights of the mother, father, or guardian have been limited, terminated, or restored. We recommend that item 6 become item 1 and the other items renumbered accordingly. The committee also recommends changing this item to include two sets of boxes instead of one to accommodate the possibility of more than one parent or guardian sharing educational rights.

3. Court clerks noted that there needed to be a more helpful way to indicate whether the names or addresses of the educational rights holders (ERHs) were confidential. We recommend adding confidential boxes under the names of the ERHs in item 2.
4. There was a universal complaint that in a case where there are two rights holders (or more), it is insufficient to have just one set of boxes to check to provide information on the holders; however, space is an issue on this section of the form. The committee recommends changing item 3 to have one set of boxes with room to put the identifier “Name 1” or “Name 2” in the boxes, along with a check box for “See attached” in case there are more than two ERHs.
5. In item 4 (formerly item 3), minor edits are recommended to accommodate more than one ERH.
6. Item 12, under Service of Order, has a comprehensive—though not necessarily complete in every case—list of those who need to be served. Clerks in the court are supposed to serve the form to all that apply on the list, but they do not always have the names and addresses to serve in individual cases. One suggestion was that the social worker or probation officer in the case be given notice on the form that it is his or her responsibility to make sure that the clerk of the court has the correct names and addresses of those who need service. But many of the required names and addresses are located on form JV-535(A)—the attachment that holds the information about the child’s school and social worker information, along with the court’s findings and orders. That issue is addressed in form JV-535(A), below.

#### **Form JV-535(A)**

As noted above, many of the names and addresses of those who require service of any changes in the ERH are listed on this form. However, there are two that must be served that are not included on JV-535(A): the child’s Indian tribe (if applicable) and the county office of education foster youth services coordinator. An item has been added containing the name and address for the CASA organization and the name and contact information for a court-appointed special advocate, if there is one appointed in the case. The committee recommends that those three new contacts be added to the General Information section of form JV-535(A).

#### **New form JV-535-INFO**

The committee believes that court users would benefit from a JV-INFO form addressing the requirements for hearings that involve Educational Rights Holders. A proposed new form JV-535-INFO (Information on Educational Rights Holders) is attached.

The following issues are addressed in the proposed new form:

1. What is an educational rights holder? The new form provides a description of what an ERH is and what it means if a parent’s or guardian’s educational rights are limited.
2. What are the rights and duties of an ERH?

3. What is required of the court and various parties at each hearing regarding the ERH?
4. What is required of the court clerk regarding service on the parties when there has been a change in form JV-535?
5. How does one appeal a decision by the court to limit or modify educational rights?

**Implementation Requirements, Costs, and Operational Impacts** Implementation requirements, costs, and operational impacts will be minimal since the only change to the rule and the forms is a clarification that a form JV-535 does not need to be drafted for every hearing, along with additions to the forms to make them more user friendly. Additionally, the proposed form JV-535-INFO should simplify an understanding of the requirements that accompany hearings on educational rights holders. That should save both time and costs.

### **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?
- In an educational rights holder case there are mandatory and optional people who may be served with process. Many are listed in the Service of Order section of form JV-535 such as the parent or guardian (unless their rights have been terminated or there is a confidentiality restriction), the CASA volunteer, or any other person entitled to notice under Welfare and Institutions Code section 293. Would it be helpful to create a service section on form JV-535(A) that has check boxes for the mandatory and optional persons to be served for a specific case?
- Please comment on whether the proposed form JV-535-INFO would be helpful.

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

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



**Attachments and Links**

1. Cal. Rules of Court, rule 5.649, at pages 7
2. Forms JV-535, JV-535(A), and JV-535-INFO, at pages 8–13

DRAFT

Rule 5.649 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1 **Rule 5.649. Right to make educational or developmental-services decisions**

2  
3 The court must identify the educational rights holder for the child ~~on form JV-535~~ at each  
4 hearing in a dependency or delinquency proceeding. At the first hearing, and at any  
5 subsequent hearing where the court limits, restores, or modifies educational rights, or  
6 where there are updates to any contact or other information, in any juvenile proceeding,  
7 the findings and orders must be documented on form JV-535. Unless his or her rights  
8 have been limited by the court under this rule, the parent or guardian holds the  
9 educational and developmental-services decisionmaking rights for his or her child. In  
10 addition, a nonminor or nonminor dependent youth holds the rights to make educational  
11 and developmental-services decisions for himself or herself unless rule 5.650(b) applies.

12  
13 (a)—(c) \*\*\*

14  
15 (d) **Judicial determination**

16  
17 If the court determines that the child is in need of any assessments, evaluations, or  
18 services—including special education, mental health, developmental, and other  
19 related services—the court must direct an appropriate person to take the necessary  
20 steps to request those assessments, evaluations, or services.

21  
22 (e) **Filing of order**

23  
24 Following the dispositional hearing and each statutory review hearing, the party  
25 that has requested a modification, limitation, or restoration of educational or  
26 developmental-services decisionmaking rights must complete form JV-535 and any  
27 required attachments to reflect the court’s orders and submit the completed form  
28 within five court days for the court’s review and signature. ~~If no request is made,~~  
29 ~~the child’s or youth’s attorney must complete and file the form.~~ If there has been no  
30 request for modification, limitation, or restoration of educational or developmental-  
31 services decisionmaking rights, or there are no required updates to contact or other  
32 information, there is no need to file a new form JV-535. If a new form JV-535 is  
33 filed, the most recent *Attachment to Order Designating Educational Rights Holder*  
34 (form JV-535(A)) must be attached. The court may instead direct the appropriate  
35 party to attach a new *Attachment to Order Designating Educational Rights Holder*  
36 (form JV-535(A)) to document the court’s findings and orders.  
37  
38

**JV-535-INFO****Information on Educational Rights Holders****1 What Is an Educational Rights Holder?**

An educational rights holder is the adult identified or appointed by the court to make educational or developmental-services decisions for a child or youth who has a case in the juvenile court. It can be a parent or guardian of the child or youth. But if the court limits a parent's or guardian's decisionmaking rights and appoints an educational rights holder other than the parent or guardian, that person acts as the child's or youth's parent, spokesperson, decision maker, and "authorized representative" for all matters related to education and/or developmental-services needs. That person has the right to access the child's or youth's educational and developmental-services records and information to the same extent permitted by the law for a parent.

**2 What Is Required of an Educational Rights Holder?**

Whether a parent or guardian or another person is appointed as the educational rights holder for a child or youth, that person has rights and duties that are imposed by the court. The appointed educational rights holder:

- Will be authorized to have access to the child's or youth's educational and/or developmental-services records and information to the extent permitted by the law.
- May authorize the release of educational and/or developmental-services records to the child's attorney or CASA volunteer to the extent permitted by the law.
- Must comply with all applicable state and federal confidentiality laws and may share information only to the extent necessary to further the interests of the child or youth.
- Must meet with the child or youth; investigate the child's or youth's educational and/or developmental-services needs and whether those needs are being met; and, before each scheduled review hearing provide information and recommendations to the social worker or probation officer or make written recommendations to the court or attend the review hearing, and participate in any part of the hearing that concerns the child's education or development or all of these. The rights holder may submit written recommendations on

*Educational Rights Holder Statement* (form JV-537) or in any other suitable format. To the greatest extent possible, the educational rights holder must consult and collaborate with the educational liaison or regional center service coordinator, as applicable, to gather information needed to meet the needs and protect the rights of the child or youth.

**3 At Each Hearing...**

At each hearing in a dependency or delinquency proceeding the court is required to identify the educational rights holders for the child or youth. At the dispositional hearing, the social worker or probation officer will have interviewed the parent or guardian and have had the parent or guardian fill out and return *Your Child's Health and Education* (form JV-225) and filed it with the court. At that hearing the court, using the information available, will appoint an educational rights holder and that order will be made on *Order Designating Educational Rights Holder* (form JV-535). That order will be signed by the judge and filed with the court along with form JV-535(A), which contains general information and the court's other findings and orders related to the child's or youth's health and education. At each subsequent hearing those original JV-535 and JV-535(A) forms will remain in effect until there is a need to limit, restore, or modify educational rights, or where there is a need to update any contact or other information on form JV-535; or when there are changes in the general information or subsequent findings and orders on form JV-535(A). The most recently updated forms JV-535 and JV-535(A) should be combined and presented at each subsequent hearing.

**4 Who Needs to Be Served the Original and Updated Forms JV-535 and JV-535(A)?**

The first form JV-535 and any following form JV-535 with new information, along with the most recent JV-535(A), must be served by the clerk of the court on the following:

- The child (if 10 years old or older);
- The attorney for the child or youth;
- The social worker or probation officer;
- The Indian child's tribe (if applicable);



- The local foster youth educational liaison;
- The county office of education foster youth services coordinator;
- The regional center service coordinator (if applicable); and
- The educational rights holder or surrogate parent.

The clerk may also serve the form to:

- The parent or guardian (unless the information is deemed confidential, parental rights have been terminated, or the child has reached 18 years of age and reunification services have been terminated);
- To the CASA volunteer (if applicable); and, if requested,
- To any other person entitled to notice under Welfare and Institutions Code section 293.

*Service must be in person or by first-class mail no later than five court days after the order is signed.*

#### **4 If You Want to Appeal a Decision by the Court to Limit or Modify Educational Rights**

If the court limited or modified educational rights at a juvenile court hearing, you have the right to appeal that decision. To appeal a decision to limit your educational rights, your attorney must fill out and file *Notice of Appeal — Juvenile* (form JV-800) within 60 days of the date of the decision. ***Before filing the Notice of Appeal, the order that the judge signed limiting or modifying your educational rights (form JV-535) must be attached to it, along with the most recent form JV-535(A).*** The appeal can be filed in the clerk's office at the court where the decision was made.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL 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:	
<b>CHILD'S NAME:</b> <b>CHILD'S Date of Birth:</b>	
<b>ORDER DESIGNATING EDUCATIONAL RIGHTS HOLDER</b>	CASE NUMBER:

**Educational Rights Holder for Child or Youth**

1.  The rights of

a. Name 1: <input type="checkbox"/> parent 1 <input type="checkbox"/> parent 2 <input type="checkbox"/> guardian to make <input type="checkbox"/> educational <input type="checkbox"/> developmental-services <b>Check one for each named educational right holder.</b> (1) <input type="checkbox"/> are retained. (2) <input type="checkbox"/> are fully restored. (3) <input type="checkbox"/> are temporarily limited under section 319(g). (4) <input type="checkbox"/> are limited under section 361(a) or 726(b). (5) <input type="checkbox"/> have been terminated under section 366.26 or 727.31. (6) <input type="checkbox"/> transferred to the youth on his or her 18th birthday. <input type="checkbox"/> Other Educational Rights Holders—see attached.	b. Name 2: <input type="checkbox"/> parent 1 <input type="checkbox"/> parent 2 <input type="checkbox"/> guardian decisions for the child or youth (1) <input type="checkbox"/> are retained. (2) <input type="checkbox"/> are fully restored. (3) <input type="checkbox"/> are temporarily limited under section 319(g). (4) <input type="checkbox"/> are limited under section 361(a) or 726(b). (5) <input type="checkbox"/> have been terminated under section 366.26 or 727.31. (6) <input type="checkbox"/> transferred to the youth on his or her 18th birthday.
--	--

2.  The following adults are designated as the educational rights holders, as defined in rule 5.502.

a. Name 1: Address:  Telephone: E-mail: Relationship to child or youth: <input type="checkbox"/> Confidential Name <input type="checkbox"/> Confidential Address <input type="checkbox"/> Other Educational Rights Holders—see attached.	b. Name 2: Address:  Telephone: E-mail: Relationship to child or youth: <input type="checkbox"/> Confidential Name <input type="checkbox"/> Confidential Address
---	--

3. The adults identified in item 2  Name 1  Name 2 are (check all that apply):

a.  The *first* educational rights holder identified by the court for this child or youth.

b.  The *same* educational rights holder as last identified by the court, with new contact information in item 2, above.

c.  A *different* educational rights holder from the one last identified by the court.

**NOTICE**

Provision of the information on this form—as well as on forms JV-535(A), JV-536, JV-537, JV-538, JV-539, JV-540, or any equivalent form—to the parent(s) or guardian(s) named in 6 **will** create a safety risk (for example, because of the placement's confidentiality). The information **may not** be disclosed to the parent or guardian.

<b>CHILD'S NAME:</b>	CASE NUMBER:
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- 3. d.  The successor guardian or conservator and, as such, holds decisionmaking rights.
- e.  The caregiver in a planned permanent living arrangement and holds  educational  developmental-services decisionmaking rights under section 361(a)(1)(E). See item 6 for limitation of parental decisionmaking rights.

**Having considered the evidence and made the findings required by law, THE COURT ORDERS that**

- 4.  The responsible adults identified in 2 are appointed the educational rights holders for the child or youth and are authorized to make  educational  developmental-services decisions for the child or youth to the extent permitted by law.
- 5.  (Check only if 2, 3 and 4 do not apply.) The court cannot identify a parent, guardian, or other responsible adult to act as the educational rights holder.
  - a.  The court hereby refers the child to the local educational agency for appointment of a surrogate parent under section 7579.5 of the Government Code.
  - b.  The court, with input from any interested person, will make  educational  developmental-services decisions.
    - The appointment of a surrogate parent is not warranted.
    - (Before the dispositional hearing) The child's attorney and the social worker or probation officer must make every effort to identify a responsible adult to make future educational or developmental services decisions for the child.
- 6.  The appointment of any previous educational rights holder or developmental-services decision maker is terminated.

**Appointed Educational Rights Holder—Rights and Duties**

- 7. The appointed educational rights holder is authorized to have access to the child's or youth's  educational  developmental-services records and information to the extent permitted by law.
- 8. The appointed educational rights holder may authorize the release of  educational  developmental-services records to the child's attorney or CASA volunteer to the extent permitted by law.
- 9. The appointed educational rights holder must comply with all applicable state and federal confidentiality laws, including sections 362.5, 827, 4514, and 5328 and Government Code section 7579.5(f), and may share information only to the extent necessary to further the interests of the child or youth.
- 10. The appointed educational rights holder must meet with the child or youth; investigate the child's or youth's educational and developmental-services needs and whether those needs are being met; and, before each scheduled review hearing, provide information and recommendations to the social worker or probation officer **OR** make written recommendations to the court **OR** attend the review hearing and participate in any part of the hearing that concerns the child's education or development **OR** all of these. The rights holder may submit written recommendations on *Educational Rights Holder Statement* (form JV-537) or in any other suitable format. To the greatest extent possible, the educational rights holder must consult and collaborate with the educational liaison or regional center service coordinator, as applicable, to gather information needed to meet the needs and protect the rights of the child or youth.

**Service of Order**

- 11. If this is the first form JV-535 completed in this case or it includes any information different from information on the previous JV-535, the clerk will provide a copy of this form and any attachments to the child (if 10 years old or older) or youth; the attorney for the child or youth; the social worker or probation officer; the Indian child's tribe, if applicable; the local foster youth educational liaison; the county office of education foster youth services coordinator; the regional center service coordinator, if applicable; and the educational rights holder or surrogate parent in person or by first-class mail no later than five court days after the order is signed. The clerk may also make the form available to the parent or guardian (unless otherwise indicated on this form, or parental rights have been terminated, or the child has reached 18 years of age and reunification services have been terminated), to the CASA volunteer, and if requested, to any other person entitled to notice under section 293.
- 12. The assigned social worker or probation officer must notify the educational rights holder of the date, time, and location of each court hearing.

**This order applies to any local educational agency, school, school district, or regional center serving the child or youth in the State of California.**

Related findings and orders are attached on form JV-535(A) or its equivalent.

Date: ▶ \_\_\_\_\_  
JUDICIAL OFFICER

<b>CHILD'S NAME:</b>	CASE NUMBER:
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**General Information**

1. Child's or youth's date of birth:  
 Indian child's tribe (if applicable): \_\_\_\_\_  
 Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Email: \_\_\_\_\_ Phone No.: \_\_\_\_\_
2. School information
  - a. School district:
  - b. School (*name and address*):
  - c. Foster youth educational liaison (Ed. Code, § 48853.5) (*name and contact information*):
  - d.  The child is currently expelled from school and may be eligible for readmission on or after (*date*):
3. County office of education (*address*): \_\_\_\_\_  
 Foster youth service coordinator (*name and contact information*): \_\_\_\_\_
4. Regional center (*name and address*):  
 Service coordinator (*name and contact information*):
5. County placing agency (*specify*):
  - a. Assigned social worker or probation officer (*name and contact information*):
  - b. Supervising social worker or probation officer (*name, address, and contact information*):
6. CASA organization (*name and address*): \_\_\_\_\_  
 Court Appointed Special Advocate (CASA) (*name and contact information*): \_\_\_\_\_
7. Child's or youth's attorney (*name, address, and contact information*):

**THE COURT FINDS AND ORDERS**

8.  The child or youth is the subject of a petition filed under section 325. The child's parent or guardian is unavailable, unable, or unwilling to exercise educational or developmental services rights; the agency has made diligent efforts to locate and secure the participation of the parent or guardian in educational and developmental-services decisionmaking; and the child's or youth's educational and developmental-services needs cannot be met without the temporary appointment of a responsible adult as educational rights holder.
9.  Limitation of the rights of the parent(s) or guardian(s) to make  educational  developmental-services decisions is necessary to protect the child or youth.
10.  The youth is at least 18 years old and
  - a.  has chosen not to make  educational  developmental-services decisions for himself or herself.
  - b.  is deemed incompetent to make educational or developmental-services decisions for himself or herself.
11.  (*If 10a or 10b is checked*): The appointment of an educational rights holder to make developmental-service decisions for the youth is in his or her best interests.

<b>CHILD'S NAME:</b>	CASE NUMBER:
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- 12.  The court has not ordered or has terminated reunification services for the parent or guardian, and the child or youth is placed in a planned permanent living arrangement under section 366.21(g)(5), 366.22, 366.26, 366.3(i), or 727.3(b)(5)–(6).
- 13. There  is  is not a responsible adult relative, nonrelative extended family member, or other adult known to the child who is available and willing to serve as the educational rights holder.
- 14. The child or youth is receiving special education, general education accommodations and modifications, early intervention services, or developmental services.  Yes  No
- 15.  The child or youth is receiving services under the following plan (*check all that apply*):
  - a.  Individualized education program (IEP)
  - b.  Section 504 plan
  - c.  Individualized family service plan (IFSP)
  - d.  Individual program plan (IPP)
  - e.  Other (*explain*):

The LEA or regional center must ensure that a copy of any plan is provided to the designated educational rights holder.

- 16.  The child or youth needs the following educational or developmental assessments or services (*check all that apply*):
  - a.  The child is 0–3 years old, is at risk for a disability or has a developmental delay, and needs assessment for services.
  - b.  The child is 0–3 years old, has a disability, and needs the development of an IFSP.
  - c.  The child or youth is 3 years old or older, may have a disability, and needs intake and assessment for services.
  - d.  The child or youth is 3 years old or older, has a disability, and needs the development or revision of an IEP, IPP, or Section 504 plan.
- 17. The appointed educational rights holder must (*check all that apply*):
  - a.  Submit to the LEA a written referral for assessment for special education and related services or for services under section 504 of the Rehabilitation Act of 1973.
  - b.  Submit to the regional center a written referral for an initial intake and eligibility assessment or evaluation.
  - c.  Submit to the LEA a written referral for assessment or services, or a written request to convene the IEP team to develop, review, or revise the pupil's IEP.
  - d.  Submit a written request to the regional center to convene the IFSP team to develop, review, or revise the IFSP.
  - e.  Submit a written request to the regional center to convene the IPP team to develop, review, or revise the IPP.
  - f.  Other:

- 18.  The following person is directed under rule 5.649(c)–(d) to take whatever steps are necessary to request any assessments or services identified in item 14 or 15 (*name and address unless confidential*):
- 19.  The current educational program and school placement are in the best interests of the child or youth.
- 20.  The current IFSP, IPP, or other developmental services plan is in the best interests of the child or youth.
- 21.  The child or youth  is  is *not* attending his or her school of origin. If not,
  - a. The educational rights holder  has  has *not* waived the child's or youth's right to attend the school of origin.
  - b. The child or youth  has  has *not* waived his or her right to attend the school of origin.
- 22.  The county placing agency has considered educational stability and the opportunity to be educated in the least restrictive educational program when making placement decisions for the child or youth.



## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal (include amend/revise/adopt/approve + form/rule numbers):**

Protective Orders: Forms and Procedures for Protecting Minors' Information

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

Family and Juvenile Law Advisory Committee and Civil and Small Claims Advisory Committee

**Staff contact (name, phone and e-mail):** Frances Ho, 415-865-7662, frances.ho@jud.ca.gov; Kristi Morioka, 916-643-7056, kristi.morioka@jud.ca.gov

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

Approved by RUPRO: October 28, 2019

Project description from annual agenda:

Family and Juvenile Law Advisory Committee. 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. AB 925 (Gloria) Protective orders: confidential information regarding minors (Ch. 294, Statutes of 2019) Expands the circumstances in which it is permissible to disclose a minor's confidential information contained in certain protective orders.

Civil and Small Claims Advisory Committee. Assembly Bill 925 expands the circumstances in which it is permissible to disclose a minor's confidential information relating to certain protective orders. Work with POWG (under lead of Family and Juvenile Law Advisory Committee) to revise forms relating to domestic violence and civil protective orders as appropriate to implement this bill. Some additional revisions to make the forms more user-friendly may be made at the same time.

*If requesting July 1 or out of cycle, explain:*

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

# 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

**W20-XXX**

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**Title**

Protective Orders: Forms and Procedures for Protecting Minors' Information

**Action Requested**

Review and submit comments by February 11, 2020

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rules 3.1161 and 5.382; adopt forms CH-176, CH-177, CH-178, CH-179, DV-176, DV-177, DV-178, and DV-179; revise forms CH-160, CH-160-INFO, CH-165, CH-170, CH-175, DV-160, DV-160-INFO, DV-165, DV-170, and DV-175

**Proposed Effective Date**

September 1, 2020

**Contact**

Frances Ho  
[frances.ho@jud.ca.gov](mailto:frances.ho@jud.ca.gov)  
(415) 865-7662

**Proposed by**

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Civil and Small Claims Advisory Committee

Hon. Ann I. Jones, Chair

Kristi Morioka

[kristi.morioka@jud.ca.gov](mailto:kristi.morioka@jud.ca.gov)

(916) 643-7056

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### Executive Summary and Origin

Current law provides that a minor or minor's legal guardian may ask the court to make certain information regarding the minor confidential in a domestic violence or civil harassment restraining order proceeding. Assembly Bill 925 (Stats. 2019, ch. 294) changes the penalty associated with misuse or disclosure of a minor's confidential information, provides circumstances in which the confidential information may be disclosed, and allows a third-party to request release of confidential information under limited circumstances.

The Family and Juvenile Law Advisory Committee and the Civil and Small Claims Advisory Committee jointly recommend amending rules of court, adopting eight forms (a set of four in the Domestic Violence Prevention series and a set of four in the Civil Harassment Prevention series), and revising several forms, in order to implement the provisions in AB 925.

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

## The Proposal

This proposal is urgently needed to implement AB 925,<sup>1</sup> which takes effect on January 1, 2020. As most litigants in domestic violence and civil harassment restraining order proceedings are self-represented, the forms proposed here would eliminate the need for parties to create their own pleadings and draft orders. Additionally, the proposed amendments to rules are needed to provide consistency in how these requests and orders are processed. The committees propose the following:

1. Amend rules 3.1161 (civil harassment) and 5.382 (domestic violence);
2. Adopt *Request for Release of Minor's Confidential Information* (forms CH-176 and DV-176);
3. Adopt *Notice of Request for Release of Minor's Confidential Information* (forms CH-177 and DV-177);
4. Adopt *Response to Request for Release of Minor's Confidential Information* (forms CH-178 and DV-178);
5. Adopt *Order on Request for Release of Minor's Confidential Information* (forms CH-179 and DV-179);
6. Revise *Request to Keep Minor's Information Confidential* (forms CH-160 and DV-160);
7. Revise *Privacy Protection for a Minor (Person Under 18 Years Old)* (forms CH-160-INFO and DV-160-INFO);
8. Revise *Order on Request to Keep Minor's Information Confidential* (forms CH-165 and DV-165);
9. Revise *Notice of Order Protecting Information of Minor* (forms CH-170 and DV-170);  
and
10. Revise *Cover Sheet for Confidential Information* (forms CH-175 and DV-175).

### **Court-ordered release of confidential information to third parties**

Effective January 1, 2020, the court may allow disclosure of information regarding a minor that has been made confidential, if the disclosure is necessary to effectuate the underlying purpose of the restraining order,<sup>2</sup> or if it is in the best interest of the minor. The court may do so on its own motion or by request of any person. If by request, the person (the minor or minor's legal

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<sup>1</sup> AB 925 amends section 6301.5 of the Family Code and section 527.6(v) of the Code of Civil Procedure. Unless otherwise indicated, all further references to these code sections are as amended by AB 925

<sup>2</sup> For domestic violence restraining orders, see Family Code section 6220; for civil harassment restraining orders, see Code of Civil Procedure section 527.6(v)(3).

guardian) who asked the court to make the minor's information confidential must be personally served or by first-class mail with a copy of the request (form CH-176 or DV-176) and must have the opportunity to object to the request.

To implement the above, the committees propose amending rules 3.1161 and 5.382 to describe consistent procedures for this process.

***Rules 3.1161 and 5.382***

These rules would be amended to:

- Require the person asking the court to release a minor's confidential information to make the request on form CH-176 or DV-176 and to submit to the court a proposed order (form CH-179 or DV-179) along with the request;
- Provide that the court, within 10 days of the filing of form CH-176 or DV-176, provide, by first-class mail, a copy of the request, the blank response form, the notice of request, and a blank cover sheet for confidential information to the person who made the request for confidential information. The court must provide notice because the name and address of the person who made the request to keep a minor's information confidential is contained on a confidential form (CH-160 or DV-160) and so may not be available to the person making the request;
- Require that the person (the minor or minor's legal guardian) who asked the court to make the minor's information confidential, if objecting to the request, file the objection on form CH-178 or DV-178 within 20 days from the date of mailing of the notice by the court;
- Allow the court to deny the request for release of minor's confidential information based on the papers;
- Allow the court to schedule a hearing if the minor/legal guardian objects to the request, or to obtain more information regarding the request for release of a minor's confidential information. Any court hearing would be closed and would require at least 10 days' notice to the persons needed at the hearing;
- Require forms containing confidential information be redacted prior to filing in a public file; and
- Provide that the court will provide notice of any order granting or denying a request for release of confidential information if the court's ruling was based on the papers alone (i.e., no court hearing).

As described above, new forms are needed because the majority of litigants in these cases are self-represented.

***New forms CH-176 and DV-176, Request for Release of Minor’s Confidential Information***

This form would be used by any person who wants access to a minor’s information that has been made confidential. In some cases, the person may already know the information (e.g., a minor’s name or address) but needs an unredacted copy of a court order that involves the minor, like a restraining order protecting the minor.

***New forms CH-177 and DV-177, Notice of Request for Release of Minor’s Confidential Information***

This mandatory notice form would be completed by the court and mailed to the minor or legal guardian who made the request to keep the minor’s information confidential (i.e., the person who filed form CH-160 or DV-160). The court would also mail a copy of the completed form (CH-176 or DV-176), a blank copy of the response form (CH-178 or DV-178), and a blank cover sheet (CH-175 or DV-175).

***New forms CH-178 and DV-178, Response to Request for Release of Minor’s Confidential Information***

This response form would be completed by the person (the minor or minor’s legal guardian) who asked the court to make the minor’s information confidential. If confidential information is provided on this form, two copies of the form must be provided to the court, along with a copy of the mandatory cover sheet (form CH-175 or DV-175).<sup>3</sup> If the person who made the request for confidentiality does not agree with the request to release minor’s confidential information, the response must be filed within 20 days from the time the notice is mailed by the court.

***New forms CH-179 and DV-179, Order on Request for Release of Minor’s Confidential Information***

An order granting, denying, or setting a court hearing would be made on this form. If the court is making an order to release confidential information, a redacted copy would have to be prepared and filed in a public file and the unredacted copy would be filed in a confidential file. As with the *Order on Request to Keep Minor’s Information Confidential* (forms CH-165 and DV-165), if the court issues a denial, only page 1 would be filed and the remaining pages discarded.

***Revisions to forms CH-160 and DV-160, CH-165 and DV-165***

An additional item would be added to the *Request to Keep Minor’s Information Confidential* (forms CH-160 and DV-160), at item 9, to allow the minor or legal guardian to ask the court to give certain third parties access to unredacted restraining order forms. A parallel item would be included on the *Order on Request to Keep Minor’s Information Confidential* (forms CH-165 and DV-165), at item 10. These revisions reflect the amendments in AB 925 that provide that courts may authorize disclosure of the confidential information to certain individuals or entities as necessary to implement the protective order or if otherwise in the best interest of the child. (See Code Civ. Proc. § 527.6(v)(4), eff. Jan. 1, 2020, and Fam. Code, § 6301.5(d), eff. Jan. 1, 2020.)

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<sup>3</sup> This procedure is called for under current rules 3.1161(i) (for civil harassment cases) and 5.382(i) (for domestic violence cases) for the filing of documents with information that the court has ordered be kept confidential.

### ***Revisions to forms CH-160-INFO and DV-160-INFO***

The item “Is there a penalty for disclosing confidential information?” on page 3 would be revised to include an updated warning about misusing information and provide examples of when disclosure of confidential information is allowed by statute. (See the discussion of AB 925’s amendments to the sanctions provisions below.)

### **Monetary sanctions may be imposed for the misuse or disclosure of minor’s confidential information**

Under current law, misuse or disclosure of a minor’s confidential information is punishable as contempt of court, with a fine of up to \$1,000. Effective January 1, 2020, the penalty for misuse or disclosure is a sanction of up to \$1,000, which would require the court to assess the person’s ability to pay, prior to imposition. Also, under limited circumstances, disclosure without a court order is permitted, including any disclosure by a minor who has alleged abuse.<sup>4</sup> The committees propose revising forms CH-165 and DV-165, at item 7, to include the following language:

**Warning:** Unless authorized by the court or by law, if the information listed below is misused or disclosed to anyone other than law enforcement you may be sanctioned up to \$1,000 or face other court penalties. See [code section]<sup>5</sup> for the limited situations in which disclosures can be made without a court order.

A substantially identical warning would be included on the *Notice of Order Protecting Information of Minor* (forms CH-170 and DV-170), at item 4.

### **Order for confidentiality applies to other cases**

Currently, an order making a minor’s information confidential applies in any civil proceeding. Effective January 1, 2020, an order for confidentiality would only apply to civil cases between the parties who also were in the civil harassment restraining order proceedings, and any proceeding initiated under the Family Code if the order for confidentiality was made in a domestic violence restraining order proceeding.<sup>6</sup> The following forms and rules would be revised to reflect this change:

- Rules 3.1161(i) and 5.382(i);
- Forms CH-165 and DV-165 (items 11 and 12 respectively);
- Forms CH-170 and DV-170 (item 3); and
- Forms CH-175 and DV-175 (item 2).

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<sup>4</sup> See Code Civ. Proc., § 527.6(v)(3); Fam. Code, § 6301.5(c).

<sup>5</sup> Code Civ. Proc., § 527.6(v)(3) (for civil harassment); Fam. Code, § 6301.5(c)(2) (for domestic violence).

<sup>6</sup> Code Civ. Proc., § 527.6(v)(3)(A); Fam. Code, § 6301.5(c)(1).

### **Technical change to rule 5.382**

A technical change to rule 5.382 is needed to correct the title of a form cited in the rule. In subdivision (e)(2)(D), the title of form DV-160 should read *Request to Keep Minor's Information Confidential* instead of *Request for Domestic Violence Restraining Order*.

### **Alternatives Considered**

#### **Rules of court**

The committees considered developing rules that would provide a process for the court to determine a person's ability to pay before imposition of a sanction. The committees rejected this idea because courts are accustomed to making this type of determination and are best suited to decide how to make this determination on a case-by-case basis.

#### **Forms**

The committees considered not recommending new forms requesting the release of confidential information, as it is not clear how often these requests will be made and whether they will be filed by attorneys or self-represented litigants. The committees decided new forms should be created, primarily to provide the person who made the request for confidentiality the opportunity to object to such requests.

The committees considered revising item 8a(1) in forms CH-160 and DV-160 to remove the option for asking that the minor's name be kept confidential from the restrained party, citing potential due process issues from the restrained party not having the full name of a minor witness or a minor who is a protected person. The item is currently on the form because, while the statute requires that the restrained party must have information necessary to comply with and respond to the restraining order, it is possible that the restrained party could be provided with enough information to comply and respond without necessarily being given the full name of a minor. This is particularly true if the minor is not a protected party, but instead a witness or a child of the restrained party who has not been named as an additional protected party.

In light of the fact that this item is already on the form, which was adopted by the council in 2019, the committees concluded that item 8a (1) should remain on the proposed form being circulated but are asking for specific comments on this point.

### **Fiscal and Operational Impacts**

The committees anticipate that AB 925 will require that courts incur costs to train court staff and judicial officers on this new procedure, provide assistance to self-represented litigants in self-help centers, and ensure that filed documents are properly redacted. This proposal is intended to help parties and courts implement these new provisions. The new forms may result in costs incurred by courts to incorporate the new forms into their 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?
- Should a person asking that the information of a minor be kept confidential be precluded from asking that the name of the minor *not* be provided to the restrained party? (That is, should item 8a(1) on forms CH-160 and DV-160 be removed? See the discussion in “Alternatives considered,” above.)
- Are the forms easy for users to understand?
- Do you have any suggestions for improving their usability and readability?

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

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

## Attachments and Links

1. Cal. Rules of Court, rules 3.1161 and 5.382, at pages 8 - 16.
2. Forms CH-160, CH-160-INFO, CH-165, CH-170, CH-175, CH-176, CH-177, CH-178, CH-179, DV-160, DV-160-INFO, DV-165, DV-170, DV-175, DV-176, DV-177, DV-178, and DV-179, at pages 17 - 76.
3. Link A: Assembly Bill 925,  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB925](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB925)



Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1 Title 3. Civil Rules

2  
3 Division 11. Law and Motion

4  
5 Chapter 3. Provisional and Injunctive Relief

6  
7 Article 4. Protective Orders

8  
9 Rule 3.1161. Request to make minor’s information confidential in civil harassment  
10 protective order proceedings

11  
12 (a) Application of rule

13  
14 This rule applies to requests and orders made under Code of Civil Procedure section  
15 527.6(v) to keep a minor’s information confidential in a civil harassment protective  
16 order proceeding.

17  
18 Wherever used in this rule, “legal guardian” means either parent if both parents  
19 have legal custody, or the parent or person having legal custody, or the guardian, of  
20 a minor.

21  
22 (b)–(f) \* \* \*

23  
24 (g) Factors in selecting redaction procedures \* \* \*

25  
26 (h) ~~Sharing of information about a protected minor~~ Releasing minor’s confidential  
27 information

28  
29 (1) ~~Sharing of information with the respondent~~ To respondent

30  
31 Information about a protected minor must be shared with the respondent only  
32 as provided in Code of Civil Procedure section 527.6(v)(4)(~~B~~)(A)(ii), limited  
33 to information necessary to allow the respondent to respond to the request for  
34 the protective order and to comply with the confidentiality order and the  
35 protective order.

36  
37 (2) ~~Sharing of information with law enforcement~~ To law enforcement

38  
39 Information about a ~~protected~~ minor must be shared with law enforcement  
40 ~~only~~ as provided in Code of Civil Procedure section 527.6(v)(4)(A)(i) or by  
41 court order.

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1           (3) To other persons  
2

3           If the court finds it is necessary to prevent harassment or is in the best interest  
4           of the minor, the court may release confidential information on the request of  
5           any person or entity or on the court's own motion.  
6

7           (A) Request for release of confidential information

8           (i) Any person or entity may request the release of confidential  
9           information by filing *Request for Release of Minor's Confidential*  
10           *Information* (form CH-176) and a proposed order, *Order on*  
11           *Request for Release of Minor's Confidential Information* (form  
12           CH-179), with the court.

13  
14           (ii) Within 10 days after filing form CH-176 with the clerk, the clerk  
15           must serve, by first-class mail, the following documents on the  
16           minor or legal guardian who made the request to keep the minor's  
17           information confidential:

18  
19           a. *Cover Sheet for Confidential Information* (form CH-175);

20  
21           b. *Request for Release of Minor's Confidential Information* (form  
22           CH-176);

23  
24           c. *Notice of Request for Release of Minor's Confidential*  
25           *Information* (form CH-177);

26  
27           d. *Response to Request for Release of Minor's Confidential*  
28           *Information* (form CH-178) (blank copy);

29  
30           e. *Order on Request for Release of Minor's Confidential*  
31           *Information* (form CH-179).  
32

33           (B) Opportunity to object

34  
35           (i) The person who made the request for confidentiality has the right  
36           to object by filing form CH-178 within 20 days from the date of  
37           the mailing of form CH-177, or verbally objecting at a hearing, if  
38           one is held.

39  
40           (ii) The person filing a response must serve a copy of the response  
41           form (form CH-178) on the person requesting release of  
42           confidential information before filing the response form with the  
43           court unless the response form contains confidential information.

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1                   If the response form contains confidential information, service  
2                   must be done as soon as possible after the response form has been  
3                   redacted.

4  
5                   (iii) If the person who made the request for confidentiality objects to  
6                   the release of information, the court may set the matter for a closed  
7                   hearing.

8  
9                   (C) Rulings

10  
11                   The request may be granted or denied in whole or in part without a hearing or  
12                   the court may set the matter for hearing on at least 10 days' notice to the  
13                   person who made the request for release of confidential information and the  
14                   person who made the request for confidential information. Any hearing must  
15                   be confidential.

16  
17                   (i) Order granting release of confidential information

18  
19                   a. The order (form CH-179) granting the release of confidential  
20                   information must be prepared in a manner consistent with the  
21                   procedures outlined in (f).

22  
23                   b. A redacted copy of the order (form CH-179) must be filed in a  
24                   public file and an unredacted copy of the order must be filed in  
25                   a confidential file.

26  
27                   c. Service

28  
29                   If the court grants the request for release of information based  
30                   on the pleadings, the court must mail a copy of form CH-179 to  
31                   the person who filed form CH-176 and the person who made  
32                   the request to keep the minor's information confidential.

33  
34                   (ii) Order denying request to release minor's confidential information

35  
36                   a. The court may deny a request to release confidential  
37                   information based on the request alone.

38  
39                   b. The order (form CH-179) denying the release of confidential  
40                   information must be filed in a public file and must not include  
41                   any confidential information.

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1                                   c. Service

2  
3                                   If the court denies the request for release of information based  
4                                   on the pleadings, the court must mail a copy of form CH-179 to  
5                                   the person who filed form CH-176 and the person who made  
6                                   the request to keep the minor's information confidential.

7  
8                                   (iii) If the court finds that the request to release confidential  
9                                   information is insufficiently specific to meet the requirements  
10                                   under Code of Civil Procedure section 527.6(v)(4)(C), the court  
11                                   may conduct a closed hearing to determine if there are additional  
12                                   facts that would support granting the request. The court may  
13                                   receive any relevant evidence, including testimony from the person  
14                                   requesting the release of a minor's confidential information, the  
15                                   minor, the legal guardian, the person who requested the restraining  
16                                   order, or other competent witness.

17  
18                                   (i) **Protecting information in subsequent filings and other civil cases**

19  
20                                   (1) \* \* \*

21  
22                                   (2) Other civil case

23  
24                                   (A) Information subject to an order of confidentiality issued under Code of  
25                                   Civil Procedure section 527.6(v) must be kept confidential in any other  
26                                   civil case with the same parties.

27  
28                                   (B) The minor or person making the request for confidentiality and any  
29                                   person who has been served with a notice of confidentiality must submit  
30                                   a copy of the order of confidentiality (form CH-165) in any other civil  
31                                   case ~~involving~~ with the same parties.  
32

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1 Title 5. Family and Juvenile Rules

2  
3 Division 1. Family Rules

4  
5 Chapter 11. Domestic Violence Cases

6  
7 Article 1. Domestic Violence Prevention Act Cases

8  
9 Rule 5.382. Request to make minor’s information confidential in domestic violence  
10 protective order proceedings

11  
12 (a)–(d) \* \* \*

13  
14 (e) Orders on request for confidentiality

15  
16 (1) \* \* \*

17  
18 (2) *Order granting request for confidentiality*

19  
20 (A)–(C) \* \* \*

21  
22 (D) *Service and copies*

23  
24 The other party, or both parties if the person making the request for  
25 confidentiality is not a party to the action, must be served with a copy of  
26 the *Request for ~~Domestic Violence Restraining Order~~ Request to Keep*  
27 *Minor’s Information Confidential* (form DV-160), *Order on Request to*  
28 *Keep Minor’s Information Confidential* (form DV-165), and *Notice of*  
29 *Order Protecting Information of Minor* (form DV-170), redacted if  
30 required under (f)(4).

31  
32 The protected person and the person requesting confidentiality (if not the  
33 protected person) must be provided up to three copies of redacted and  
34 unredacted copies of any request or order form.

35  
36 (3) *Order denying request for confidentiality* \* \* \*

37  
38 (f)–(g) \* \* \*

39  
40 (h) ~~Sharing of information about a protected minor~~ Releasing minor’s confidential  
41 information

42  
43 (1) *Sharing of information with the respondent* To respondent

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1  
2 Information about a ~~protected~~ minor must be shared with the respondent only  
3 as provided in Family Code section 6301.5(d)(2)(1)(B), limited to information  
4 necessary to allow the respondent to respond to the request for the protective  
5 order and to comply with the confidentiality order and the protective order.  
6

7 (2) ~~Sharing of information with law enforcement~~ To law enforcement

8  
9 Information about a ~~protected~~ minor must be shared with law enforcement  
10 ~~only~~ as provided in Family Code section 6301.5(d)(1)(A) or by court order.  
11

12 (3) To other persons

13  
14 If the court finds it is necessary to prevent abuse within the meaning of Family  
15 Code section 6220, or is in the best interest of the minor, the court may release  
16 confidential information on the request of any person or entity or on the  
17 court's own motion.  
18

19 (A) Request for release of confidential information

20  
21 (i) Any person or entity may request the release of confidential  
22 information by filing *Request for Release of Minor's Confidential*  
23 *Information* (form DV-176) and a proposed order, *Order on*  
24 *Request for Release of Minor's Confidential Information* (form  
25 DV-179), with the court.  
26

27 (ii) Within 10 days after filing form DV-176 with the clerk, the clerk  
28 must serve, by first-class mail, the following documents on the  
29 minor or legal guardian who made the request to keep the minor's  
30 information confidential:  
31

32 a. Cover Sheet for Confidential Information (form DV-175);

33  
34 b. Request for Release of Minor's Confidential Information (form  
35 DV-176);

36  
37 c. Notice of Request for Limited Release of Minor's Confidential  
38 Information (form DV-177);

39  
40 d. Response to Request for Release of Minor's Confidential  
41 Information (form DV-178) (blank copy);  
42

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1                                    e. Order on Request for Release of Minor's Confidential  
2                                    Information (form DV-179).

3  
4                    (B) Opportunity to object

5  
6                    (i) The person who made the request for confidentiality has the right  
7                    to object by filing form DV-178 within 20 days from the date of  
8                    the mailing of form DV-177, or verbally objecting at a hearing, if  
9                    one is held.

10  
11                   (ii) The person filing a response must serve a copy of the response  
12                   form (DV-178) on the person requesting release of confidential  
13                   information before filing the response form with the court unless  
14                   the response form contains confidential information. If the  
15                   response form contains confidential information, service must be  
16                   done as soon as possible after the response form has been redacted.

17  
18                   (iii) If the person who made the request for confidentiality objects to  
19                   the release of information, the court may set the matter for a closed  
20                   hearing.

21  
22                   (C) Rulings

23  
24                   The request may be granted or denied in whole or in part without a hearing or  
25                   the court may set the matter for hearing on at least 10 days' notice to the  
26                   person who made the request for release of confidential information and the  
27                   person who made the request for confidential information. Any hearing must  
28                   be confidential.

29  
30                   (i) Order granting release of confidential information

31  
32                   a. The order (form DV-179) granting the release of confidential  
33                   information must be prepared in a manner consistent with the  
34                   procedures outlined in (f).

35  
36                   b. A redacted copy of the order (form DV-179) must be filed in a  
37                   public file and an unredacted copy of the order must be filed in  
38                   a confidential file.

39  
40                   c. Service

41  
42                   If the court grants the request for release of information based  
43                   on the pleadings, the court must mail a copy of form DV-179

Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

1 to the person who filed form DV-176 and the person who made  
2 the request to keep the minor's information confidential.

3  
4 **(ii) Order denying request to release minor's confidential information**

5  
6 **a. The court may deny a request to release confidential**  
7 **information based on the request alone.**

8  
9 **b. The order (form DV-179) denying the release of confidential**  
10 **information must be filed in a public file and must not include**  
11 **any confidential information.**

12  
13 **c. Service**

14  
15 **If the court denies the request for release of information based**  
16 **on the pleadings, the court must mail a copy of form DV-179**  
17 **to the person who filed form DV-176 and the person who made**  
18 **the request to keep the minor's information confidential.**

19  
20 **(iii) If the court finds that the request to release confidential**  
21 **information is insufficiently specific to meet the requirements**  
22 **under Family Code section 6301.5(d)(3), the court may conduct a**  
23 **closed hearing to determine if there are additional facts that would**  
24 **support granting the request. The court may receive any relevant**  
25 **evidence, including testimony from the person requesting release**  
26 **of the minor's confidential information, the minor, the legal**  
27 **guardian, the person who requested the restraining order, or other**  
28 **competent witness.**

29  
30 **(i) Protecting information in subsequent filings and other civil cases**

31  
32 **(1) \* \* \***

33  
34 **(2) Other civil case**

35  
36 **(A) Information subject to an order of confidentiality issued under Family**  
37 **Code section 6301.5 must be kept confidential in any family law case**  
38 **and any other civil case with the same parties.**

39  
40 **(B) The minor or person making the request for confidentiality and any**  
41 **person who has been served with a notice of confidentiality must submit**



Rules 3.1161 and 5.382 of the California Rules of Court will be amended, effective September 1, 2020, to read:

- 1 a copy of the order of confidentiality (form DV-165) in any family law
- 2 case and any other civil case involving with the same parties.

**When do I use this form?**

Complete this form if you want the court to keep information about a minor in a domestic violence restraining order proceeding confidential and not available to the public or the restrained person. If you only want to keep your home address confidential, you may use a mailing address on your other forms rather than using this form.

**What if there is information I don't want the restrained person to have?**

You can make this request at item **(8)** if you want to ask the court to keep information confidential from the restrained person. If the court grants your request to keep certain information confidential from the restrained person, the information will have to be redacted (whited or blacked out) out from all forms before the restrained person gets a copy. But be aware that if the court denies your request, the information may be provided to the restrained person.

**Who will see this form?**

The public will NOT have access to this form.

The restrained person will have access to the entire form unless the court grants the request made in item **(8)** below.

*Clerk stamps date here when form is filed.*

DRAFT

*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 Parties in This Case**

a. Person who requested restraining order (form CH-100, item **(1)**):

Full Name: \_\_\_\_\_

b. Person from whom protection is sought (form CH-100, item **(2)**):

Full Name: \_\_\_\_\_

**2 Person Making Request for Confidentiality**

a. Full Name: \_\_\_\_\_

b. I am:

(1)  The minor requesting confidentiality.

(2)  The  parent  legal guardian of the minor or minors listed below.

List all the minors that you are making the request for:

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

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

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

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

Check here if there are additional minors. Attach a sheet of paper and write "Attachment 2b(2)—  
Additional Minors" for a title.

**This is not a Court Order.**



**3 Contact Information**

a. Your 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 e-mail.)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**4  Requests for More Than One Minor (ONLY for parents or legal guardians)**

I am making this request for two or more minors.

a.  The information I want confidential (as checked in item 5) is the SAME for all minors.

b.  The information I want confidential (as checked in item 5) is NOT the same for all minors.

*If you checked 4b, make sure you list all the information you want confidential for each minor in 5. If you need more space in 5, attach a separate piece of paper.*

**5 Information to Be Kept Confidential From the Public**

I want the information checked below to be made confidential and NOT available to the public.

Check ALL that apply:

a.  **Minor's name**

*(Note: If your request is granted, the public will not have access to your name in this case, but law enforcement must be given this information.)*

b.  **Minor's address**


The address I want kept confidential is: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*(Note: You do NOT have to make this request if you use a mailing address that does not need to be kept confidential. Use that mailing address on all forms in this case and any other civil case.)*

**This is not a Court Order.**



c.  **Information relating to the minor**

 *Note: If information relating to the minor is made confidential by the court, the public will not have access to this information but the restrained person must be given the information that is necessary to comply with the restraining order and to respond to the restraining order request. Also, the court may give permission to release confidential information in this case to other people like the minor's childcare provider or school, or anyone who needs the information to protect the minor's best interest or to prevent harassment.*

Describe all information in the documents that will be filed that you want kept confidential.

You may either (check one):

- (1)  Attach a copy of form CH-100 or other document that you are filing. Circle all the information you want kept confidential.
- (2)  List the information below, identifying the location of the statements in form CH-100 or other document that you are filing.

<b>Location of Information</b> <i>(for example, form #, page #, paragraph #, line #, attachment #, or exhibit #)</i>	<b>Information to Be Redacted</b> <i>(not viewable by the public)</i>

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5c(2)" for a title.

(a) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(b) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(d) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**This is not a Court Order.**





**7 If any portion of the request for confidentiality from the public (item 5) is denied, I want to (check one):**

a.  **Cancel my request for restraining order**

I ask the court NOT to make a decision on my *Request for Civil Harassment Restraining Orders* (form CH-100). I understand that canceling my request means that I will not receive a restraining order at this time. *(Note: You may file a request on the same or different facts at a later date.)*

b.  **Move forward with my request for restraining order**

I ask the court to make a decision on my *Request for Civil Harassment Restraining Orders* (form CH-100). *(Note: Choosing this option means that the information in your Request for Civil Harassment Restraining Order (form CH-100) and other related documents and forms will be available to the public and must be seen by the restrained person unless you make a request in item 8 and the court approves the request.)*

**8  Information to Be Kept Confidential From the Restrained Person**

*(Note: The restrained person must be given information necessary to comply with the restraining order and to respond to the restraining order request.)*

I do not want the restrained person to have access to some of the information checked in item 5.

a. What information do you want to be confidential and not given to the restrained person?

(1)  Minor's name

(2)  Minor's address

(3)  Other information relating to the minor from item 5 (specify):

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 8a(3)" for a title.

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

b. Why should the information listed in 8a be kept confidential and not given to the restrained person?

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

c. What do you think would happen if the information listed in 8a is given to the restrained person?

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

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 8" for a title.

**This is not a Court Order.**



d. If any portion of the request for confidentiality from the restrained person (item 8) is denied, I want to:

(1)  **Cancel my request for restraining order**

I ask the court NOT to make a decision on my *Request for Civil Harassment Restraining Orders* (form CH-100). I understand that canceling my request means that I will not receive a restraining order at this time. (Note: You may file a request on the same or different facts at a later date.)

(2)  **Move forward with my request for restraining order**

I ask the court to make a decision on my *Request for Civil Harassment Restraining Orders* (form CH-100). (Note: Choosing this option means that all of the information in your request for restraining order (form CH-100) must be seen by the restrained person.)

**9 People I Want to Have Access to Confidential Information**

(Note: If you want other people to have unredacted copies of restraining order forms in this case, you should complete this item.)

a. If my request in item 5 is granted, I want to be allowed to give the following people/entities (check all that apply)

(1)  minor's school

(2)  minor's childcare provider

(3)  supervised visitation provider

(4)  other (name): \_\_\_\_\_

b. copies of documents in this case with the following information (check all that apply).

(1)  minor's name

(2)  minor's address

(3)  information listed in item 5c.

**10** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
Lawyer's name (if any)

\_\_\_\_\_  
Lawyer's signature

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

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

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

\_\_\_\_\_  
Signature of person making this request

**This is not a Court Order.**



### Can I keep information about a minor confidential?

Yes. In a civil harassment restraining order case, you can ask a judge to make information about a minor confidential. Confidential means that the public is unable to see the information, because the information is kept private. This is important because most papers in your court case are available for the public to see. This means anyone can view information on your papers, including information about a minor. If the judge grants your request, the public will not be able to see the minor's information on your paperwork.

### Who can make this request?

Several people can make this request, including a minor's parent or legal guardian.



Any minor protected by a restraining order can make this request, as well. Also, any person, including a minor, who is the accused person in a case may make this request.

A minor can make this request without the help of an adult. This depends on the minor's age, though. If the minor is 12 years old or younger, the judge may want an adult to help the minor make this request.

For more information on who can make this request, contact your local self-help center or a lawyer.

### What information can I ask the judge to make confidential?

A judge can make any information about a minor confidential. That means that you can ask to make confidential the minor's name, address, any statements about the minor's abuse, or any abuse the minor witnessed.

If you only want to protect the minor's address, you do not have to make this request. Instead, you can use a different address on your restraining order request, such as a mailing address that is not where the minor lives, a P.O. box, or someone else's address. If you use someone else's address, be sure to get their permission first.

Whatever address you use, make sure you will get your mail regularly. This is important, because the address you use is the address the court and other party will use to send you papers for your case.

### Does this request cost money?

That depends on the type of harassment. If the person you want to restrain used or threatened to use violence against you or stalked you, you do not have to pay a filing fee. Otherwise, you must pay a filing fee.

If you cannot afford to pay the filing fee, ask the court clerk how to apply for a fee waiver. You will need to fill out [form FW-001](#).

If the protective order is based on prior acts of violence, a credible threat of violence, or stalking, the sheriff or marshal must serve your order for free. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve the order for free. If you are not eligible for free service, you must pay the sheriff or marshal to serve the order.

### I need an interpreter. How can I get help?



You may use [form INT-300](#) to request an interpreter. Ask court staff for information.

### I have a disability. How can I get help?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

### Do I need a lawyer to make this request?

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center. (See below.)



### Where can I find a self-help center?

Find your local court's self-help center at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp). Self-help center staff will not act as your lawyer but can give you information to help you decide what to do in your case.





**Where can I find other help?**

For safety tips or other help, call or visit the following hotlines online:

National Human Trafficking Hotline, 1-888-373-788; TTY: 711; [humantraffickinghotline.org](http://humantraffickinghotline.org)

National Sexual Assault Hotline, 1-800-656-4673, [www.rainn.org](http://www.rainn.org)

Stalking Hotline, 1-855-484-2846, [victimconnect.org/statistics/stalking/](http://victimconnect.org/statistics/stalking/)

**What do I have to do to make information about a minor confidential?****Step 1: Complete the forms.**

You will need to complete these forms to make your request:

[Form CH-160](#)

[Form CH-165](#) (complete items 1 and 2 only)

You can find these forms online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

▶ See tips to complete the forms.

To request a restraining order, you need to complete different forms. See form [CH-100-INFO](#) for a list of forms you need to complete to request a restraining order.



You can use these steps as a checklist.

**Step 2: Take the forms to your court clerk to file.**

Find out which courthouse to take your forms to by calling your local court or searching online at [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

**Step 3: Understand the judge's order.**

The judge will write your orders on [form CH-165](#). The judge will **grant** or **deny** your request.

▶ See page 3 for what this means.

**Step 4: Give court papers to other parties.**

In some cases, you will need to have your server give court papers to the other parties in your case. This process is called service.

▶ See page 4 for tips to complete service.

**Tips for Step 1: Complete the forms.**

**I only want to protect the minor's address:** If you only want to protect the minor's address, you do not have to make this request. See "What information can I ask the judge to make confidential?" on page 1 for more information.

**I want to protect multiple minors.** Only an adult who is the minors' parent or legal guardian may make a request to protect multiple minors' information.

**I want to give the minor's school or others copies of court orders from this case**

If the court grants your request to make information regarding a minor confidential, you may want to ask the court for permission to give other people copies of certain documents in your case. You can make this request at item 9 on form CH-160.



**My right to cancel my restraining order request:** If you are the party asking for the civil harassment restraining order and the judge does not grant your confidentiality request, you have the right to cancel your civil harassment restraining order request.

To have your civil harassment restraining order request canceled, check the box on [form CH-160](#), item 7a, and item 8d(1), if it applies.

If you cancel your civil harassment restraining order request, you will **not** receive a civil harassment restraining order at this time.

If, **after** canceling your civil harassment restraining order request, you want to ask for a civil harassment restraining order based on the same facts, you must start the process over. See form [CH-100-INFO](#) for more information.



**► Tips for Step 3:  
Understand the judge's order.**

Look at [form CH-165](#) to see what the judge decided.

**What if the judge granted my request?**

Look closely at [form CH-165](#), pages 2–5, to see what information the judge made confidential in your case. If the judge granted your request to keep information confidential, the information the judge decided to keep confidential will not be available to the public. The information will only be available to the parties in the case.

At times, the judge may make information confidential from the other party in your case. If this happens, the judge will item 8 on [form CH-165](#).

Now, take a close look at item 9 on [form CH-165](#). This tells you who is responsible for redacting the information on your paperwork and the deadline for filing it with the court.

Redacting means to hide (blacken or whiten out) information so it cannot be seen. If the judge makes you responsible for redacting the information, your local self-help center may be able to help you.

**► What if I file documents with the court in the future?**

If you file documents with the court in the future, be sure to use [form CH-175](#) as a cover sheet and follow the instructions at the top of the form.

**What if the judge did not grant (denied) my request?**

This means that if you move forward with your case, the minor's information will not be confidential on your paperwork. This is important because anyone can go to your local courthouse and ask to see the documents you filed in this case.

If the judge does not grant your request, you may have other legal options available to you. Visit your local court's self-help center or talk with a lawyer.

**► What if I asked to cancel my restraining order request?**

If you checked box 7a or 8d(1) on [form CH-160](#) and the judge denied your request, the paperwork you turned in with this request will not be available to the public, except for page 1 of [form CH-165](#). This includes [form CH-100](#) and any proposed order forms. The court will either return these forms to you, destroy them, or delete them from their records unless you give the court permission to file the forms.

**Is there a penalty for disclosing confidential information?**

Misusing or giving out confidential information can result in the court ordering you to pay up to \$1,000 or other court penalties. You will not be penalized if you:

- Give information to police to help them enforce the judge's orders; or
- If you are the minor who has claimed abuse.



► **Tips for Step 4: Give court papers to all parties in your case.**

In some cases, the judge will order you to serve your court papers. Look at [form CH-165](#) to see what the judge decided.



What did the judge decide in your case?

The judge **granted** my request to keep some of the minor's information confidential.

**Your papers must be served.  
Follow steps 1–5 below.**

The judge **denied** (did not grant) my request to keep some information confidential. I did not cancel my request for a restraining order. The **case is still open**.

**If this is your situation, forms CH-160 and CH-165 must be served by mail or in person.  
Follow steps 3–5 below.**

The judge **denied** (did not grant) my request to keep some information confidential. I **canceled** my request for a restraining order and there is **no other issue** in this case for a judge to decide on.

**Your papers do not need to be served.  
You may stop here.**

**Step 1: Find out which papers you need to serve.**

The judge will check which papers you need to serve to the other parties in your case on [form CH-165](#), item 13.

**Step 2: Find out whether you need to serve the other parties personally or by mail.**

The judge will check how you need to serve your court papers to the other parties in your case on [form CH-165](#), item 13.

If the judge checks item 13a, you will need to have your server personally serve (give) your court papers to the other parties in your case.

If the judge checks item 13b, you will need to have your server mail your court papers.

**Step 3: Choose a server.**

The person who serves your papers is called a server. Your server must be at least 18 years old, not protected by the restraining order, and not involved in your case. **You are not allowed to serve your own court papers.**



Some situations may be dangerous. Think about people's safety when deciding who you choose to serve your court papers.

A sheriff or marshal will serve your court papers for free. Another option is a process server.

A process server is a business you pay to deliver court papers. To hire a process server, look for "process server" on the internet or in the yellow pages.

**Step 4: Have your server give your court papers to all parties**

For personal service, give your server your court papers as well as [form CH-200](#).

For service by mail, give your server your court papers as well as [form CH-250](#).

**Step 5: File proof with the court.**

The court needs proof that your papers were served. After your server completes [form CH-200](#) or form [POS-030](#), take it to the court to file in your case.

If the sheriff or marshal served your papers, they may use another form for proof instead of [form CH-200](#). Make sure a copy is filed with the court and that you get a copy.

For more information, read [form CH-200-INFO](#) or ask your local court's self-help center for help.

*Clerk stamps date here when form is filed.*

DRAFT

CONFIDENTIAL       PUBLIC VERSION (REDACTED)

**1 Parties in This Case**

- a. Person who requested restraining order (form CH-100, item 1):  
Full Name: \_\_\_\_\_
- b. Person from whom protection is sought (form CH-100, item 2):  
Full Name: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**2 Person Making Request for Confidentiality**

Full Name: \_\_\_\_\_

**Court will complete item 3 if request is denied or items 4–13 if request is granted or partially granted.**

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

**Case Number:**

**Court's Decision**

The court has reviewed the request for confidentiality and makes the following decision:

**3  Denied or More Information Needed**

- a.  **DENIED.** The request to keep information of a minor or minors confidential is denied.
- (1)  **The court will NOT make a decision on the Request for Civil Harassment Restraining Order (form CH-100).** The request for restraining order and proposed order forms must be returned to the requester personally, destroyed, or deleted from electronic files and not filed with the court unless the person requesting the restraining order agrees to file them without any changes.
- (2)  **The court will make a decision on the Request for Civil Harassment Restraining Order (form CH-100).** The request for restraining order and any accompanying orders will be filed in the public file.
- b.  **More information is needed for court decision.** You must go to court on the date and time below to provide more information on why you need the court to make information confidential.

		<i>Name and address of court if different from above:</i>
<b>Hearing Date</b>	Date: _____	_____
	Time: _____	_____
	Dept.: _____	Room: _____

c. If item 3 is checked, only this page of this order form will be issued. All other pages should be discarded.

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**Instructions to Clerk**

If item 3 is checked, file page 1 in a public file and discard pages 2–5.  
File the request for confidentiality (form CH-160) in a confidential file.

**This is a Court Order.**



*Court will complete the rest of this form if the request is partially or fully granted.*

**4**  **GRANTED**

- a.  **Granted in full.** The request to keep the information of a minor or minors confidential is granted in full. Details of the order are stated below in items **5–12**.
- b.  **Partially granted.** The request to keep the information of a minor or minors confidential is granted only in part. Details of the order are stated below in items **5–12**.

**5** **Findings**

- The court finds all of the following (*all of these findings are required if granting in full or in part*):
  - a. The right to privacy of the minors listed in item **6** overcomes the public's right of access to the information;
  - b. There is a substantial probability that the interests of the minors listed in item **6** will be prejudiced if the information is not kept confidential;
  - c. The order is narrowly tailored; and
  - d. No less restrictive means exist to protect the privacy of the minors in item **6**.

**6**  **Minors Subject to This Order**

This order protects the information listed in item **7** for the following minors:

- a. Name: \_\_\_\_\_
- b. Name: \_\_\_\_\_
- c. Name: \_\_\_\_\_
- d. Name: \_\_\_\_\_

*Check here if there are additional minors. Attach a sheet of paper and write "Attachment 6—Additional Minors" for a title.*

References in this order to “the minor” refer to all minors listed here.

**7** **Information to Be Kept Confidential From Public**

**WARNING:** Unless authorized by the court or by law, if the information listed below is misused or disclosed to anyone other than law enforcement you may be sanctioned up to \$1,000 or face other court penalties. See Code of Civil Procedure section 527.6(v)(3) for the limited situations in which disclosures can be made without a court order.

The following information must be kept confidential and not viewable by the public. (*Check all that apply.*)

- a.  **Name of minor**

**True name of minor in item **6****  
*(to be kept confidential)*

**Initials viewable by the public**  
*(to be used in redacted version)*

_____	_____
_____	_____
_____	_____

**This is a Court Order.**



b.  **Address of minor**

The following addresses of the minors listed in item ⑥ must be redacted and must not be viewable by the public: \_\_\_\_\_

\_\_\_\_\_

c.  **Information relating to minor (check one):**

- (1)  The information CIRCLED in the attached copy of form CH-100 or other document or form is made confidential by this order.
- (2)  The information below is made confidential by this order:

<b>Location of Information</b> <i>(for example, form #, page #, paragraph #, line #, attachment #, or exhibit #)</i>	<b>Information to Be Redacted</b> <i>(not viewable by the public)</i>
---	--

- (a) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (b) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (c) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (d) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 7c(2)" for a title.

**This is a Court Order.**



d.  Other:

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

**8 Information to Be Kept Confidential From the Restrained Person**

The restrained person (*full name*), \_\_\_\_\_, will have access to the following information checked in item **7** to comply with the protective order and prepare a response:

- a.  All the information, unredacted.
- b.  All the information except for the following:

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

Check here if additional space is needed and include the information on a separate piece of paper. Write "Attachment 8b" at the top and attach to this form.

**9 Responsibility for Redacting All Forms and Documents**

a. All forms and documents submitted with the request for confidentiality **must be redacted and filed with the court** no later than (*number of court days or date*) \_\_\_\_\_ by the:

- (1)  court
- (2)  person making the request
- (3)  other \_\_\_\_\_

b. The redacted documents must be filed in a public file and the unredacted documents must be filed in a confidential file.

**This is a Court Order.**



**10 People Who May Have Access to Unredacted Court Documents**

a. The minor's (check all that apply)

(1)  school

(2)  minor's childcare provider

(3)  supervised visitation provider

(4)  other (name): \_\_\_\_\_

may be given copies of unredacted documents from this case with the following information:

b. (1)  Minor's name

(2)  Minor's address

(3)  Minor's information listed in item 7c.

c. Law enforcement may have access to any information in this case that is necessary to enforce the restraining order.

**11 Court Records and Hearings**

The information listed in item 7 must NOT be disclosed by the court in any:

a. Registers of actions, indexes, court calendars, court transcripts, or minute orders in this case, any family law case, or any civil case with the same parties in the state of California.

b. Future court hearings, including any documents introduced during a hearing in this case, any family law case, or any civil case with the same parties in the state of California.

**12 To All Parties**

a. The information made confidential by this order must NOT be made public in this case, any family law case, or or any other civil case.

b. If you file a document in this case or any case noted above in 12a that includes information listed in item 7, you must attach *Cover Sheet for Confidential Information* (form CH-175) to the front, and include a copy of this order if there is not already one in the case.

**This is a Court Order.**





**13 To the Person Making the Request for Confidentiality**

You must do the following:

- a.  Have a copy of each form listed in item (c) below **personally served** on (given to) the restrained person.  
*(See form CH-200-INFO to find out how to meet this requirement. Personal service is required when the protected person is making this request and when forms CH-100, CH-109, and CH-110 have NOT been served on the restrained person.)*

- b.  Have a copy of each form listed in item (c) mailed to the:

(1)  Restrained person

(2)  Protected person

(3)  Other: \_\_\_\_\_

*(See form [POS-030](#), Proof of Service by First-Class Mail - Civil, to find out how to meet this requirement.)*

- c. Forms to serve:

(1) Form CH-170, *Notice of Order Protecting Information of Minor*

**(Form CH-170 should be the first page with all others stapled behind.)**

(2)  Form CH-100, *Request for Domestic Violence Restraining Order*

(3)  Form CH-109, *Notice of Court Hearing*

(4)  Form CH-110, *Temporary Restraining Order*

(5)  Form CH-160, *Request to Keep Minor's Information Confidential*

Unredacted       Redacted (if item 8b on CH-165 is checked)

(6) Form CH-165, *Order on Request to Keep Minor's Information Confidential*

Unredacted       Redacted (if item 8b on CH-165 is checked)

(7) Form CH-175, *Cover Sheet for Confidential Information* (leave blank)

(8)  Other: \_\_\_\_\_

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**Instructions to Clerk**

1. The originals of all unredacted documents containing the information checked in item 7 must be kept in a confidential file and must NOT appear in any **register of action, calendar, index, minute order, or transcript**.

2. If item 8b is checked, provide the person making this request no more than three certified copies of forms CH-100, CH-109, and CH-110, which must include any information in item 7 but must NOT include any information listed in item 8b. Use form CH-170 as a cover sheet for each set of forms.

3. Any information listed in item 8b must not be available to the restrained person and must be filed in a confidential file.

**This is a Court Order.**

Clerk stamps date here when form is filed.

**1 Confidential Information**

The court has made some information in this case confidential. Details of the Order for Confidentiality are in form CH-165, *Order on Request to Keep Minor's Information Confidential*. Confidential information may be given ONLY to law enforcement to enforce the restraining order (attached form CH-110).

Fill in court name and street address:

**Superior Court of California, County of****2 Documents Attached to This Notice**

The following documents contain confidential information:

- a.  Form CH-100, *Request for Civil Harassment Restraining Order*
- b.  Form CH-109, *Notice of Court Hearing*
- c.  Form CH-110, *Temporary Restraining Order*
- d.  Form CH-130, *Restraining Order After Hearing*
- e.  Form CH-160, *Request to Keep Minor's Information Confidential*
- f.  Form CH-165, *Order on Request to Keep Minor's Information Confidential*
- g.  Form CH-175, *Cover Sheet for Confidential Information* (leave blank)
- h.  Other: \_\_\_\_\_

Fill in the case number and ticket number (if you have it):

**Case Number:****3 Filing Documents**

If you file any document that contains any confidential information in this case or other civil case with the same parties, you **MUST also use form CH-175 as a cover sheet**. See form CH-165, item **7**, for all information made confidential by the court.

- 4 NOTICE TO RECIPIENT:** Unless authorized by the court or by law, if you misuse or disclose the information that is confidential in this case to anyone other than law enforcement you may be sanctioned up to \$1,000 or face other court penalties. See Code of Civil Procedure section 527.6(v)(3) for the limited situations in which disclosures can be made without a court order.

**Instructions to Clerk**

When providing copies of unredacted filed documents to any party, you must attach this cover sheet on top of the document or set of documents. Complete item **2** to indicate the forms that are attached.

Clerk stamps date here when form is filed.

Empty box for clerk stamping date.

Fill in court name and street address:

Superior Court of California, County of

Fill in the case number:

Case Number:

Instructions to Clerk
1. The court must review and approve a redacted version of documents attached to this cover sheet before filing.
2. Once approved by the court, file the redacted version in a public file.
3. File the unredacted version and this cover sheet in a confidential file.

Instructions to Parties

- When to use this cover sheet:
[X] Form CH-165 has been issued by the court
AND
[X] You want to file a document or form that includes confidential information (see form CH-165, item 7).
How to use this cover sheet:
• Make two copies of the documents you want to file.
• Complete this form, place it on top of the documents (both copies) you want to file, and file them with the court.

1 Parties in This Case

- a. Person who filed the case:
(Name):
b. Other party or parties:
(Name):

2 Information About the Order for Confidentiality

- a. The order was made in (check one):
(1) [ ] This case.
(2) [ ] Another civil case:
(a) Case number:
(b) County it was filed in:
Attach a copy of the order (form CH-165) if you have one.
b. Minor protected by confidentiality order:
(1) Name:
(2) Name:
[ ] Check here if you need more space. Include the information on a separate piece of paper, write "Attachment 2" on the top, and attach it to this form.

3 I have attached two copies of the following documents:

- [ ] Form CH-
[ ] Other form or document (describe):

Date:

Type or print your name

Sign your name

**DRAFT****12/06/2019****Not approved by  
the Judicial Council****Instructions****Who should complete this form?**

Use this form if you want to ask the court to give you information about a minor that has been made confidential in a civil harassment restraining order case. After you file this form with the court, the court will provide a copy of this request to the person who made the request to keep the minor's information confidential. That person will have an opportunity to disagree with your request before the court makes a decision on your request.

**What do I do if I received a completed copy of this form?**

The person in ② is asking the court for access to information that has been made confidential (see item ③ on page 2 of this form). If you do NOT agree with this request, complete and file *Response to Request for Release of Minor's Confidential Information* (form CH-177), by the deadline listed on form CH-177, item ④.

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****① Parties in This Case****a. Protected party (check one)**

- Name of protected party is: \_\_\_\_\_
- Name of protected party is confidential in this case.

**b. Restrained party (check one)**

- Name of restrained party is: \_\_\_\_\_
- Name of restrained party is confidential in this case.

**② My Information**

My name is: \_\_\_\_\_

Organization or business name (if any): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

How do you know the minor? \_\_\_\_\_

My contact information (optional):

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Lawyer's information (skip if you do not have a lawyer):

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

State Bar Number: \_\_\_\_\_

**This is not a Court Order.**



**5 Reasons I Am Asking the Court for Minor's Confidential Information**

To approve your request, the court must find that giving you the minor's confidential information is necessary to either prevent harassment or is in the best interest of the minor.

**With that in mind, why should the court give you the minor's confidential information you asked for in item 2?**

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**6** Number of pages attached to this form, if any: \_\_\_\_\_

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

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

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

▶ \_\_\_\_\_  
*Sign your name*

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

\_\_\_\_\_  
*Lawyer's name, if you have one*

▶ \_\_\_\_\_  
*Lawyer's signature*

**This is not a Court Order.**

*Clerk stamps date here when form is filed.***DRAFT****12/06/2019****Not approved by  
the Judicial Council**

**The court sent you this notice because someone has asked the court to release confidential information about a minor.**

You have the right to tell the court if you disagree with the request to release confidential information. You have until the deadline listed below in item ④. For next steps, see instructions on page 2.

*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 Parties in this case**a. Protected Party (*check one*)

- Name of protected party is: \_\_\_\_\_
- Name of protected party is confidential in this case

b. Restrained Party (*check one*)

- Name of restrained party is: \_\_\_\_\_
- Name of restrained party is confidential in this case

**② Person asking for minor's confidential information**

*Full Name:* \_\_\_\_\_ wants access to information that has been made confidential in this case. To see what information the person wants access to, see *Request for Release of Minor's Confidential Information* (form CH-176), which is included with this notice.

**③ Person receiving this notice**

- Minor who made the request to keep information confidential
- Legal guardian who made the request to keep minor's information confidential

**④ Deadline to disagree with request**

The person in ③ has until (*date*) \_\_\_\_\_ to file a completed *Response to Request for Release of Minor's Confidential Information* (form CH-178), with the court clerk. Form CH-178 is included with this notice.



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**—Clerk's Certificate—**

[seal]

I certify that I am not a party to this case and that a true copy of the *Notice of Request for Release of Information* (form CH-177), blank copy of the *Response to Request for Release of Minor's Confidential Information* (form CH-178), *Cover Sheet for Confidential Information* (form CH-175), and a true copy of the *Request for Release of Minor's Confidential Information* (form CH-176) were mailed first class, postage fully prepaid, in a sealed envelope to the person in ③.

- a. Date of mailing: \_\_\_\_\_  
(Instructions to clerk for item 4: The deadline is the first court business day after 20 days from the date of mailing.)
- b. Mailed from the courthouse listed on page 1.
- c. Mailed to the address of person in ③, provided to the court on form CH-160, filed on (date) \_\_\_\_\_.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

---

**For person in ③ :**

**Instructions and Information on Next Steps**

**Form CH-176** is included with this notice. Take a close look at form CH-176 to see who made the request (item 2) and what confidential information the person wants to access (item 3).

**A blank copy of form CH-178** is also included with this notice. If you do not agree with the request to release confidential information, you must complete form CH-178 and file it with the court clerk by the deadline listed in ④ on page 1 of this form CH-177. You can also find form CH-178 at [www.courts.ca.gov/ch-178.pdf](http://www.courts.ca.gov/ch-178.pdf).

After the judge makes a decision, you should receive a copy of the judge's order (form CH-179). If you do not receive a copy of *Order on Request for Release of Minor's Confidential Information* (form CH-179), you can contact the court to get a copy.



*Clerk stamps date here when form is filed.* CONFIDENTIAL PUBLIC VERSION (REDACTED)**DRAFT****12/06/2019****Not approved by  
the Judicial Council****Instructions****When to use this form?**

If someone is asking the court for information about a minor that has been made confidential, you can use this form to let the court know if you agree or disagree with the request.

**Who should use this form?**

If you are a minor or legal guardian who made a request to keep information confidential.

**What do I need to complete this form?**

You will need three documents that you should have received with this form:

- Form CH-176, *Request for Release of Minor's Confidential Information*;
- Form CH-177, *Notice of Request for Release of Minor's Confidential Information*; and
- Form CH-175, *Cover Sheet for Confidential Information*.

You will need to give the court form CH-175 and two copies of your completed form CH-178.

*Fill in court name and street address:***Superior Court of California, County of***Fill in case number:***Case Number:****1 Parties in This Case****a. Protected party**

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

**b. Restrained party**

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

**2 Information About the Request to Release Confidential Information**

Name of person requesting minor's confidential information

*(person listed on form CH-176, item 1):* \_\_\_\_\_**This is not a Court Order.**

**3 My Information**

a. Your name: \_\_\_\_\_

b. My contact information

**! Address where I can receive mail:**

This address will be used by the court and other parties in this case to send you notices of court dates and documents. If you want to keep your home address private, you can use another address like a post office box or another person's address if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

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

Lawyer's information *(skip if you do not have one)*:

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

State Bar No.: \_\_\_\_\_

**4 Do You Agree to the Request to Release Minor's Confidential Information?**

a.  **No, I do NOT agree to the request** and do not want the court to give any confidential information to the person listed in item **2** because: \_\_\_\_\_

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

*Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 4a" for a title.*

**This is not a Court Order.**



b.  **No, to some of the request.** I agree to the person listed in item ② having some information but do NOT want the person to have access to *(check everything that you do NOT want the person in ② to have)*:

- Minor's name
- Minor's address
- Other information about the minor

The reasons why I do not want the person to have this information above is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 4b" for a title.

c.  **Yes, I agree to the request** and want the court to give the person listed in ② all the confidential information they requested on form CH-176.

**⑤ Serve the Person Making the Request**

You must have your server mail a copy of this form to the person listed in ② . Have your server complete form [POS-030](#) after this form is mailed and file the completed form [POS-030](#) with the court.

**⑥** I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

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



\_\_\_\_\_  
*Sign your name*

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**This is not a Court Order.**

*Clerk stamps date here when form is filed.*

- CONFIDENTIAL
- PUBLIC VERSION (REDACTED)

**DRAFT**

**12/06/2019**

**Not approved by  
the Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number:*

**Case Number:**

**Instructions to Clerk**

If item ③ is checked, file page 1 in a public file with all confidential information redacted, and discard pages 2-4. If item ④ is checked, file the original in a confidential file and a redacted copy in a public file.

**① Parties in This Case**

**a. Protected party (check one)**

- Name: \_\_\_\_\_
- Name is confidential in this case.

**b. Restrained party (check one)**

- Name: \_\_\_\_\_
- Name is confidential in this case.

**② Person Asking for Release of Minor's Confidential Information**

Full Name: \_\_\_\_\_

**The court will complete item ③ if request is denied or items ④ - ⑨ if request is granted or partially granted.**

**Court's Decision**

The court makes the following decision:

**③  Denied or More Information Is Needed**

- a.  **The court denies the request by the person in ② to release minor's confidential information.**
- b.  **The court needs more information before making a decision.**

The person in ② must go to court on the date and time below to give more information why the court should release minor's confidential information.

<b>Court Date</b>	→	Date: _____	Time: _____	Name and address of court, if different from above: _____
	Dept.: _____	Room: _____	_____	

- c.  The court will mail a copy of this order to the minor or legal guardian who made the request to keep minor's information confidential.
- d. If ③ is checked, only page 1 of this order will be issued. All other pages may be discarded.

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

*Judicial Officer*

**This is a Court Order.**



**4**  **Granted**

- a.  The request made by the person in **2** is:
  - (1)  Completely granted.
  - (2)  Partially granted.
- b.  The court, on its own motion, releases minor's confidential information as described in **6**.
- c. **Details of the order are stated below in items 5 – 9 .**

**5** **Court's Findings**

- a.  In granting the request made by the person in **2** the court finds that the:
  - (1) person who made the request to keep minor's information confidential has been properly served and has had sufficient time to respond; and
  - (2) release of the minor's confidential information is *(check at least one)*:
    - (A)  necessary to prevent harassment.
    - (B)  in the minor's best interest.
- b.  The court, on its own motion, releases the minor's confidential information as described in item **6** because it is *(check at least one)*:
  - (A)  necessary to prevent harassment.
  - (B)  in the minor's best interest.

**6** **Release of Confidential Information**

- a. The following persons/entities may have access to the information listed in **6** b *(check all that apply)*:
  - (1)  the person listed in **2**.
  - (2)  minor's school and afterschool program.
  - (3)  minor's childcare provider *(name)*: \_\_\_\_\_.
  - (4)  supervised visitation provider *(name)*: \_\_\_\_\_.
  - (5)  other *(name)*: \_\_\_\_\_.

**This is a Court Order.**

b. This order releases certain confidential information for the following minors:

**Minor 1:** \_\_\_\_\_  
*(use pseudonym if not releasing confidential name)*

(1)  Minor's name: \_\_\_\_\_

(2)  Minor's address: \_\_\_\_\_

(3)  Other information about the minor:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Minor 2:** \_\_\_\_\_  
*(use pseudonym if not releasing confidential name)*

(1)  Minor's name: \_\_\_\_\_

(2)  Minor's address: \_\_\_\_\_

(3)  Other information about the minor:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Minor 3:** \_\_\_\_\_  
*(use pseudonym if not releasing confidential name)*

(1)  Minor's name: \_\_\_\_\_

(2)  Minor's address: \_\_\_\_\_

(3)  Other information about the minor:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check this box if you need more space to include more minors or more information. Attach a sheet of paper and write "Attachment 6b" for a title.

**This is a Court Order.**



7 All other information made confidential by the court and not released with the court's permission must be kept confidential. Any person who misuses or discloses the minor's confidential information **may be sanctioned up to \$1,000 or face other court penalties.**

8  **Service**

- a.  The court will send a copy of this order to the person listed in 2 and the minor or legal guardian who made the request to keep minor's information confidential.
- b.  The person in 2 must have a server mail a copy of this order to the minor or legal guardian who made the request for confidential information. Have the server complete and file [Proof of Service by First-Class Mail—Civil \(form POS-030\)](#), after the copy has been mailed.

9  **Other Orders:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*



**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Request for Accommodations by Persons With Disabilities and Response* ([form MC-410](#)). (Civ. Code, § 54.8.)

**—Clerk's Certificate—**

Clerk's Certificate  
[seal]

I certify that this *Order on Request for Minor's Confidential Information (Civil Harassment Prevention)* (form CH-179) is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**When do I use this form?**

Complete this form if you want the court to keep information about a minor in a domestic violence restraining order proceeding confidential and not available to the public or the restrained person. If you only want to keep your home address confidential, you may use a mailing address on your other forms rather than using this form.

**What if there is information I don't want the restrained person to have?**

You can make this request at item ⑧ if you want to ask the court to keep information confidential from the restrained person. If the court grants your request to keep certain information confidential from the restrained person, the information will have to be redacted (whited or blacked out) from all forms before the restrained person gets a copy. But be aware that if the court denies your request, the information may be provided to the restrained person.

**Who will see this form?**

The public will NOT have access to this form.

The restrained person will have access to the entire form unless the court grants item ⑧ on this form.

*Clerk stamps date here when form is filed.*

**Draft- Not approved by  
Judicial Council  
12.06.19**

*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 Parties in This Case**

a. Person who requested restraining order (form DV-100, item ①):

Full Name: \_\_\_\_\_

b. Person from whom protection is sought (form DV-100, item ②):

Full Name: \_\_\_\_\_

**② Person Making Request for Confidentiality**

a. Full Name: \_\_\_\_\_

b. I am:

(1)  The minor requesting confidentiality.

(2)  The  parent  legal guardian of the minor or minors listed below.

List all the minors that you are making the request for:

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

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

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

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

Check here if there are additional minors. Attach a sheet of paper and write "Attachment 2b(2)—  
Additional Minors" for a title.

**This is not a Court Order.**





**3 Contact Information**

a. Your 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 e-mail.)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**4  Requests for More Than One Minor (ONLY for parents or legal guardians)**

I am making this request for two or more minors.

a.  The information I want confidential (as checked in item 5) is the SAME for all minors.

b.  The information I want confidential (as checked in item 5) is NOT the same for all minors.

*If you checked 4b, make sure you list all the information you want confidential for each minor in 5. If you need more space in 5, attach a separate piece of paper.*

**5 Information to Be Kept Confidential from the Public**

I want the information checked below to be made confidential and NOT available to the public.

Check ALL that apply:

a.  **Minor's name**

*(Note: If your request is granted, the public will not have access to your name in this case, but law enforcement must be given this information.)*

b.  **Minor's address**

*(Note: You do NOT have to make this request if you use a mailing address that does not need to be kept confidential. Use that mailing address on all forms in this case and any other civil case.)*

The address I want kept confidential is: \_\_\_\_\_

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

**This is not a Court Order.**



c.  **Information relating to the minor**

**!** (Note: If information relating to the minor is made confidential by the court, the public will not have access to this information but the restrained person must be given the information that is necessary to comply with the restraining order and to respond to the restraining order request. Also, the court may give permission to release confidential information in this case to other people like the minor's childcare provider or school, or anyone who needs the information to protect the minor's best interest or to prevent abuse.)

Describe all information in the documents that will be filed that you want kept confidential.

You may either (check one):

- (1)  Attach a copy of form DV-100 or other document that you are filing. Circle all the information you want kept confidential.
- (2)  List the information below, identifying the location of the statements in form DV-100 or other document that you are filing.

<b>Location of Information</b> <i>(for example, form #, page #, paragraph #, line #, attachment #, or exhibit #)</i>	<b>Information to Be Redacted</b> <i>(not viewable by the public)</i>
---	--

(a) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(b) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(d) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write "Attachment 5c(2)" for a title.

**This is not a Court Order.**



6 Reasons for Request

To approve your request in 5, the court must expressly find all of the following:

- The minor's right to privacy overcomes the public's right to access the information;
There is a substantial probability that the minor's interest will be prejudiced if the information is not kept confidential;
The order to keep the information confidential is narrowly tailored; and
No less restrictive means exist to protect the minor's privacy.

Use these four requirements to help you answer the questions below.

a. Why should the information about the minor provided in item 5 be kept private or confidential from the public?

Horizontal lines for writing the answer to question a.

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write "Attachment 6a" for a title.

b. What do you think would happen if the information was NOT made private or confidential?

Horizontal lines for writing the answer to question b.

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write "Attachment 6b" for a title.

This is not a Court Order.



**7 If any portion of the request for confidentiality from the public (item 5) is denied, I want to (check one):**

a.  **Cancel my request for restraining order**

I ask the court NOT to make a decision on my *Request for Domestic Violence Restraining Order* (form DV-100). I understand that cancelling my request means that I will not receive a restraining order at this time. *(Note: You may file a request on the same or different facts at a later date.)*

b.  **Move forward with my request for restraining order**

I ask the court to make a decision on my *Request for Domestic Violence Restraining Order* (form DV-100). *(Note: Choosing this option means that all of the information in your Request for Domestic Violence Restraining Order (form DV-100) and other related documents and forms will be available to the public and must be seen by the restrained person.)*

**8  Information to Be Kept Confidential from the Restrained Person**

*(Note: The restrained person must be given information necessary to comply with the restraining order and to respond to the restraining order request.)*

I do not want the restrained person to have access to some of the information checked in item 5.

a. What information do you want to be confidential and not given to the restrained person?

(1)  Minor's name

(2)  Minor's address

(3)  Other information relating to the minor from item 5 (specify):

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

*Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write "Attachment 8a(3)" for a title.*

b. Why should the information listed in 8a. be kept confidential and not given to the restrained person?

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

c. What do you think would happen if the information listed in 8a. is given to the restrained person?

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

*Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write "Attachment 8" for a title.*

**This is not a Court Order.**



- d.  If any portion of the request for confidentiality from the restrained person (item 8) is denied, I want to:
- (1)  **Cancel my request for restraining order**  
 I ask the court NOT to make a decision on my *Request for Domestic Violence Restraining Order* (form DV-100). I understand that cancelling my request means that I will not receive a restraining order at this time. *(Note: You may file a request on the same or different facts at a later date.)*
- (2)  **Move forward with my request for restraining order**  
 I ask the court to make a decision on my *Request for Domestic Violence Restraining Order* (form DV-100). *(Note: Choosing this option means that all of the information in your Request for Domestic Violence Restraining Order (form DV-100) must be seen by the restrained person.)*

**9 People I Want To Have Access To Confidential Information**

*(Note: If you want other people to have unredacted copies of restraining order forms in this case, you should complete this item.)*

If my request in item 5 is granted, I want to be allowed to give the following people/entities:

- (1)  minor's school
- (2)  minor's childcare provider
- (3)  supervised visitation provider
- (4)  other

copies of documents this case with the following information:

- (1)  minor's name
- (2)  minor's address
- (3)  information listed in item 5c.

**10** Number of pages attached to this form, if any: \_\_\_\_\_

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

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

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

▶ \_\_\_\_\_  
 Signature of person making this request

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

\_\_\_\_\_  
 Lawyer's name (if any)

▶ \_\_\_\_\_  
 Lawyer's signature

**This is not a Court Order.**

**Can I keep information about a minor confidential?**

Yes. In a domestic violence restraining order case, you can ask a judge to make information about a minor confidential. Confidential means that the public is unable to see the information, because the information is kept private. This is important because most papers in your court case are available for the public to see. This means anyone can view information on your papers, including information about a minor. If the judge grants your request, the public will not be able to see the minor's information on your paperwork.

**Who can make this request?**

Several people can make this request, including a minor's parent or legal guardian. Any minor protected by a restraining order can make this request, as well. Also, any person, including a minor, who is the accused person in a case may make this request.

A minor can make this request without the help of an adult, depending on the minor's age, though. If the minor is 12 years old or younger, the judge may want an adult to help the minor make this request.

For more information on who can make this request, contact your local self-help center or a lawyer.

**What information can I ask the judge to make confidential?**

A judge can make any information about a minor confidential. That means that you can ask to make confidential the minor's name, address, any statements about the minor's abuse, or any abuse the minor witnessed.

If you only want to protect the minor's address, you do not have to make this request. Instead, you can use a different address on your restraining order request, such as a mailing address that is not where the minor lives, a P.O. box, or someone else's address. If you use someone else's address, be sure to get their permission first.

Whatever address you use, make sure you will get your mail regularly. This is important, because the address you use is the address the court and other party will use to send you papers for your case.

**Does this request cost money?**

No, this request is free.

**I need an interpreter. How can I get help?**

You may use [form INT-300](#) to request an interpreter. Ask court staff for information.

**I have a disability. How can I get help?**

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

**Do I need a lawyer to make this request?**

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center. (See below.)

**Where can I find a self-help center?**

Find your local court's self-help center at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp). Self-help center staff will not act as your lawyer but can give you information to help you decide what to do in your case.

**Where can I find other help?**

The National Domestic Violence Hotline provides free and private safety tips and help in over 100 languages. Call them at 1-800-799-7233; 1-800-787-3224 (TTY); or visit online at [www.thehotline.org](http://www.thehotline.org).

**What do I have to do to make information about a minor confidential?**

If you're ready to start the process for this request, go to page 2 to see a checklist of steps you need to complete in order to ask the judge to make information about a minor confidential.



**What do I have to do to make information about a minor confidential?****○ Step 1: Complete the forms.**

You will need to complete these forms to make your request:

- [Form DV-160](#)
- [Form DV-165](#) (complete items 1 and 2 only)

You can find these forms online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

▶ See tips to complete the forms.

To request a restraining order, you need to complete different forms. See form [DV-505-INFO](#) for a list of forms you need to complete to request a restraining order.



You can use these steps as a checklist.

**▶ Tips for Step 1: Complete the forms**

**I only want to protect the minor's address:** If you only want to protect the minor's address, you do not have to make this request. See "What information can I ask the judge to make confidential?" on page 1 for more information.

**I want to protect multiple minors.** Only an adult who is the minors' parent or legal guardian may make a request to protect multiple minors' information.

**I want to give the minor's school or other people copies of court orders from this case.**

If the court grants your request to make information regarding a minor confidential, you may want to ask the court for permission to give other people copies of certain documents in your case. For example, if the minor's name was made confidential and the restraining order protects the minor, you may want the minor's school to have a copy that is unredacted (shows the minor's name). You can make this request at item 9 on form DV-160.

**My right to cancel my restraining order request:**

If you are the party asking for the domestic violence restraining order and the judge does not grant your confidentiality request, you have the right to cancel your domestic violence restraining order request.

To have your domestic violence restraining order request canceled, check the box on [form DV-160](#), item 7a, and item 8d(1), if it applies.



If you cancel your domestic violence restraining order request, you will **not** receive a domestic violence restraining order at this time.

If, **after** canceling your domestic violence restraining order request, you want to ask for a domestic violence restraining order based on the same facts, you must start the process over. See [form DV-505-INFO](#) for more information.

**○ Step 2: Take the forms to your court clerk to file.**

Find out which courthouse to take your forms to by calling your local court or searching online at [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm).

**○ Step 3: Understand the judge's order.**

The judge will write your orders on [form DV-165](#). The judge will **grant** or **deny** your request.

▶ See page 3 for what this means.

**○ Step 4: Give court papers to other parties.**

In some cases, you will need to have your server give court papers to the other parties in your case. This process is called service.

▶ See page 4 for tips to complete service.





► **Tips for Step 3:  
Understand the judge's order.**



Look at [form DV-165](#) to see what the judge decided.



**What if the judge granted my request?**

Look closely at [form DV-165](#), pages 2–5, to see what information the judge made confidential in your case. If the judge granted your request to keep information confidential, the information the judge decided to keep confidential will not be available to the public. The information will only be available to the parties in the case.

At times, the judge may make information confidential from the other party in your case. If this happens, the judge will complete box 8(b) on [form DV-165](#).

Now, take a close look at item 9 on [form DV-165](#). This tells you who is responsible for redacting the information on your paperwork and deadline for filing it with the court.

Redacting means to hide (whited or blacked out) information so it cannot be seen. If the judge makes you responsible for redacting the information, your local self-help center may be able to help you.



**What if the judge did not grant (denied) my request?**

This means that if you move forward with your case, the minor's information will not be confidential on your paperwork. This is important because anyone can go to your local courthouse and ask to see the documents you filed in this case.

If the judge does not grant your request, you may have other legal options available to you. Visit your local court's self-help center or talk with a lawyer.

► **What if I asked to cancel my restraining order request?**

If you checked box 7a or 8d(1) on [form DV-160](#) and the judge denied your request, the paperwork you turned in with this request will not be available to the public, except for page 1 of [form DV-165](#). This includes [form DV-100](#) and any proposed order forms. The court will either return these forms to you, destroy them, or delete them from their records unless you give the court permission to file the forms.

► **What if I file documents with the court in the future?**

If you file documents with the court in the future, be sure to use [form DV-175](#) as a cover sheet and follow the instructions at the top of the form.

**Is there a penalty for disclosing confidential information?**

Misusing or giving out confidential information can result in the court ordering you to pay up to \$1,000 or other court penalties. You will not be penalized if you:

- Give information to police to help them enforce the judge's orders, or
- If you are the minor who has claimed abuse.





► **Tips for Step 4: Give court papers to all parties in your case.**

In some cases, the judge will order you to serve your court papers. Look at [form DV-165](#) to see what the judge decided.



What did the judge decide in your case?

The judge **granted** my request to keep some of the minor's information confidential.

**Your papers must be served.  
Follow steps 1–5 below.**

The judge **denied** (did not grant) my request to keep some information confidential. The **case is still open** because there are other issues for a judge to decide on, like divorce or custody.

**If this is your situation, forms DV-160 and DV-165 must be served by mail or in person.  
Follow steps 3–5 below.**

The judge **denied** (did not grant) my request to keep some information confidential. I **canceled** my request for a restraining order and there is **no other issue** in this case for a judge to decide on.

**Your papers do not need to be served.  
You may stop here.**

**Step 1: Find out which papers you need to serve.**

The judge will check which papers you need to serve to the other parties in your case on [form DV-165](#), item 13.

**Step 2: Find out whether you need to serve the other parties personally or by mail.**


The judge will check how you need to serve your court papers to the other parties in your case on [form DV-165](#), item 13.

If the judge checks item 13a, you will need to have your server personally serve (give) your court papers to the other parties in your case.

If the judge checks item 13b, you will need to have your server mail your court papers.

**Step 3: Choose a server.**

The person who serves your papers is called a server. Your server must be at least 18 years old, not protected by the restraining order, and not involved in your case. **You are not allowed to serve your own court papers.**

 Some situations may be dangerous. Think about people's safety when deciding who you choose to serve your court papers.

A sheriff or marshal will serve your court papers for free. Another option is a process server.

A process server is a business you pay to deliver court papers. To hire a process server, look for "process server" on the internet or in the yellow pages.

**Step 4: Have your server give your court papers to all parties.**

For personal service, give your server your court papers as well as [form DV-200](#).

For service by mail, give your server your court papers as well as [form DV-250](#).

**Step 5: File proof with the court.**

The court needs proof that your papers were served. After your server completes [form DV-200](#) or [form DV-250](#), take it to the court to file in your case.

If the sheriff or marshal served your papers, they may use another form for proof instead of [form DV-200](#). Make sure a copy is filed with the court and that you get a copy.

For more information, read [form DV-200-INFO](#) or ask your local court's self-help center for help.

*Clerk stamps date here when form is filed.*

Draft- Not approved by  
Judicial Council

12.06.19

*Fill in court name and street address:*

Superior Court of California, County of

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

Case Number:

- CONFIDENTIAL
- PUBLIC VERSION (REDACTED)

**1 Parties in This Case**

- a. Person who requested restraining order (form DV-100, item 1):  
Full Name: \_\_\_\_\_
- b. Person from whom protection is sought (form DV-100, item 2):  
Full Name: \_\_\_\_\_

**2 Person Making Request for Confidentiality**

Full Name: \_\_\_\_\_

**Court will complete item 3 if request is denied or items 4-13 if request is granted or partially granted.**

**Court's Decision**

The court has reviewed the request for confidentiality and makes the following decision:

**3  Denied or More Information Needed**

- a.  **DENIED.** The request to keep information of a minor or minors confidential is denied.
  - (1)  **The court will NOT make a decision on the Request for Domestic Violence Restraining Order (form DV-100).** The request for restraining order and proposed order forms must be returned to the requester personally, destroyed, or deleted from electronic files and not filed with the court unless the person requesting the restraining order agrees to file them without any changes.
  - (2)  **The court will make a decision on the Request for Domestic Violence Restraining Order (form-DV-100).** The request for restraining order and any accompanying orders will be filed in the public file.
- b.  **More information is needed for court decision.** You must go to court on the date and time below to provide more information on why you need the court to make information confidential.

<b>Hearing Date</b>	→ Date: _____	Time: _____	Name and address of court if different from above: _____
	Dept.: _____	Room: _____	_____

- c. If 3 is checked, only this page of this order form will be issued. All other pages may be discarded.

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**Instructions to Clerk**

If item 3 is checked, file page 1 in a public file and discard pages 2-5.  
File the request for confidentiality (form DV-160) in a confidential file.

**This is a Court Order.**



*Court will complete the rest of this form if the request is partially or fully granted*

**4**  **GRANTED**

- a.  **Granted in full.** The request to keep the information of a minor or minors confidential is granted in full. Details of the order are stated below in items **5–12**.
- b.  **Partially granted.** The request to keep the information of a minor or minors confidential is granted only in part. Details of the order are stated below in items **5–12**.

**5** **Findings**

- The court finds all of the following (*all of these findings are required if granting in full or in part*):
  - a. The right to privacy of the minors listed in item **6** overcomes the public's right of access to the information;
  - b. There is a substantial probability that the interests of the minors listed in item **6** will be prejudiced if the information is not kept confidential;
  - c. The order is narrowly tailored; and
  - d. No less restrictive means exist to protect the privacy of the minors in item **6**.

**6**  **Minors Subject to This Order**

This order protects the information listed in item **7** for the following minors:

- a. Name: \_\_\_\_\_
- b. Name: \_\_\_\_\_
- c. Name: \_\_\_\_\_
- d. Name: \_\_\_\_\_

Check here if there are additional minors. Attach a sheet of paper and write "Attachment 6—Additional Minors" for a title.

References in this order to "the minor" refer to all minors listed here.

**7** **Information to Be Kept Confidential from Public**

**WARNING:** Unless authorized by the court or by law, if the information listed below is misused or disclosed to anyone other than law enforcement, you may be sanctioned up to \$1,000 or face other court penalties. See Family Code section 6301.5 for the limited situations in which disclosures can be made without a court order.

The following information must be kept confidential and not viewable by the public. (*Check all that apply.*)

a.  **Name of minor**

True name of minor in item <b>6</b> <i>(to be kept confidential)</i>	Initials viewable by the public <i>(to be used in redacted version)</i>

**This is a Court Order.**



b.  **Address of minor**

The following addresses of the minors listed in item ⑥ must be redacted and must not be viewable by the public: \_\_\_\_\_

\_\_\_\_\_

c.  **Information relating to minor (check one):**

- (1)  The information CIRCLED in the attached copy of form DV-100 or other document or form is made confidential by this order.
- (2)  The information below is made confidential by this order:

<b>Location of Information</b> <i>(for example, form #, page #, paragraph #, line #, attachment #, or exhibit #)</i>	<b>Information to Be Redacted</b> <i>(not viewable by the public)</i>
---	--

- (a) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (b) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (c) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (d) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write "Attachment 7c(2)" for a title.

**This is a Court Order.**



d.  Other:

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

**8 Information to Be Kept Confidential from the Restrained Person**

The restrained person (*full name*) \_\_\_\_\_ will have access to the following information checked in item **7** to comply with the protective order and prepare a response:

- a.  All the information, unredacted.
- b.  All the information except for the following:

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

Check here if additional space is needed and include the information on a separate piece of paper, write "Attachment 8b" at the top, and attach to this form.

**9 Responsibility for Redacting All Forms and Documents**

a. All forms and documents submitted with the request for confidentiality **must be redacted and filed with the court** no later than (*number of court days or date*) \_\_\_\_\_, by the:

- (1)  Court
- (2)  Person making the request
- (3)  Other: \_\_\_\_\_

b. The redacted documents must be filed in a public file, and the unredacted documents must be filed in a confidential file.

**This is a Court Order.**



**10 People Who May Have Access to Unredacted Court Documents**

a. The minor's (*check all that apply*)

(1)  school

(2)  minor's childcare provider

(3)  supervised visitation provider

(4)  other (*name*): \_\_\_\_\_

may be given copies of unredacted documents from this case with the following information:

b. (1)  Minor's name

(2)  Minor's address

(3)  Minor's information listed in item 7c.

c. Law enforcement may have access to any information in this case that is necessary to enforce the restraining order.

**11 Court Records and Hearings**

The information listed in item **7** must NOT be disclosed by the court in any:

a. Registers of actions, indexes, court calendars, court transcripts, or minute orders in this case, any family law case, or any civil case with the same parties, in the State of California.

b. Future court hearings, including any documents introduced during a hearing in this case, any family law case, or any civil case with the same parties, in the State of California.

**12 To All Parties**

a. The information made confidential by this order must NOT be made public in this case, any family law case, or any other civil case with the same parties.

b. If you file a document in this case or any case noted above in 12a that includes information listed in item **7**, you must attach form DV-175, *Cover Sheet for Confidential Information*, to the front, and include a copy of this order if there is not already one in the case.

**This is a Court Order.**



**13 To the Person Making the Request for Confidentiality**

You must do the following:

- a.  Have a copy of each form listed in item (c) below **personally served** on (given to) the restrained person.  
*(See form DV-160-INFO to find out how to meet this requirement. Personal service is required when the protected person is making this request and when forms DV-100, DV-109 and DV-110 have NOT been served on the restrained person.)*
- b.  Have a copy of each form listed in item (c) mailed to the:
- (1)  Restrained person
- (2)  Protected person
- (3)  Other: \_\_\_\_\_  
*(See form DV-250 to find out how to meet this requirement.)*
- c. Forms to serve:
- (1) Form DV-170, *Notice of Order Protecting Information of Minor*  
**(Form DV-170 should be the first page with all others stapled behind.)**
- (2)  Form DV-100, *Request for Domestic Violence Restraining Order*
- (3)  Form DV-109, *Notice of Court Hearing*
- (4)  Form DV-110, *Temporary Restraining Order*
- (5)  Form DV-160, *Request to Keep Minor's Information Confidential*  
 Unredacted       Redacted (if item 8b on DV-165 is checked)
- (6) Form DV-165, *Order on Request to Keep Minor's Information Confidential*  
 Unredacted       Redacted (if item 8b on DV-165 is checked)
- (7) Form DV-175, *Cover Sheet for Confidential Information* (leave blank)
- (8)  Other: \_\_\_\_\_

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

\_\_\_\_\_  
*Judge (or Judicial Officer)***Instructions to Clerk**

1. The originals of all unredacted documents containing the information checked in item 7 must be kept in a confidential file and must NOT appear in any **register of action, calendar, index, minute order, or transcript**.
2. If item 9b is checked, provide the person making this request no more than three certified copies of forms DV-100, DV-109, and DV-110, which must include any information in item 7 but must NOT include any information listed in item 9b. Use form DV-170 as a cover sheet for each set of forms.
3. Any information listed in item 8b must not be available to the restraining person and filed in a confidential file.

**This is a Court Order.**

*Clerk stamps date here when form is filed.*Draft- Not approved by  
Judicial Council  
12.06.19*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 Confidential Information**

The court has made some information in this case confidential. Details of the Order for Confidentiality are in form DV-165, *Order on Request to Keep Minor's Information Confidential*. Confidential information may be given ONLY to law enforcement to enforce the restraining order (attached form DV-110).

**2 Documents Attached to This Notice**

The following documents contain confidential information:

- a.  Form DV-100, *Request for Domestic Violence Restraining Order*
- b.  Form DV-109, *Notice of Court Hearing*
- c.  Form DV-110, *Temporary Restraining Order*
- d.  Form DV-130, *Restraining Order After Hearing*
- e.  Form DV-160, *Request to Keep Minor's Information Confidential*
- f.  Form DV-165, *Order on Request to Keep Minor's Information Confidential*
- g.  Form DV-175, *Cover Sheet for Confidential Information* (leave blank)
- h.  Other: \_\_\_\_\_

**3 Filing Documents**

If you file any document that contains any confidential information in this case, other family law case or other civil case with the same parties, **you MUST also use form DV-175 as a cover sheet**. See form DV-165, item **7** for all information made confidential by the court.

**4 NOTICE TO RECIPIENT:** Unless authorized by the court or by law, if you misuse or disclose the information that is confidential in this case to anyone other than law enforcement you may be sanctioned up to \$1,000 or face other court penalties. See Family Code section 6301.5(c)(2) for the limited situations in which disclosures can be made without a court order.

**Instructions to Clerk**

When providing copies of unredacted filed documents to any party, you must attach this cover sheet on top of the document or set of documents. Complete item **2** to indicate the forms that are attached.



Clerk stamps date here when form is filed.

Empty box for clerk stamping date.

Fill in court name and street address:

Superior Court of California, County of

Fill in the case number:

Case Number:

Instructions to Clerk
1. The court must review and approve a redacted version of documents attached to this cover sheet before filing.
2. Once approved by the court, file the redacted version in a public file.
3. File the unredacted version and this cover sheet in a confidential file.

Instructions to Parties

- When to use this cover sheet:
- Form DV-165 has been issued by the court
AND
- You want to file a document or form that includes confidential information (see form DV-165, item 7).
How to use this cover sheet:
- Make two copies of the documents you want to file.
- Complete this form, place it on top of the documents (both copies) you want to file, and file them with the court.

1 Parties in This Case

- a. Person who filed the case: (Name):
b. Other party or parties: (Name):

2 Information About the Order for Confidentiality

- a. The order was made in (check one):
(1) This case.
(2) Another civil family law case:
(a) Case number:
(b) County it was filed in:
Attach a copy of the order (form DV-165) if you have one.
b. Minor protected by confidentiality order:
(1) Name:
(2) Name:
Check here if you need more space. Include the information on a separate piece of paper, write "Attachment 2" on the top, and attach it to this form.

3 I have attached two copies of the following documents:

- Form DV-
Other form or document (describe):

Date:

Type or print your name

Sign your name

*Clerk stamps date here when form is filed.***DRAFT****1202/2019****Not approved by  
the Judicial Council****Instructions****Who should complete this form?**

Use this form if you want to ask the court to give you information about a minor that has been made confidential in a domestic violence restraining order case. After you file this form with the court, the court will provide a copy of this request to the person who made the request to keep the minor's information confidential. That person will have an opportunity to disagree with your request before the court makes a decision on your request.

**What do I do if I received a completed copy of this form?**

The person in ② is asking the court for access to information that has been made confidential (see item ③ on page 2 of this form). If you do NOT agree with this request, complete and file form DV-178, *Response to Request for Release of Minor's Confidential Information*, by the deadline listed on form DV-177, item ④.

*Fill in court name and street address:***Superior Court of California, County of***Court fills in case number when form is filed.***Case Number:****① Parties in This Case****a. Protected party (check one)**

- Name of protected party is: \_\_\_\_\_
- Name of protected party is confidential in this case.

**b. Restrained party (check one)**

- Name of restrained party is: \_\_\_\_\_
- Name of restrained party is confidential in this case.

**② My Information**

My name is: \_\_\_\_\_

Organization or business name (if any): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

How do you know the minor? \_\_\_\_\_

**My contact information (optional):**

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**Lawyer's information (skip if you do not have a lawyer):**

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

State Bar Number: \_\_\_\_\_

**This is not a Court Order.**

Case Number:
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**3 My Request for Release of Minor's Confidential Information**

I ask the court for the following confidential information about the minor *(please check all that apply)*:

- a.  Minor's name
- b.  Minor's address
- c.  Other information about the minor

*Please describe the confidential information that you want released to you by the court. For example, you can describe where the information is located by providing the form number, page number and item number of where the information is located.*

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Check this box if you need more space for your answer. You can put the rest of your answer on another sheet of paper. Attach it to this form and write "Attachment 3c" at the top.

**4  I Want the Court to Release Information for More Than One Minor**

- a.  The information I am asking from the court is the **same** for all minors.
- b.  The information I am asking from the court is **not** the same for all minors. *(In item 3 make sure to explain what information you want for each minor. If the minor's name was made confidential use the initials or name used by the court to identify each minor.)*

**This is not a Court Order.**



**5 Reasons I Am Asking the Court for Minor's Confidential Information**

To grant your request, the court must find that giving you the minor's confidential information is needed to prevent abuse or is in the best interest of the minor.

**With that in mind, why should the court give you the minor's confidential information you asked for in item 2?**

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**6** Number of pages attached to this form, if any: \_\_\_\_\_

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

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

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

▶ \_\_\_\_\_  
*Sign your name*

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

\_\_\_\_\_  
*Lawyer's name, if you have one*

▶ \_\_\_\_\_  
*Lawyer's signature*

**This is not a Court Order.**

*Clerk stamps date here when form is filed.***DRAFT****12/06/2019****Not approved by  
the Judicial Council**

**The court sent you this notice because someone has asked the court to release confidential information about a minor.**

You have the right to tell the court if you disagree with the request to release confidential information. You have until the deadline listed below in item ④. For next steps, see instructions on page 2.

*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 Parties in this case**a. Protected Party (*check one*) Name of protected party is: \_\_\_\_\_ Name of protected party is confidential in this caseb. Restrained Party (*check one*) Name of restrained party is: \_\_\_\_\_ Name of restrained party is confidential in this case**② Person asking for minor's confidential information**

*Full Name:* \_\_\_\_\_ wants access to information that has been made confidential in this case. To see what information the person wants access to, see form DV-176, *Request for Release of Minor's Confidential Information*, which is included with this notice.

**③ Person sent this notice** Minor who made the request to keep information confidential Legal guardian who made the request to keep minor's information confidential**④ Deadline to disagree with request**

The person in ③ has until (*date*) \_\_\_\_\_ to file a completed form DV-178, *Response to Request for Release of Minor's Confidential Information*, with the court clerk. Form DV-178 is included with this notice.



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**—Clerk's Certificate—**

[seal]

I certify that I am not a party to this case and that a true copy of the *Notice of Request for Release of Information* (form DV-177), blank copy of the *Response to Request for Release of Minor's Confidential Information* (form DV-178) and *Cover Sheet for Confidential Information* (form DV-175), and a true copy of the *Request for Release of Minor's Confidential Information* (form DV-176) were mailed first class, postage fully prepaid, in a sealed envelope to the person in ③ .

- a. Date of mailing: \_\_\_\_\_  
(Instructions to clerk for item 4: The deadline is the first court day after 20 days from the date of mailing)
- b. Mailed from the courthouse listed on page 1.
- c. Mailed to the address of person in ③ , provided to the court on form DV-160, filed on (date) \_\_\_\_\_ .

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

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**For person in ③ :**

**Instructions and Information on Next Steps**

**Form DV-176** is included with this notice. Take a close look at form DV-176 to see who made the request (item 2) and what confidential information the person is asking the court to release (item 3).

**A blank copy of form DV-178** is also included with this notice. If you do not agree with the request to release confidential information, you must complete form DV-177 and file it with the court clerk by the deadline listed in ④ on page 1 of this form DV-177. You can also find form DV-178 at [www.courts.ca.gov/dv-178.pdf](http://www.courts.ca.gov/dv-178.pdf).

After the judge makes a decision, you should receive a copy of the judge's order (form DV-179). If you do not receive a copy of form DV-179, *Order on Request for Release of Minor's Confidential Information*, you can contact the court to get a copy.

**CONFIDENTIAL** **PUBLIC VERSION (REDACTED)**

Clerk stamps date here when form is filed.

**DRAFT  
12/06/2019****Not approved by  
the Judicial Council****Instructions****When to use this form?**

If someone is asking the court for information about a minor that has been made confidential, you can use this form to let the court know if you agree or disagree with the request.

**Who should use this form?**

If you are a minor or legal guardian who made a request to keep information confidential.

**What do I need to complete this form?**

You will need three documents that you should have received with this form:

- Form DV-176, *Request for Release of Minor's Confidential Information*;
- Form DV-177, *Notice of Request for Release of Minor's Confidential Information*; and
- Form DV-175, *Cover Sheet for Confidential Information*. You will need to give the court form DV-175 and two copies of your completed form DV-178.

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 Parties in This Case****a. Protected party**

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

**b. Restrained party**

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

**② Information About the Request to Release Confidential Information**

Name of person requesting minor's confidential information \_\_\_\_\_

*(person listed on form DV-176, item ①):***This is not a Court Order.**

**3 My Information**

a. Your name: \_\_\_\_\_

b. My contact information

**! Address where I can receive mail:**

This address will be used by the court and other parties in this case to send you notices of court dates and documents. If you want to keep your home address private, you can use another address like a post office box or another person's address if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Lawyer's information *(skip if you do not have one)*:

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

State Bar No.: \_\_\_\_\_

**4 Do You Agree to the Request to Release Minor's Confidential Information?**

a.  **No, I do NOT agree to the request** and do not want the court to give any confidential information to the person listed in **2** because: \_\_\_\_\_

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

**This is not a Court Order.**





b.  **No, to some of the request.** I agree to the person listed in item ② having some information but do NOT want the person to have access (*check everything that you do NOT want the person in ② to have*):

- Minor's name
- Minor's address
- Other information about the minor

The reasons why I do not want the person to have this information above is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c.  **Yes, I agree to the request** and want the court to give the person listed in ② all the confidential information they requested on form DV-176.

**⑤ Serve the Person Making the Request**

You must have your server mail a redacted copy of this form (with no confidential information) to the person listed in ②. Have your server complete form DV-250, *Proof of Service by Mail*, after this form is mailed and file the completed form DV-250 with the court.

**⑥** I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

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

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



\_\_\_\_\_  
*Sign your name*

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

\_\_\_\_\_  
*Lawyer's name*



\_\_\_\_\_  
*Lawyer's signature*

**This is not a Court Order.**

Clerk stamps date here when form is filed.

- CONFIDENTIAL PUBLIC VERSION (REDACTED)

DRAFT

12/02/2019

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:

Instructions to Clerk

If item 3 is checked, file page 1 in a public file with all confidential information redacted, and discard pages 2-4. If item 4 is checked, file the original in a confidential file and a redacted copy in a public file.

1 Parties in This Case

a. Protected party (check one)

- Name: Name is confidential in this case.

b. Restrained party (check one)

- Name: Name is confidential in this case.

2 Person Asking for Release of Minor's Confidential Information

Full Name:

The court will complete item 3 if request is denied or items 4-9 if request is granted or partially granted.

Court's Decision

The court makes the following decision:

3 Denied or More Information Is Needed

- The court denies the request by the person in 2 to release minor's confidential information. The court needs more information before making a decision. The person in 2 must go to court on the date and time below to give more information why the court should release minor's confidential information.

Name and address of court, if different from above:

Court Date Date: Time: Dept.: Room:

- The court will mail a copy of this order to the minor or legal guardian who made the request to keep minor's information confidential. If 3 is checked, only page 1 of this order will be issued. All other pages may be discarded.

Date:

Judicial Officer

This is a Court Order.



**4**  **Granted**

- a.  The request made by the person in **2** is:
  - (1)  Completely granted.
  - (2)  Partially granted.
- b.  The court, on its own motion, releases minor’s confidential information as described in item **6**.
- c. **Details of the order are stated below in items 5 – 9.**

**5** **Court's Findings**

- a.  In granting the request made by the person in **2** the court finds that the:
  - (1) person who made the request to keep the minor’s information confidential has been properly served and has had sufficient time to respond; and
  - (2) release of the minor’s confidential information is *(check at least one)*:
    - (A)  necessary to prevent abuse.
    - (B)  in the minor’s best interest.
- b.  The court, on its own motion, releases minor’s confidential information as described in item **6** because it is *(check at least one)*:
  - (A)  necessary to prevent abuse.
  - (B)  in the minor’s best interest.

**6** **Release of Confidential Information**

- a. The following persons/entities may have access to the information listed in **6** b *(check all that apply)*:
  - (1)  the person listed in **2**.
  - (2)  minor's school and afterschool program.
  - (3)  minor's childcare provider *(name)*: \_\_\_\_\_.
  - (4)  supervised visitation provider *(name)*: \_\_\_\_\_.
  - (5)  other *(name)*: \_\_\_\_\_.

**This is a Court Order.**



b. This order releases certain confidential information for the following minors:

**Minor 1:** \_\_\_\_\_  
*(use pseudonym if not releasing confidential name)*

(1)  Minor's name: \_\_\_\_\_

(2)  Minor's address: \_\_\_\_\_

(3)  Other information about the minor:

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

**Minor 2:** \_\_\_\_\_  
*(use pseudonym if not releasing confidential name)*

(1)  Minor's name: \_\_\_\_\_

(2)  Minor's address: \_\_\_\_\_

(3)  Other information about the minor:

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

**Minor 3:** \_\_\_\_\_  
*(use pseudonym if not releasing confidential name)*

(1)  Minor's name: \_\_\_\_\_

(2)  Minor's address: \_\_\_\_\_

(3)  Other information about the minor:

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

Check this box if you need more space to include more minors or more information. Attach a sheet of paper and write "Attachment 6b" for a title.

**This is a Court Order.**



7 All other information made confidential by the court and not released with the court's permission must be kept confidential. Any person who misuses or discloses the minor's confidential information **may be sanctioned up to \$1,000 or face other court penalties.**

8  **Service**

- a.  The court will send a copy of this order to the person listed in 2 and the minor or legal guardian who made the request to keep the minor's information confidential.
- b.  The person in 2 must have a server mail a copy of this order to the minor or legal guardian who made the request for confidential information. Have the server complete and file form [DV-250](#), *Proof of Service by Mail*, after the copy has been mailed.

9  **Other Orders**

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

\_\_\_\_\_  
*Judicial Officer*



**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Request for Accommodations by Persons With Disabilities and Response* ([form MC-410](#)). (Civ. Code, § 54.8.)

**—Clerk's Certificate—**

Clerk's Certificate  
[seal]

I certify that this *Order on Request for Minor's Confidential Information* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:**        **Circulate for comment (September 1 cycle)**

**RUPRO Meeting:** December 12, 2019

**Title of proposal** (*include amend/revise/adopt/approve + form/rule numbers*):

Gun Violence Restraining Orders: Extend duration and expand categories of petitioners; relinquishment of firearm rights

*Committee or other entity submitting the proposal:*

Civil and Small Claims Advisory Committee

*Staff contact (name, phone and e-mail):* Kristi Morioka, 916-643-7056, [kristi.morioka@jud.ca.gov](mailto:kristi.morioka@jud.ca.gov)

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

Approved by RUPRO: October 28, 2019

Project description from annual agenda: Three recently enacted bills amend the statutes relating to gun violence restraining orders (GVRO), and so require revision to GVRO forms if they are enacted. Assembly Bill 12 changes the duration of a GVRO, among other things. Assembly Bill 61 adds two new categories of parties who may seek GVROs, coworkers and employees of a school that the person with the guns recently attended. Assembly Bill 1493 authorizes the respondent to a petition for a GVRO to voluntarily relinquish the right to own or possess 4 # New or One-Time Projects4 firearms, and become subject to a GVRO, by filing a form with the court. The GVRO forms must be amended to reflect the changes in the statutes. At the same time, the committee will consider expanding the item on the GVRO form EPO-002 that asks for the gender of the restrained party.

*If requesting July 1 or out of cycle, explain:*

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

# 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

W20-

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**Title**

Gun Violence Restraining Orders: Extend Duration and Expand Categories of Petitioners; Relinquishment of Firearm Rights

**Action Requested**

Review and submit comments by February 11, 2020

**Proposed Effective Date**

September 1, 2020

**Proposed Rules, Forms, Standards, or Statutes**

Adopt form GV-125 and revise forms EPO-002, GV-009, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, GV-600, GV-610, GV-620, GV-630, GV-700, and GV-710

**Contact**

Kristi Morioka, 916-643-7056 phone  
[kristi.morioka@jud.ca.gov](mailto:kristi.morioka@jud.ca.gov)

**Proposed by**

Civil and Small Claims Advisory Committee  
Hon. Ann I. Jones, Chair

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends revising 18 gun violence restraining order (GVRO) forms and adopting one new form. These changes are needed to implement recent amendments in the Penal Code: [Assembly Bill 12](#) (Stats. 2019, ch. 724) allows an officer to file a GVRO in the name of the officer's law enforcement agency and extends the duration of a GVRO to a maximum of five years; [Assembly Bill 61](#) (Stats. 2019, ch. 725) allows an employer, coworker, or school administrator or teacher of a person believed to be dangerous to file a petition requesting a GVRO; and [Assembly Bill 1493](#) (Stats. 2019, ch. 733) authorizes a person who is the subject of a GVRO to submit a form to the court voluntarily relinquishing their firearm rights.

### The Proposal

In order to implement the statutory changes, the Civil and Small Claims Advisory Committee proposes that the forms listed below be revised, effective September 1, 2020.

- *Gun Violence Emergency Protective Order* (form EPO-002),

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

- *Notice of Court Hearing* (form GV-009),
- *Response to Gun Violence Emergency Protective Order* (form GV-020),
- *How Can I Respond to a Gun Violence Emergency Protective Order* (form GV-020-INFO),
- *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030),
- *Petition for Gun Violence Restraining Order* (form GV-100),
- *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO),
- *Notice of Court Hearing* (form GV-109),
- *Temporary Gun Violence Restraining Order* (form GV-110),
- *Response to Petition for Gun Violence Restraining Order* (form GV-120),
- *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO),
- *Gun Violence Restraining Order After Hearing* (form GV-130),
- *Request to Terminate Gun Violence Restraining Order* (form GV-600),
- *Notice of Hearing on Request to Terminate Gun Violence Restraining Order* (form GV-610),
- *Response to Request to Terminate Gun Violence Restraining Order* (form GV-620),
- *Order on Request to Terminate Gun Violence Restraining Order* (form GV-630),
- *Request to Renew Gun Violence Restraining Order* (form GV-700), and
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710).

The specific revisions to each of the GVRO forms are detailed below.

The advisory committee also proposes adoption of a new form, *Relinquishment of Firearm Rights* (form GV-125), to implement AB 1493. AB 1493 amends the Penal Code to allow the subject of a petition to file a form relinquishing their firearm rights. Penal Code section 18105 requires the Judicial Council to “prescribe the form of the petitions and orders” to implement the gun violence restraining order statutes.

### **Changes to petitioner name to include law enforcement agency**

Assembly Bill 12 (Stats. 2019, ch. 724)<sup>1</sup> authorizes a law enforcement officer to bring a petition for a Gun Violence Restraining Order (GVRO) “in the name of the law enforcement agency in which the officer is employed.”<sup>2</sup> The purpose of this statutory change is allow an officer to use the name of the officer’s law enforcement agency when filing a petition. That law enforcement agency’s name will appear in the case caption. The individual officer still must sign the form and

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<sup>1</sup> AB 61 incorporates additional changes to sections 18170 and 18190 of the Penal Code proposed by AB 12 to be operative only if this bill and AB 12 are enacted and this bill is enacted last, which is the order that the bills were chaptered and enrolled. AB 1493 incorporates the changes in Penal Code section 18175, from AB 12 and AB 61.

<sup>2</sup> Pen. Code, § 18109(b), eff. Sept. 1, 2020.



declare under penalty of perjury to meet the statutory requirements for the restraining order. The form revisions to implement the statute are described below.

- Form GV-009,<sup>3</sup> item 1, the line for “Name of law enforcement officer,” has been removed from item 1.
- Form GV-030, *GVRO After Hearing on EPO-002*, item 1, the words, “Name of law enforcement officer,” have been removed.
- Form GV-100, item 1a, adds “or law enforcement agency.” The language after the check box for “I am a law enforcement officer,” has been revised to read, I am “An officer of a law enforcement agency (*If you listed your full name above, list the name of the law enforcement agency that employs you.*)” This revision allows the clerk to be able to easily find and accurately enter the case name using the name of the petitioner, whether an individual or a law enforcement agency.
- Forms GV-109, GV-110, GV-130, GV-620, GV-700, and GV-710, in item 1a., adds “or name of law enforcement agency,” after “Your full name” and changes “A law enforcement officer employed by (*name of law enforcement agency*)” to a check box for “An officer of a law enforcement agency.”
- Forms GV-120, item 1, GV-600, and GV-610, item 2a, GV-620, item 1a, and GV-630, item 2, adds “or name of law enforcement agency,” after “Full name.”

### **Newly added categories of petitioners**

Assembly Bill 61 (Stats. 2019, ch. 725) authorizes the following additional people to file a petition for an ex parte, one-year, or renewed GVRO:

- (1) an employer of the subject of the petition,
- (2) a coworker of the subject of the petition who has substantial and regular interactions with the person and approval of their employer, or
- (3) an employee or teacher of a secondary or postsecondary school that the subject attended in the last six months, with approval of a school administrator or a school administration staff member with a supervisory role.

Several forms have been revised to list new categories of petitioners and the requirements for each, for example, a coworker must have substantial and regular interactions with the proposed restrained person and also must have the employer’s approval to file the petition. The following forms have been revised to implement this statute:

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<sup>3</sup> Item 1a. says “Law enforcement agency that applied for the Gun Violence Emergency Protective Order.” Although AB 12, was proposed but not passed at that time, the committee purposely included language that considered this legislation when the form was adopted on September 1, 2019.

- Form EPO-002, on page 2, in the section “TO THE RESTRAINED PERSON,” added employer, coworker, teacher or school administrator as people who can file for a more permanent restraining order.<sup>4</sup>
- Form GV-100, item 1a., added new categories of petitioners, including additional information for them: for employer, your position and name of company, for coworker that they have substantial and regular interactions with the respondent for at least one year and they have obtained permission for their employer to file the petition, and name of company, and for employee or teacher, that it is a secondary or postsecondary school that the respondent has attended in the last six months, that they have obtained approval from a school administrator to file the petition, and the name of the school.
- Form GV-100-INFO, for the question, “Can I get a GVRO against someone?” the answer has been revised to “You can ask for one if you are connected to the person you think is dangerous as:” followed by the new categories of petitioners. Some graphics were also added to this form to make it more user-friendly and check boxes were added to the question, “What forms do I need to get the order?” to make this section a checklist and to break up some of the dense text space.
- In form GV-109, item 1a., the new categories of petitioners have been added, and the language has been simplified from the language used in GV-100, to list only the petitioner’s relationship to the respondent because the company or school name are already requested on the original petition form.
- Form GV-120-INFO, under “Who can ask for a gun violence restraining order?” added the other categories of individuals who can request a gun violence restraining order. Some graphics were also added to this form to make it more user-friendly and to break up some of the dense text space.
- Forms GV-110, GV-130, GV-620, GV-700, and GV-710, item 1a., have been revised to add the new categories of petitioners. The forms read in item 1a., with a check box next to each category, “I am: A family member of the Respondent, An officer of a law enforcement agency, An employer of the Respondent, A co-worker of the Respondent, An employee or teacher of a secondary or postsecondary school that Respondent has attended in the last 6 months.”

### **Duration for GVRO and renewal of GVRO**

AB 12 (Stats. 2019, ch. 724) changes the duration of a GVRO to “a period of time between one to 5 years,”<sup>5</sup> and changes the renewal of a GVRO from one year to “a duration of between one to 5 years.”<sup>6</sup> It also requires a court, in determining the duration of the GVRO, to consider the

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<sup>4</sup> The Spanish translation has not yet been revised on this form. A translation is in process of being added to form EPO-002.

<sup>5</sup> Pen. Code, § 18170(a)(1), eff. Sept. 1, 2020.

<sup>6</sup> Pen. Code, § 18190(f)(1), eff. Sept. 1, 2020.

length of time that the threat of personal injury is likely to continue, and to issue the order based on that determination.<sup>7</sup> The following forms have been revised to include the change in duration:

- Form EPO-002, item 4, provides that the judge can make this order last for up to “five years.”
- Form GV-020-INFO, the sections, “Should I go to the court hearing?” and “How long does the order last?” were revised to state that the judge can extend the order for “up to five years.” Some graphics were added to this form to make the form more user-friendly.
- Form GV-100, item 7, has been revised for the petitioner to request a specific number of years for the restraining order to last, between one to five years, by adding “I request the order above for \_\_\_\_ years. *(Please include a number of years between one and five).*” And a space has been provided for the petitioner to answer, “Why are you asking for this amount of time?” to provide information for the judge to make an informed decision about the duration of the GVRO in accordance with the statutory requirement that the judge consider the length of time that the person will pose a significant danger of causing personal injury to themselves or another person by possessing a firearm. And item 9, has been revised to include that the order will last “between one and five years.”
- Form GV-100-INFO,<sup>8</sup> under “How long does the order last?” the duration of time has been revised from, “up to one year,” to “one to five years,” and the renewal information in this same paragraph states that it may be renewed for an additional “one to five years.”
- Form GV-110 has been revised in the “Warnings and Notices to the Restrained Party” section to add that the GVRO can be valid for a period of time “between one to five years.”
- Form GV-120 has been revised in the hearing box to include the time of “one to five years.” In item 4, a reference to item 5 has been revised to reference item 6, to correspond with the change in numbering of items in form GV-100.
- Form GV-120-INFO, under the question “How long does the order last?” the answer has been revised to say that the GVRO can last for “one to five years.”
- Form GV-700, item 3, has been revised to change “one year” to “one to five years.”
- Form GV-710, in the section “To the Respondent,” the warning regarding duration for renewal has been revised from “one year” to “between one to five years.”

### **Request for termination of GVRO**

AB 12 also allows the restrained person to request a hearing on an annual basis to request termination of the GVRO.<sup>9</sup> The following forms were revised, consistent with the change:

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<sup>7</sup> Pen. Code, § 18175(d)(2), eff. Sept. 1, 2020.

<sup>8</sup> On form GV-100-INFO, the graphic of form GV-109 will be changed when the committee approves the changes to form GV-109 before the form is sent to RUPRO.

<sup>9</sup> Pen. Code, § 18180(b), eff. Sept. 1, 2020.

- Form GV-030, under “Warnings and Notices to the Restrained Party,” “per year,” has been added after “you have the right to request one hearing,” to notify the restrained party that they can request a termination once a year that the order is in effect.
- Form GV-130 has been revised in the “Warnings and Notices to the Restrained Party” section to say that the respondent can request one hearing per year to terminate the order.
- Form GV-600, the instructions have been revised to add, “You may make only one request per year that the order is in effect.” In item 3a., form GV-030, has been added to the list of orders that the court can terminate at this hearing. And in item 3c., an option was added to allow the respondent to check a box that says, “I have requested the court to terminate the Order before, but it was denied. It has been a year since I made my previous request.” In the instructions, following item 3, have been revised to say that the request to terminate can be made, “one time each year,” and “one time each year” for any renewal period. Item 3 has been revised to add that the item was “(continued from the prior page).”

### **Changes to gender terms**

AB 1493 amended the language in Penal Code sections 18155 and 1817 to make it gender neutral. While not required by the statute, the Rules and Projects Committee has asked all advisory bodies to consider making form revisions to eliminate gender terms where possible and the advisory committee recommends the changes described below.

- Form GV-020-INFO, under the question “What is a *Gun Violence Emergency Protective Order* (form EPO-002)?” the answer text changes “The person must surrender all guns, ammunition, and magazines that he or she currently owns” to “A person who is served with the order must surrender all guns, ammunition, and magazines that person currently owns.”
- Form GV-030, item 5a.(1), “himself or herself,” has been revised to “themselves,” and “his or her” has been revised to “their.” And item 6a.(2), has been revised to change “him or her,” to “the officer.”
- Forms GV-030, GV-110, and GV-130, under the section, “Duties of Officer Serving This Order,” have several items that have been revised. The first bullet has been revised to remove the gender specific terms and provide clear direction. The phrase, “Ask the Restrained person if he or she has any firearms, ammunition, or magazines in his or her possession or under his or her custody or control that have not already been turned in,” has been revised to “Ask if the Restrained Person is in possession of any firearms, ammunition, or magazines or has custody or control of any that they have not turned in.” The second bullet in this section includes a direction to surrender firearms, ammunition, or magazines to “him or her.” This direction has been revised to state to “the officer.” The third bullet has been revised to remove all gendered terms by revising “that he or she has surrendered,” to “that have been surrendered.” In the section “Duties of Agency on Surrender of Firearms, Ammunition and Magazines,” in the third bullet, “he or she,” is revised to “that person.”

- Forms GV-100, item 8, GV-110, item 5, GV-130, item 7, in the sections for “No Fee to Serve (Notify) Restrained Person,” have been revised from “he or she will do it for free,” to “service will be free.”
- Form GV-100, item 6a, “himself or herself,” has been revised to “themselves,” and “his or her,” has been revised to “their.” Item 7, “Request for Gun Violence Restraining Order,” has been revised to remove “his or her,” and add “of,” so the sentence reads “I request that the court issue an order prohibiting Respondent from having custody or control of, owning. . . .” Also, “currently in his or her possession,” has been revised to “Respondent currently possesses.” Item 10 has been revised to remove “against him/her?” to leave the sentence to read “Has the Respondent been told that you were going to court to seek a TRO?”
- Form GV-100-INFO, under “How will the person to be restrained know about the order?,” “he or she” has been revised to “they.”
- Form GV-109, item 4b.(1), “himself or herself,” has been revised to “themselves,” and “in his or her custody or control,” has been revised to “having custody or control of.”
- Form GV-110, item 4a.(1), “himself or herself,” has been revised to “themselves,” and “his or her,” has been revised to “their.” Item 6b.(1) has been revised to change “him or her,” to “the officer.” And under “Instructions for Law Enforcement,” “him or her” has been revised to “that person.”
- Form GV-120, the last instruction has been revised from “his or her,” to “their.”
- Form GV-130, under “Instructions for Law Enforcement,” in the third bullet under “Duties of Agency on Surrender of Firearms and Ammunition,” the phrase “him or her,” has been revised to “that person.” And item 8b.(1), has been revised to change “him or her,” to “the officer.”
- Form GV-630, item 4, has been revised to change, “himself, herself,” to “themselves,” and “his or her,” has been revised to “the Respondent’s.”

### **Hearing information**

Concerning form EPO-002, the committee received a comment from a court, suggesting that the hearing department be listed on form EPO-002 so respondents know where to go for their hearings. This field has been added to the form, and other text has been moved over to make space for this addition.

With the revision of form EPO-002 to allow the officer to either list the follow-up court date if provided by the court or check the box that a notice of hearing would be sent to the restrained person, there are some forms that need revising to reference the notice of hearing information from this form. The following forms have been revised to include reference to the hearing listed on form EPO-002.

- Form GV-020 in the hearing box adds EPO-002, “Write your hearing date, time, and place from the Notice of Hearing or form EPO-002 here:”

- Form GV-020-INFO in the section “Should I go to the court hearing?” has been revised to include EPO-002, “Yes, you should go to court on the date listed on the Notice of Hearing or form EPO-002.”

### **New type of CLETS order type for GV-030**

The Department of Justice (DOJ) California Restraining and Protective Order System (CARPOS) division suggested adding a new GVRO type for form GV-030. This is to be able to distinguish between emergency protective orders and other types of GVROs in CARPOS. This requires a change to the footer of the form from “CLETS-OGV” to “CLETS-HGV.”

### **Minor form revisions**

On GV-020, Response to Gun Violence Emergency Protective Order, item 3, the overflow paragraph has been moved to below the blank lines to conform to the format of the other protective order forms DV, EA, SV, and WV. Item number 4, a technical mistake has been fixed to change “I did not do anything described in item 6 of form EPO-002” to “item 7” to reflect a prior numbering change on the form EPO-002.

On GV-20-INFO, the first question has been revised to add the form number “What is a *Gun Violence Emergency Protective Order* (form EPO-002)?” to provide more clarity to the self-represented litigant and because law enforcement refers to GVROs by the form number.

To conform with Judicial Council internal editing and graphics requirements, the whole form name and form number has been added to the Clerk’s Certificate on the bottom of each of the following forms:

- GV-030
- GV-109
- GV-110
- GV-130
- GV-610
- GV-630
- GV-710

### **New Form GV-125 and revised forms to implement AB 1493**

The committee recommends adopting a new Relinquishment of Firearm Rights form, rather than revising the existing response form, GV-120, to include relinquishment. A standalone form to relinquish rights identifies its purpose, providing clarity to the clerk and judicial officer concerning necessary actions—removing the hearing from the calendar, entering the GVRO, and entering the relinquishment form promptly into CARPOS.

The proposed new form, *Relinquishment of Firearm Rights* (form GV-125), has instructions for filing, service, and a reference to the *Response to Petition for GVRO* (form GV-120) if the respondent wishes to contest the petition instead. Form GV-125 includes a notice about how and when respondents are required to surrender their guns, ammunition, and magazines. And it

includes a section for “Instructions to Clerk,” that details instructions for submitting the proposed order to the judicial officer, issuing a GVRO, the time frame, and instructions to submit the form to CARPOS. Item 3 includes a check box for the respondent to confirm that they understand and agree to specific conditions. It reads:

- By checking this box and signing this form, I agree to give up my right to own, possess, or purchase guns, magazines, and ammunition for the time requested in the petition (between one to five years) or if no time is specified then for one year.
- I am not contesting the petition.
- I understand that the petitioner can request to renew this order for one to five years.
- I understand that I can only request to terminate this order once per year while it is in effect.

**Revisions to other forms because of new form *Relinquishment of Firearm Rights* (form GV-125)**

- Form GV-109, under the section “To the Respondent,” in the first bullet revised “respond,” to “oppose,” and added a bullet at the end, “If you do not oppose the petition and are willing to give up our firearm rights, complete and file a *Relinquishment of Firearm Rights* (form GV-125).”
- Form GV-110, under the section “After You Have Been Served With a Temporary Order,” added a bullet, “If you do not oppose the petition and are willing to give up our firearm rights, complete and file a *Relinquishment of Firearm Rights* (form GV-125).”
- Form GV-120, the instructions were revised to include a new instruction, “If you agree to a gun violence restraining order, use *Relinquishment of Firearm Rights* (form GV-125)” to provide information to the respondent about the possibility of relinquishing their firearm rights and the existence of a form to help them do that. A current instruction was revised by adding the underlined text, “If you do not agree to a gun violence restraining order, fill out this form and take it to the court clerk,”
- Form GV-120-INFO, added the following question and answer, “What if I don’t oppose the Petition? If you agree to give up your rights to own, possess, and buy guns, ammunition, and magazines for the time period requested in the petition, which is between one to five years, then you can fill out form GV-125, and check the box for item 3a. Make sure you take it to the court clerk and file it, and mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date and the court will mail you a copy of the order.”
- Form GV-130 revisions:
  - Revised the title to include an order on relinquishment of rights. It is now entitled *Gun Violence Restraining Order After Hearing or On Relinquishment of Firearm Rights*.
  - Revised item 5 to add a check box for item “5c. There was not a hearing because Respondent filed a *Relinquishment of Firearm Rights* (form GV-125).”

- Revised item 6, Findings, to include a check box for item a., which reads “The court finds by clear and convincing evidence that both of the following are true:” (items b. and c. already have check boxes) and to add a new option for item 6, “d. The Respondent filed *Relinquishment of Firearm Rights* (form GV-125). The court finds that Respondent agreed not to have in Respondent’s custody or control, own, purchase, possess, or receive a firearm, ammunition, or magazine or attempt to purchase or receive a firearm, ammunition, or magazine until \_\_\_\_\_ (*expiration date*).”
- Revised item 9 to add a new item 9c. that says “This is an order upon the Respondent filing a *Relinquishment of Firearm Rights* (form GV-125). The court will provide notice to all parties.”
- Added “Instructions to Clerk. This order must be served on all parties by the court, if it is made following the filing of a *Relinquishment of Firearm Rights* (form GV-125.)”

### **Alternatives Considered**

The committee considered creating two additional new forms, but after discussion, opted to revise existing forms. In addition, on Form GV-100, item 1a., where new categories of petitioners were added, the committee considered whether to ask who gave the approval for a coworker or a teacher to file the petition, but decided that was more information than was required by the statute and asking for the information may be a deterrent to filing. To implement AB 1493, the committee considered amending the response form, GV-120, and the related form, GV-120-INFO, and reviewed draft revised forms. After consideration, the committee recommends creating a new *Relinquishment of Firearm Rights* form, GV-125. A standalone form to relinquish rights identifies its purpose, providing clarity to the clerk and judicial officer concerning necessary actions—removing the hearing from the calendar, entering the GVRO, and entering the relinquishment form into CARPOS. The committee also considered creating a new order form for a GVRO on relinquishment of firearm rights but decided to amend the existing order form GV-130. Revising GV-130 is easier for CARPOS and CLETS programming and enforcement, and it appears workable to use a revised form GV-130 when respondents voluntarily relinquish their firearms rights, as well as when there are contested hearings.

### **Fiscal and Operational Impacts**

Training on the procedures for the new form GV-125, and how the revised forms implement this form, will be necessary for clerks, judicial officers, and court legal services and self-help offices. New training materials and internal procedures may need to be developed. Existing training material for clerks, judicial officers, and law enforcement officers will need to be revised to implement the use of the revised 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 the forms easy for users, especially self-represented litigants, to understand?
- Do you have any suggestions for improving their usability or readability?

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

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

### **Attachments and Links**

1. Forms EPO-002, GV-009, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-125, GV-130, GV-600, GV-610, GV-620, GV-630, GV-700, and GV-710 at pages 12-61.

EPO-002  
GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name): \_\_\_\_\_  
Address: \_\_\_\_\_

Sex:  M  F Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_

Eye color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

2. TO THE RESTRAINED PERSON

(Also see important Warnings and Information on page 2):

You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

If you have any firearms, ammunition, and magazines, you MUST IMMEDIATELY SURRENDER THEM if asked by a police officer. If a police officer does not ask you to surrender any of the above, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. If you do not file a receipt within 48 hours you have violated this order and can go to jail.

3. This order will last until: \_\_\_\_\_ Time \_\_\_\_\_

INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. Court Hearing  A court hearing will be set within 21 days.

A court hearing will take place at the court above on: Date: \_\_\_\_\_ Time/Dept: \_\_\_\_\_

You must go to the court hearing if you do not want this restraining order against you. At the hearing, the judge can make this order last for up to five years.

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to himself or herself or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, ammunition, or magazines; and (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): \_\_\_\_\_ granted this order on (date): \_\_\_\_\_ at (time): \_\_\_\_\_

APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

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

8.  Firearms were  observed  reported  searched for  seized.

Ammunition (including magazines) was  observed  reported  searched for  seized.

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

By: \_\_\_\_\_  
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: \_\_\_\_\_ Telephone No: \_\_\_\_\_ Badge No: \_\_\_\_\_

Address: \_\_\_\_\_

PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person name in item 1.

Date of service: \_\_\_\_\_ Time of service: \_\_\_\_\_ Address: \_\_\_\_\_

10. At the time of service, I was at least 18 years of age.

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

Date: \_\_\_\_\_  
(TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER) (SIGNATURE OF SERVER)

Clerk stamps date here when form is filed.  
  
DRAFT Not approved by the Judicial Council 11/07/19

Fill in court name and street address:  
Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.  
Case Number: \_\_\_\_\_

**GUN VIOLENCE EMERGENCY PROTECTIVE ORDER  
WARNINGS AND INFORMATION**

EPO-002

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**TO THE RESTRAINED PERSON:** You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm, ammunition, or a magazine. (Pen. Code, § 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.)

Within 24 hours of receipt of this order, you must turn in all firearms, ammunition, and magazines to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use Form GV-800, *Proof of Firearms, Ammunition, and Magazines Turned In, Sold, or Stored*.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use Form GV-020, *Response to Gun Violence Emergency Protective Order*. A family member, employer, coworker, teacher, or school administrator may also seek a more permanent restraining order from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm, ammunition, or magazine for an additional five-year period, to begin on the expiration of the more permanent gun violence restraining order. (Pen. Code, § 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

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**A LA PERSONA RESTRINGIDA:** Tiene prohibido ser dueño de un arma de fuego, municiones o cargadores, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, municiones o cargadores. (Código Penal, §§ 18125 y siguientes). Una violación de esta orden está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Código Penal, §§ 19 y 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar sus armas de fuego, municiones y cargadores a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Código Penal, §§ 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden. Se puede usar el formulario GV-800, *Prueba de entrega, venta o almacenamiento de armas de fuego, municiones y cargadores*, por este propósito.

Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Un miembro de su familia también puede solicitar al tribunal una orden de restricción más permanente.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego más permanente. (Código Penal, § 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma deberá hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

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**To law enforcement:** The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable after issuance so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

Clerk stamps date here when form is filed.

**1 Requesting Agency**

a. Law enforcement agency that applied for the Gun Violence  
Emergency Protective Order: \_\_\_\_\_  
\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number.

**Case Number:**

**2 Restrained Person**

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3 Hearing**

A *Gun Violence Emergency Protective Order* (form EPO-002) having been served on the Restrained Person, the court will hold a hearing at the time and place below to determine if a longer-term gun violence restraining order should be issued.

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

Name and address of court if different from above:

**CLERK'S CERTIFICATE OF MAILING**

I certify that I am not a party to this cause, and that a true copy of the *Notice of Court Hearing (Gun Violence Prevention)* (form GV-009) was mailed first class, postage fully prepaid, in a sealed envelope, addressed as shown below, and that the notice was mailed at (place): \_\_\_\_\_, California, on (date): \_\_\_\_\_

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

Name and address of law enforcement officer and agency  
\_\_\_\_\_  
\_\_\_\_\_

Name and address of Restrained Person  
\_\_\_\_\_  
\_\_\_\_\_

Clerk stamps date here when form is filed.

**Use this form if you do not want the court to extend the Gun Violence Emergency Protective Order for a longer period.**

- Read *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the law enforcement agency that applied for the EPO-002. (Use, Proof of Service by Mail, form GV-025.)

Fill in court name and street address:  
**Superior Court of California, County of**

**1 Requesting Agency**

\_\_\_\_\_

**2 Restrained Person**

a. Your Name: \_\_\_\_\_  
 Your Lawyer (if you have one for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_

See Notice of Hearing for case number and fill in:  
**Case Number:**

b. Your Address (If you have a lawyer, give your lawyer's information. You do not have to give telephone, fax, or e-mail address.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail Address: \_\_\_\_\_

Be prepared to present your opposition at the hearing. Write your hearing date, time, and place from the Notice of Hearing or form EPO-002 here:

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**You must obey the Gun Violence Emergency Protective Order until the expiration date.** At the hearing, the court may make an order against you for one year.

**3 Gun Violence Restraining Order**

I do not agree that a gun violence restraining order should be issued because:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use form MC-025, Attachment.

**4**  **Denial, Justification, or Excuse**

- I did not do anything described in item **7** of form EPO-002.
- If I did some of the things stated in the Gun Violence Emergency Protective Order, my actions were justified or excused for the following reasons (*explain*):

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Check here if there is not enough space **above** for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 4—Denial, Justification, or Excuse" as a title. Use form MC-025, Attachment.

**5** **Surrender of Guns, Ammunition, and Magazines**

**A Gun Violence Emergency Protective Order (form EPO-002) was issued. You cannot own or possess any guns, other firearms, ammunition, or magazines. You must surrender any of these items in your possession to law enforcement when they ask you to do so. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any other guns, other firearms, ammunition, or magazines in your immediate possession or control within 24 hours of being served with form EPO-002. You must file a receipt with the court and the law enforcement agency. You may use, *Proof of Firearms, Ammunition, and Magazines Turned In, Sold, or Stored* (form GV-800) for the receipt.**

- a.  I do not own or control any guns, other firearms, ammunition, or magazines.
- b.  I have turned in my guns, other firearms, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt
  - is attached.     has already been filed with the court.

**6** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

\_\_\_\_\_  
*Lawyer's signature*

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

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

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

\_\_\_\_\_  
*Sign your name*

### What is a *Gun Violence Emergency Protective Order* (form EPO-002)?

It is a court order requested by law enforcement that prohibits someone from having any guns, ammunition, or magazines (any ammunition feeding device). A person who is served with the order must surrender all guns, ammunition, and magazines that person currently owns.



### Who can ask for a Gun Violence Emergency Protective Order?

The Gun Violence Emergency Protective Order must have been requested by a law enforcement officer and was issued by a judicial officer based on the statements made under penalty of perjury in the protective order.

### I've been served with a *Gun Violence Emergency Protective Order* (form EPO-002) and a *Notice of Court Hearing*. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* or form EPO-002 tells you when to appear in court and where the court is located. Follow the *Gun Violence Emergency Protective Order* (form EPO-002) prohibiting you from having any guns, ammunition, or magazines and requiring you to surrender, sell, or store any guns, ammunition, or magazines that you currently own or possess. You must obey the order until the expiration date on the form.

### What if I don't obey the emergency protective order?

The police can arrest you. You can go to jail and pay a fine.



### What if I don't agree with what the order says?

If you disagree with the order that has been issued and do not want the court to extend it for a longer time, fill out *Response to Gun Violence Emergency Protective Order* (form GV-020), before your hearing date. File the form with the court and serve it on the requesting law enforcement agency. You can get the form from legal publishers or on the Internet at [www.courts.ca.gov](http://www.courts.ca.gov). You also may be able to find it at your local courthouse or county law library.

### Will I have to pay a filing fee?

No.

### Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of the completed, *Response to Gun Violence Emergency Protective Order* (Form GV-020), to the law enforcement agency that issued the *Gun Violence Emergency Protective Order* (form EPO-002). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-025). Have the person who did the mailing sign the original form GV-025. Take the completed form back to the court clerk or bring it with you to the hearing.

### Should I go to the court hearing?

Yes. You should go to court on the date listed on the *Notice of Court Hearing* or form EPO-002. If you do not go to the hearing, the judge can extend the order against you for up to five years without hearing from you.





**Can I bring a witness to the court hearing?**

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form MC-030), for this purpose.)

**Do I need a lawyer?**

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

**How long does the order last?**

The *Gun Violence Emergency Protective Order* (form EPO-002) will last until the expiration date listed on the front of the form in item 3. The court will decide at the hearing whether to issue a gun violence restraining order that can last for **up to five years**.

**Will I see the person who asked for the court order at the court hearing?**

It's possible the law enforcement officer may appear at the court hearing.

**What if I need help to understand English?**

When you file your papers, ask your court's clerk or [self-help center](#) if your court will provide an interpreter. To request an interpreter, you may use form INT-300. You should also check your local court's website via Find My Court for additional information on how to request an interpreter for a civil matter. If an interpreter is not available for your court date, you should ask someone who is over age 18 to interpret for you.

**What if I am deaf or hard of hearing?**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five court days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

**For help in your area, contact:**

[Local information may be inserted.]



Clerk stamps date here when form is filed.

Draft 11/07/19

*The court will complete this form.***1 Requesting Agency**

- a. Law enforcement agency that applied for the Gun Violence  
Emergency Protective Order: \_\_\_\_\_  
\_\_\_\_\_

**2 Restrained Person**

Full Name: \_\_\_\_\_

- b. Lawyer (if there is one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:****Description of Restrained Person**Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**3 Expiration Date***This order expires at:*(Time): \_\_\_\_\_  a.m.  p.m.  midnight on (Date): \_\_\_\_\_

If no expiration date is written here, this order expires one year from the date of issuance.

**4 Hearing**

- a. There was a hearing on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_.

(Name of judicial officer): \_\_\_\_\_ made the orders at the hearing.

- b. These people were at the hearing:

(1)  The officer or representative of the Requesting Agency \_\_\_\_\_(2)  The Restrained Person  Lawyer for the Restrained Person (name): \_\_\_\_\_**This is a Court Order.**

5 Findings

a. [ ] The court finds by clear and convincing evidence that the following are true:

- (1) The Restrained Person poses a significant danger of causing personal injury to **themselves** or another person by having in **their** custody or control, owning, purchasing, possessing, or receiving firearms, ammunition, or magazines.
- (2) A gun violence restraining order is necessary to prevent personal injury to the Restrained Person or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- (3) [ ] The court has received credible information that the Restrained Person owns or possesses one or more firearms, ammunition, or one or more magazines.
- (4) [ ] The facts as stated in the *Gun Violence Emergency Protective Order* (form EPO-002) and supporting documents submitted at the time of the hearing, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this Order.

Blank lined area for text entry.

[ ] See the attached form MC-025, *Attachment*

b. [ ] A Gun Violence Restraining Order is not being issued for the reasons below:

Blank lined area for text entry.

**This is a Court Order.**



**6 Order**a.  **Order Prohibiting All Firearms, Ammunition, and Magazines**

(1) You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine (any ammunition feeding device).

(2) You must:

(a) Surrender all firearms, ammunition, and magazines in your custody or control or that you possess or own. If a law enforcement officer orders you to surrender all of your firearms, ammunition, and magazines to **the officer**, you must do so immediately. If no order to surrender is made by a law enforcement officer, you must dispose of all of your firearms, ammunition, and magazines within 24 hours of receiving notice of this order. You may do so by either: (1) surrendering all of your firearms, ammunition, and magazines in a safe manner to the local law enforcement agency; or (2) selling all of your firearms, ammunition, and magazines to a licensed gun dealer; or (3) storing all of your firearms, ammunition, and magazines with a licensed gun dealer for as long as this order is in effect.(b) Within 48 hours of receiving this order, or if the court is closed, then on the next business day, file a receipt with the court that proves that all of your guns or firearms, ammunition, and magazines have been turned in, sold, or stored. (*You may use Form GV-800, Proof of Firearms, Ammunition, and Magazines Turned In, Sold, or Stored for the receipt.*) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**b.  **Order dissolving (terminating) Gun Violence Emergency Protective Order.**The court dissolves (terminates) the *Gun Violence Emergency Protective Order* (form EPO-002) originally issued on (date): \_\_\_\_\_ as of (date of hearing): \_\_\_\_\_.**7 Service of Order on the Restrained Person**a.  The Restrained Person personally attended the hearing. No other proof of service is needed. The clerk has provided the Restrained Person with a blank copy of, *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.b.  The Restrained Person did not attend the hearing. The Restrained Person must be personally served with a court file-stamped copy of this order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.**8** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***Warnings and Notices to the Restrained Party**

This order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearms, ammunition, or magazines while this Order is in effect. Pursuant to section 18185, you have the right to request one hearing **per year** to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

**This is a Court Order.**

**Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any firearm, ammunition, or magazine for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.**

## **Instructions for Law Enforcement**

### **Duties of Officer Serving This Order**

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any firearms, ammunition, or magazines or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender all firearms, ammunition, and magazines to the officer.
- Issue a receipt to the Restrained Person for all firearms, ammunition, and magazines that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use Form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### **Duties of Agency on Surrender of Firearms, Ammunition, and Magazines**

The law enforcement agency that has received surrendered firearms, ammunition, or magazines must do the following:

- Retain the firearms, ammunition, or magazines until the expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the firearms and ammunition to the Restrained Person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Firearms, ammunition, or magazines that are not claimed are subject to the requirements of section 34000.
- If someone other than the Restrained Person claims title to any of the firearms, ammunition, or magazines surrendered, determine whether that person is the lawful owner. If so, return the firearms, ammunition, and magazines to that person as provided by Chapter 2 of Division 11 of Title 4 of the Penal Code (commencing with section 33850).

### **Enforcing This Order**

The law enforcement officer should determine if the Restrained Person had notice of the order. Consider the Restrained Person "served" (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file;
- The Restrained Person was informed of the order by an officer; or
- Item 7a is checked, the Restrained Person attended the hearing.

**This is a Court Order.**



**Instructions for Law Enforcement**

*(continued)*

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it *(see above: Duties of Officer Serving This Order)*.

The provisions in this *Gun Violence Restraining Order After Hearing on EPO-002* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*Clerk's Certificate*  
*[seal]*

I certify that this *Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV) (Gun Violence Prevention)* (form GV-030) is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**Petition for Gun Violence Restraining Order**

Read *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO) before completing this form.

Clerk stamps date here when form is filed.  
  
DRAFT - Not approved by  
Judicial Council 11/07/19

**1 Petitioner**

a. Your Full Name or name of law enforcement agency:

- I am:  A family member of the Respondent
- An officer of a law enforcement agency (If you listed your full name above, list the name of the law enforcement agency that employs you):
- An employer of the Respondent (your position and name of company):
- A coworker of the Respondent. I have had substantial and regular interactions with the Respondent for at least one year and I have obtained the approval of my employer to file this petition (name of company):
- An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months. I have obtained the approval of a school administrator to file this petition (name of the school):

Fill in court name and street address:  
**Superior Court of California, County of**

Court fills in case number when form is filed.  
**Case Number:**

b. Your Lawyer (if you have one for this case): Name: \_\_\_\_\_  
Firm Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

**2 Respondent**

Full Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Address (if known): \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**This is not a Court Order.**



**3 Venue**

Why are you filing in this county? (Check all that apply):

- a.  The Respondent lives in this county.
- b.  Other (specify): \_\_\_\_\_

**4 Other Court Cases**

a. Are you aware of any other court cases, civil or criminal, involving the Respondent?

- Yes  No *If yes, check each kind of case and give as much information as you know as to where and when each was filed:*

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(2)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(3)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(8)	<input type="checkbox"/> Criminal	_____	_____	_____
(9)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to Respondent?

- Yes  No  I don't know *If yes, attach a copy if you have one.*

**5 Description of Respondent's Firearms, Ammunition, or Magazines**

*If you have reason to believe that the respondent is in possession of firearms, ammunition, or magazines, answer (a) or check (b).*

a.  I am informed, and on that basis believe, that Respondent currently possesses or controls the following firearms, ammunition or magazines. (Describe the number, types, and locations of any firearms, ammunition, or magazines that you believe that the Respondent currently possesses or controls):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

b.  I am informed, and on that basis believe, that Respondent currently possesses or controls firearms, ammunition, or magazines, but I have no further specific information as to the number, types, and locations of those firearms, ammunition, or magazines.

**This is not a Court Order.**



**6 Grounds for Issuance of a Gun Violence Restraining Order**

I have reasonable cause to believe both of the following are true:

- a. The Respondent poses a significant danger in the near future of causing personal injury to **themselves**, or another person by having in **their** custody or control, owning, purchasing, possessing, or receiving a firearm, ammunition, or a magazine.
- b. A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- c. The facts supporting the above statements are set forth:
  - Below
  - On the attached form MC-031, *Attached Declaration*

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**7 Request for Gun Violence Restraining Order**

I request that the court issue an order prohibiting Respondent from having custody or control **of**, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms, ammunition, or magazines. I further request that Respondent be ordered to immediately surrender all firearms, ammunition, and magazines **Respondent** currently **possesses** to a law enforcement officer or to sell the firearms, ammunition, and magazines to or store them with a licensed gun dealer.

- a. I request the order above for \_\_\_\_\_ years. *(Please include a number of years between one and five).*
- b. Why are you asking for this amount of time?

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**This is not a Court Order.**





**8 No Fee to Serve (Notify) Restrained Person**

If you want the sheriff or marshal to serve (notify) the restrained person about the orders, service will be free.

**9 Request for Hearing**

I request that the court set a hearing in this matter for the purpose of issuing a gun violence restraining order that will last between one and five years.

**10 Temporary Restraining Order**

I request that a Temporary Gun Violence Restraining Order (TRO) be issued against the Respondent to last until the hearing. I am presenting form GV-110, Temporary Restraining Order, for the court's signature together with this Petition.

Has the Respondent been told that you were going to court to seek a TRO?

Yes  No (If you answered no, explain why below):

Reasons stated in Attachment 10.

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

**11 Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on Respondent at least five calendar days before the hearing, unless the court orders a shorter time for service. (Form GV-200-INFO explains What Is "Proof of Personal Service"? Form GV-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Reasons stated in Attachment 11.

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

**12** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

\_\_\_\_\_  
*Lawyer's signature*

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

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

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

\_\_\_\_\_  
*Sign your name*

**This is not a Court Order.**

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer or a self-help center.

### What is a gun violence restraining order?

It is a court order that prohibits someone from having any guns, ammunition, or magazines (ammunition feeding devices). The person must surrender all guns, ammunition, and magazines that he or she currently owns. The police will come and remove the guns or the person can store them with a licensed gun dealer while the restraining order is in effect. The restrained person also cannot buy any guns, ammunition, or magazines during this time.

### Can I get a gun violence restraining order against someone?

You can ask for one if you are connected to the person you think is dangerous as:

1. An immediate family member,
2. An employer,
3. A coworker, who works with the person regularly for at least a year, and you have permission from your employer to ask for this restraining order,
4. An employee or teacher at a school that the person has attended in the last six months, and you have permission from a school administrator or a school administration staff who has a supervisory role.

Immediate family members include:

- (1) your spouse or domestic partner;
- (2) your parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent;
- (3) your spouse's parents, children (your stepchildren), siblings, grandparents, and grandchildren; and
- (4) any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

If you do not have the necessary relationship, advise a law enforcement officer of the situation. The officer may investigate and file the petition if he or she finds that the grounds exist.

### Will I have to pay a filing fee to request the order?

No.



### Will the order protect me in other ways, such as keeping the person from coming near me?

No, the only order the court can make is to force the person to not have firearms, ammunition, or magazines. If you need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act. See Form DV-500-INFO, *Can a Domestic Violence Restraining Order Help Me?*, for information on how to proceed.

### What forms do I need to get the order?

You must fill out the following forms:

- Form GV-100, *Petition for Gun Violence Restraining Order*,
- Form CLETS-001, *Confidential CLETS Information*,
- Form GV-109, *Notice of Court Hearing*, only items 1 and 2, and
- Form GV-110, *Temporary Gun Violence Restraining Order*, only items 1 and 2

### Where can I get these forms?

You can get the forms from legal publishers or on the Internet at [www.courts.ca.gov](http://www.courts.ca.gov). You also may be able to find them at your local courthouse or county law library.

### What do I need to do to get the order?

You must go to the superior court in the county where the person to be restrained lives. At the court, ask where you should file your request for a gun violence restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) Give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form.



### How soon can I get the order?

You can ask for a *Temporary Gun Violence Restraining Order*, which will be effective right away if granted. The court may decide whether or not to grant the temporary order based only on the facts that you have stated in your petition. If so, the court will decide within 24 hours whether or not to make the temporary order. Sometimes the court will want to examine you personally under oath. The clerk will tell you whether you should wait to talk to the judge or come back later to find out if the court has signed a temporary order.

If you don't ask for a temporary restraining order, you will have to wait until the hearing, at which the court will decide whether to make an order that will last for one year.

### How will the person to be restrained know about the order?



If the court issues a temporary restraining order, someone age 18 or older—**not you**—must personally “serve” (give) the person to be restrained a copy of the order. The server must then fill out Form GV-200, *Proof of Personal Service*, and give it to you to file with the court. If the person to be restrained attends the hearing, no further proof of service is required. But if **they** do not attend the hearing, then any order issued at the hearing must also be personally served. For help with service, ask the court clerk for Form GV-200-INFO, *What Is “Proof of Personal Service?”*  
Note: A sheriff or marshal can serve the order at no cost to you.

### Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

### What do I have to prove to get the order?

You will have to convince the judge that the person to be restrained poses a significant danger in the near future of causing personal injury to himself, herself, or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms, ammunition, or magazines.

You will also have to convince the judge that a gun violence restraining order is needed to prevent personal injury to the person to be restrained or to another person because less restrictive alternatives either have been tried and haven't worked, or are inadequate or inappropriate for the current circumstances.



### How can I convince the judge?

You will need to give the judge specific information. You should tell the judge everything that you know about the firearms, ammunition, or magazines that the person to be restrained currently owns, including how many the person owns, the types, and where they are kept.

Then you will need to present facts to show that the person to be restrained is dangerous. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person has committed. It could also be evidence that the person to be restrained has violated a protective order or abuses controlled substances or alcohol. It could also be evidence of the unlawful and reckless use, display, or brandishing of a firearm or the recent acquisition of a firearm. Or it could be evidence that the person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms.

You should include all of this information in your Petition and also be prepared to present it to the judge at the hearing.

**Do I have to go to court?**

Yes. Go to court on the date the clerk gives you.

**How long does the order last?**

If the court makes a temporary order, it will last until your hearing date, which must be within 21 days of the date of the temporary order. If at the hearing the court issues a more permanent order, it will last for **one to five years**. It may be renewed for an additional **one to five years**.

**What if the restrained person does not obey the order?**

Call the police. The restrained person can be arrested and charged with a crime.

**Can I agree with the restrained person to terminate the order?**

No. Once the order is issued, only the judge can change or terminate it. The restrained person would have to file a request with the court to terminate the order.



**What if I need help to understand English?**

When you file your papers, ask your court's clerk or [self-help center](#) if your court will provide an interpreter for you at no cost. If not, you will have to pay a fee for the interpreter. If an interpreter is not available for your court date, you should ask someone who is over age 18 to interpret for you.

**Will I see the restrained person at the court hearing?**

If the person comes to the hearing, yes. If you are afraid, tell the court officer.

**Can I bring someone with me to court?**

Yes. You can bring someone to sit with you during the hearing, but that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

**Do I need to bring a witness to the hearing?**

Witnesses are not required, but it helps to have more proof than just your word. For example, consider bringing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, e-mails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use Form MC-030, *Declaration*, for this purpose.)

**What if I am deaf or hard of hearing?**



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

**For help in your area, contact:**

*[Local information may be inserted.]*

*Petitioner must complete items ① and ② only.*

*Clerk stamps date here when form is filed.*

**① Petitioner**

a. Your Full Name or name of law enforcement agency:

\_\_\_\_\_

- I am:  A family member of the Respondent  
 An officer of a law enforcement agency  
 An employer of the Respondent  
 A co-worker of the Respondent  
 An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months

b. Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

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

**Case Number:**

**② Respondent**

Full Name: \_\_\_\_\_

**③ Hearing**

*The court will complete the rest of this form.*

Name and address of court if different from above:

**Hearing Date** →

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

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**④ Temporary Gun Violence Restraining Order** (Any order granted is on Form GV-110, served with this notice.)

a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):

(1)  **GRANTED** until the court hearing.

(2)  **DENIED** until the court hearing. (Specify reasons for denial in b, below.)



b. Reasons for denial of a Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, are:

(1)  The facts as stated in Form GV-100 do not show that there is a substantial likelihood that both of the following are true:

Respondent poses a significant danger of causing personal injury to **themselves**, or another person by having custody or control of, owning, purchasing, possessing, or receiving firearms, ammunition, or magazines.

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

(2)  Other (*as set forth*):  Below  On Attachment 4b(2)

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

**5 Service of Documents on Respondent**

At least  five  \_\_\_\_\_ calendar days before the hearing, a law enforcement officer or someone age 18 or older—and not a party to the action—must personally give (serve) a court file-stamped copy of this Form GV-109 to the Respondent, along with a copy of all the forms indicated below:

- a. GV-100, *Petition for Gun Violence Restraining Order* (file-stamped)
- b.  GV-110, *Temporary Gun Violence Restraining Order* (file-stamped) **IF GRANTED**
- c. GV-120, *Response to Petition for Gun Violence Restraining Order* (blank form)
- d. GV-120-INFO, *How Can I Respond to a Petition for a Gun Violence Restraining Order?*
- e. GV-250, *Proof of Service by Mail* (blank form)
- f.  Other (*specify*): \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*





**To the Petitioner in 1:**

- The court cannot make an order at the court hearing unless the Respondent has been personally given (served) a copy of the Petition and a temporary order if issued. To show that the Respondent has been served, the person who served the forms must fill out a proof of service form. Form GV-200, *Proof of Personal Service*, may be used.
- For information about service, read Form GV-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the Respondent in time, you may ask for a later hearing date, which will give you more time to serve the documents. Use Form GV-115, *Request to Continue Court Hearing for Gun Violence Restraining Order*.

**To the Respondent:**

- If you want to **oppose** the *Petition for Gun Violence Restraining Order* in writing, file Form GV-120, *Response to Petition for Gun Violence Restraining Order* and have someone age 18 or older—**not you**—mail it to the Petitioner.
- The person who mailed the form must fill out a proof of service form. Form GV-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may order you to turn in to law enforcement, or sell to or store with, a licensed gun dealer, any firearms, ammunition, or magazines that you own or possess. If issued, the order will last for one year.
- If you do not oppose the petition and are willing to give up your firearm rights, complete and file a *Relinquishment of Firearm Rights* (form GV-125).

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

I certify that this *Notice of Court Hearing (Gun Violence Prevention)* (Form GV-109) is a true and correct copy of the original on file in the court.

*Clerk's Certificate*

[seal]

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

Clerk, by \_\_\_\_\_, Deputy

Clerk stamps date here when form is filed.

Petitioner must complete items ① and ② only.

**① Petitioner**

a. Your Full Name or name of law enforcement agency:

- I am:  A family member of the Respondent  
 An officer of a law enforcement agency  
 An employer of the Respondent  
 A co-worker of the Respondent  
 An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months

b. Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

**② Respondent**

Full Name: \_\_\_\_\_  
Description: \_\_\_\_\_

Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: \_\_\_\_\_  
 Home Address (if known): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Relationship to Petitioner: \_\_\_\_\_

The court will complete the rest of this form.

**③ Expiration Date**

This Order expires at the end of the hearing scheduled for the date and time below:

Date: \_\_\_\_\_ Time: \_\_\_\_\_  a.m.  p.m.

**This is a Court Order.**







**6 Order Prohibiting All Firearms, Ammunition, and Magazines**

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm or ammunition, including magazines (ammunition feeding devices).
- b. The court has received credible information that you own or possess one or more firearms, ammunition, or one or more magazines that have not been surrendered or sold. You must:
  - (1) Surrender all firearms and ammunition, including magazines, in your custody or control or that you possess or own. If a law enforcement officer orders you to surrender all of your firearms and ammunition, including magazines, to **the officer**, you must do so immediately. If no order to surrender is made by a law enforcement officer, you must surrender all of your firearms and ammunition, including magazines, within 24 hours of being served with this Order. You may do so by:
    - (1) surrendering all of your firearms and ammunition, including magazines, in a safe manner to the local law enforcement agency; or
    - (2) selling all of your firearms and ammunition, including magazines, to a licensed gun dealer; or
    - (3) storing all of your firearms and ammunition, including magazines, with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item **3** is in effect.
  - (2) Within 48 hours of receiving this Order, file a receipt with the court that proves that your firearms and ammunition have been turned in, sold, or stored. (*You may use Form GV-800, Proof of Firearms Turned In, Sold, or Stored for the receipt.*) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

**7** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer***Warnings and Notices to the Respondent**

**To the restrained person:** This Order is valid until the expiration date and time noted on page 1. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this order is in effect. A hearing will be held on the date and at the time noted on Page 1 to determine if a more permanent gun violence restraining order should be issued. Failure to appear at the hearing may result in a court making an order against you that is valid for a period of time **between one to five years**. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Violation of this Order is a misdemeanor. If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm, ammunition, or magazine for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be changed only by an order of the court.

**This is a Court Order.**

## After You Have Been Served With a Temporary Order

- Obey the order by turning in all firearms, ammunition, and magazines to a law enforcement agency or selling them to or storing them with a licensed gun dealer.
- Read Form GV-120-INFO, *How Can I Respond to a Petition for Gun Violence Restraining Order?*, to learn how to respond to this Order.
- If you do not oppose the petition, fill out Form GV-125, *Relinquishment of Firearm Rights*, and file it with the court clerk.
- If you disagree with the petition, fill out Form GV-120, *Response to Petition for Gun Violence Restraining Order*, and file it with the court clerk.
- You must have Form GV-120 served by mail on the Petitioner or the Petitioner's attorney. You cannot do this yourself. The person who does the mailing should complete and sign Form GV-250, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use Form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make a gun violence restraining order against you that lasts between one to five years. Tell the judge why you disagree with the order requested.

## Instructions for Law Enforcement

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any firearms, ammunition, or magazines or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender all firearms, ammunition, and magazines to the officer.
- Issue a receipt to the Restrained Person for all firearms, ammunition, and magazines that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use Form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Duties of Agency on Surrender of Firearms, Ammunition, or Magazines

The law enforcement agency that has received surrendered firearms, ammunition, or magazines must do the following:

- Retain the firearms, ammunition, or magazines until the termination or expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this Order or of any later gun violence restraining order issued by the court, return the firearms, ammunition, or magazines to the respondent as provided by Chapter 2 of Division 11 of Title 4 of the Penal Code (commencing with section 33850). Firearms, ammunition, or magazines that are not claimed are subject to the requirements of section 34000.

**This is a Court Order.**



**Instructions for Law Enforcement***(continued)*

- If someone other than the Respondent claims title to any of the firearms, ammunition, or magazines surrendered, determine whether that person is the lawful owner. If so, return the firearms, ammunition, or magazines to **that person** as provided by Chapter 2 of Division 11 of Title 4 of the Penal Code (commencing with section 33850).

**Enforcing This Order**

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The Respondent was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the Respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Temporary Gun Violence Restraining Order* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

*Clerk's Certificate*  
[seal]

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

I certify that this *Temporary Gun Violence Restraining Order (CLETS-TGV)* (*Gun Violence Prevention*) (form GV-110) is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

DRAFT 10/31/19

**Use this form to respond to the Petition (form GV-100)**

- Read *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO) to protect your rights.
- If you agree to a gun violence restraining order, use *Relinquishment of Firearm Rights* (form GV-125).
- If you do not agree to a gun violence restraining order, fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use form *GV-250*, Proof of Service by Mail.)

Fill in court name and street address:

**Superior Court of California, County of**

See Petition for case number and fill in:

**Case Number:**

**1 Petitioner**

Name of person or law enforcement agency seeking order (see form *GV-100*, item ①):

**2 Respondent**

a. Your Name: \_\_\_\_\_  
 Your Lawyer (if you have one for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

Be prepared to present your opposition at the hearing. Write your hearing date, time, and place from form GV-109 item ③ here:

**Hearing Date** →

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**If a Temporary Gun Violence Restraining Order was issued, you must obey it until the hearing.** At the hearing, the court may make an order against you for one to five years.

**3 Gun Violence Restraining Order**

I do not agree to the order requested in the Petition because:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use form MC-025, Attachment.



**4**  **Denial**

I did not do anything described in item **6** of form GV-100.

**5**  **Justification or Excuse**

If I did some or all of the things that the Petitioner has accused me of, my actions were justified or excused for the following reasons (*explain*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5–Justification or Excuse" as a title. You may use form MC-025, Attachment.

**6** **Surrender of Guns, Ammunition, and Magazines**

If a *Temporary Gun Violence Restraining Order* (form GV-110) was issued, you cannot own or possess any guns, other firearms, ammunition, or magazines. (See item **6** of form GV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns, other firearms, ammunition, or magazines in your immediate possession or control within 24 hours of being served with form GV-110. You must file a receipt with the court. You may use form GV-800, *Proof of Firearms Turned In, Sold, or Stored for the receipt*.

- a.  I do not own or control any guns, other firearms, ammunition, or magazines.
- b.  I have turned in my guns, other firearms, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt  is attached.  has already been filed with the court.

**7** Number of pages attached to this form, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Lawyer's name (if any)*

\_\_\_\_\_  
*Lawyer's signature*

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

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

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

\_\_\_\_\_  
*Sign your name*

## What is a gun violence restraining order?

It is a court order that prohibits someone from having any guns, ammunition, or magazines (any ammunition feeding device). The person must surrender all guns, ammunition, and magazines that he or she currently owns.

## I've been served with a *Petition for Gun Violence Restraining Order*. What do I do now?



Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Gun Violence Restraining Order* prohibiting you from having any guns, ammunition, or magazines and requiring you to surrender, sell, or store any guns, ammunition, or magazines that you currently own or possess. You must obey the order until the hearing.

## Who can ask for a gun violence restraining order?

The petition must have been filed by a

- law enforcement officer or law enforcement agency,
- an employer,
- a coworker who has had regular interactions with you for at least a year,
- a teacher or employee of a school that you have attended in the last 6 months, or
- an immediate family member of yours.

Immediate family member is defined by this law to include people who are not blood relatives. The definition includes (1) your spouse or domestic partner; (2) your parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent; (3) your spouse's parents, children (your stepchildren), siblings, grandparents, and grandchildren; and (4) any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

## What if I don't obey the temporary order?

The police can arrest you. You can go to jail and pay a fine.

## What if I don't agree with what the order says?



If you disagree with the order that the Petitioner is asking for, fill out Form GV-120, *Response to Petition for Gun Violence Restraining Order*, before your hearing date and file it with the court. You can get the form from legal publishers or on the Internet at [www.courts.ca.gov](http://www.courts.ca.gov). You also may be able to find it at your local courthouse or county law library.

## What if I don't oppose the Petition?

If you agree to give up your rights to own, possess, and buy guns, ammunition, and magazines for the time period requested in the petition, which is between one to five years, then you can fill out form GV-125, and check the box for item 3a. Make sure you take it to the court clerk and file it, and mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date and the court will mail you a copy of the order.

## Will I have to pay a filing fee?

No.

## Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed Form GV-120 to the person who asked for the order (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail must fill out Form GV-250, *Proof of Service by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.





### Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

### How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide whether to issue a gun violence restraining order that can last for **one to five years**.



### Should I go to the court hearing?

Yes. You should go to court on the date listed on Form GV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can extend the order against you for up to one year without hearing from you.

**GV-109 Notice of Court Hearing** Clerk stamps date here when form is filed.

1 **Petitioner**

a. Your Full Name: \_\_\_\_\_

I am:  A family member of the Respondent  
 A law enforcement officer employed by \_\_\_\_\_  
(name of law enforcement agency)

b. Your Lawyer (if you have one for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail Address: \_\_\_\_\_

Fill in court name and street address:  
 Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.  
 Case Number: \_\_\_\_\_

2 **Respondent**  
 Full Name: \_\_\_\_\_

3 **Hearing**  
The court will complete the rest of this form.  
 Name and address of court if different from above: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

4 **Temporary Gun Violence Restraining Order** (Any order granted is on Form GV-110, served with this notice.)  
 a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):  
 (1)  GRANTED until the court hearing.  
 (2)  DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courts.ca.gov  
 Rev. January 1, 2016. Mandatory Form  
 Penal Code, § 18610.4(a) (4)  
 Approved by DOJ **Notice of Court Hearing (Gun Violence Prevention)** GV-109, Page 1 of 3

### Will I see the person who asked for the order at the court hearing?

Yes. Assume that the person who is asking for the order will attend the hearing. It is probably best not to talk to him or her unless the judge or that person's attorney says that you can.

### Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use Form MC-030, *Declaration*, for this purpose.)

### Can I agree with the protected person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. You would have to file a request with the court to terminate the order.



### What if I need help to understand English?

When you file your papers, ask your courts clerk or [self-help center](#) if your court will provide an interpreter for you at no cost. If not, you will have to pay a fee for the interpreter. If an interpreter is not available for your court date, you should ask someone who is over age 18 to interpret for you.

### What if I am deaf or hard of hearing?



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five court days before the hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

### For help in your area, contact:

[Local information may be inserted.]



Use this form if you have been served with a Petition for Gun Violence Restraining Order (form GV-100) and you want to agree to voluntarily give up your firearm rights without a court hearing.

- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use form GV-250, Proof of Service by Mail.)
- If you do not agree to a gun violence restraining order, use *Response to Petition for Gun Violence Restraining Order* (form GV-120) to oppose a gun violence restraining order.

Clerk stamps date here when form is filed.

DRAFT 12/05/19

Fill in court name and street address:

**Superior Court of California, County of**

See Petition for case number and fill in:

**Case Number:**

**1 Petitioner**

Name of person or law enforcement agency seeking order (see form GV-100, item 1):

**2 Respondent**

- a. Your Name: \_\_\_\_\_  
 Your Lawyer (if you have one for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

**3 Gun Violence Restraining Order**

- By checking this box and signing this form, I agree to give up my right to own, possess, or purchase guns, magazines, and ammunition for the time requested in the petition (between one to five years) or if no time is specified then for one year.
- I am not contesting the petition.
  - I understand that the petitioner can request to renew this order for one to five years.
  - I understand that I can only request to terminate this order once per year while it is in effect.



**4 Surrender of Guns, Ammunition, and Magazines**

- After you file this form, the court will issue a *Gun Violence Restraining Order After Hearing or On Relinquishment of Firearm Rights* (form GV-130) and send it to you and the petitioner in the mail.
- This form will be listed in the statewide California Restraining and Protective Order system, where it will be accessible to all law enforcement.
- You cannot own or possess any guns, other firearms, ammunition, or magazines. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns, other firearms, ammunition, or magazines in your immediate possession or control within 48 hours of filing this form. You must file a receipt with the court. You may use form GV-800, *Proof of Firearms Turned In, Sold, or Stored* for the receipt.

- a.  I do not own or control any guns, other firearms, ammunition, or magazines.
- b.  I have turned in my guns, other firearms, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt  is attached.  has already been filed with the court.

**Instructions to Clerk**

- On the filing of this form *Relinquishment of Firearm Rights* (GV-125), the clerk must submit the proposed order, *Gun Violence Restraining Order After Hearing or On Relinquishment of Firearm Rights* (form GV-130), to the judicial officer, as the court must issue the order at least five court days before the scheduled hearing, or if this form is filed within five court days before the scheduled hearing, the court shall issue, without any hearing, the gun violence restraining order, as soon as possible.
- Within one business day of issuance of the order, submit this form directly into the California Restraining and Protective Order System (CARPOS) or submit this form directly to law enforcement to enter into CARPOS within one business day of receipt from the court.

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

\_\_\_\_\_  
*Lawyer's name (if any)*

\_\_\_\_\_  
*Lawyer's signature*

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

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

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

\_\_\_\_\_  
*Sign your name*

**Relinquishment of Firearm Rights  
(Gun Violence Prevention)**

Clerk stamps date here when form is filed.

*Petitioner must complete items ① and ② only.*

**① Petitioner**

a. Your Full Name or name of law enforcement agency:

\_\_\_\_\_

- I am:  A family member of the Respondent  
 An officer of a law enforcement agency  
 An employer of the Respondent  
 A co-worker of the Respondent  
 An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months

b. Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**② Respondent**

Full Name: \_\_\_\_\_

Description: \_\_\_\_\_

Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: \_\_\_\_\_  
 Home Address (if known): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Relationship to Petitioner: \_\_\_\_\_

**④ Expiration Date**

*The court will complete the rest of this form.*

**This Order expires at:**

(Time): \_\_\_\_\_  a.m.  p.m.  midnight on (Date): \_\_\_\_\_

If no expiration date is written here, this Order expires one year from the date of issuance.

**This is a Court Order.**



**5 Hearing**

- a.  There was a hearing *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_.  
*(Name of judicial officer)*: \_\_\_\_\_ made the orders at the hearing.
- b.  These people were at the hearing.
  - (1)  The Petitioner      (3)  The lawyer for the Petitioner      *(name)*: \_\_\_\_\_
  - (2)  The Respondent      (4)  The lawyer for the Respondent      *(name)*: \_\_\_\_\_
- c.  There was not a hearing because Respondent filed a *Relinquishment of Firearm Rights (form GV-125)*.

**6 Findings**

- a.  The court finds by clear and convincing evidence that both of the following are true:
  - (1) Respondent poses a significant danger of causing personal injury to themselves, or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, ammunition, or magazines.
  - (2) A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b.  The court has received credible information that the Respondent owns or possesses one or more firearms, ammunition, or one or more magazines.
- c.  The facts as stated in the Petition and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order.  
and/or for the reasons set forth below.

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See the attached Form MC-025, *Attachment*

d.  The Respondent filed *Relinquishment of Firearm Rights (form GV-125)*. The court finds that Respondent agreed not to have in Respondent's custody or control, own, purchase, possess, or receive a firearm, ammunition, or magazine or attempt to purchase or receive a firearm, ammunition, or magazine until \_\_\_\_\_ *(expiration date)*.

**This is a Court Order.**



**7 No Fee to Serve**

If the sheriff or marshal serves this order, service will be free.

**8 Order Prohibiting All Firearms, Ammunition, and Magazines**

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine (any ammunition feeding device).
- b. You must:
  - (1) Surrender all firearms, ammunition, and magazines in your custody or control or that you possess or own. If a law enforcement officer orders you to surrender all of your firearms, ammunition, and magazines to the officer, you must do so immediately. If no order to surrender is made by a law enforcement officer, you must dispose of all of your firearms, ammunition, and magazines within 24 hours of receiving notice of this order. You may do so by either: (1) surrendering all of your firearms, ammunition, and magazines in a safe manner to the local law enforcement agency; or (2) selling all of your firearms, ammunition, and magazines to a licensed gun dealer; or (3) storing all of your firearms, ammunition, and magazines with a licensed gun dealer for as long as this Order is in effect.
  - (2) Within 48 hours of receiving this Order, or if the court is closed, then on the next business day, file a receipt with the court that proves that all of your guns or firearms, ammunition, and magazines have been turned in, sold, or stored. *(You may use Form GV-800, Proof of Firearms Turned In, Sold, or Stored for the receipt.)* You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

**9 Service of Order on Respondent**

- a.  The Respondent personally attended the hearing. No other proof of service is needed. The clerk has provided the Respondent with a blank copy of Form GV-600, *Request to Terminate Gun Violence Restraining Order*.
- b.  The Respondent did not attend the hearing. The Respondent must be personally served with a court file-stamped copy of this Order and a blank copy of Form GV-600, *Request to Terminate Gun Violence Restraining Order*, by a law enforcement officer or someone age 18 or older - **and not a party to the action**.
- c.  This is an order based on the Respondent filing a *Relinquishment of Firearm Rights* (form GV-125). The court will provide notice to all parties.

**10** Number of pages attached to this Order, if any: \_\_\_\_\_

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**



## Warnings and Notices to the Respondent

This Order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this Order is in effect. Pursuant to section 18185, you have the right to request one hearing per year to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any firearm, ammunition, or magazines for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

## Instructions for Law Enforcement

### Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any firearms, ammunition, or magazines or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender all firearms, ammunition, and magazines to the officer.
- Issue a receipt to the Restrained Person for all firearms, ammunition, and magazines that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use Form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

### Duties of Agency on Surrender of Firearms and Ammunition

The law enforcement agency that has received surrendered firearms, ammunition, or magazines must do the following:

- Retain the firearms, ammunition, or magazines until the expiration of this order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining Order issued by the court, return the firearms and ammunition to the Respondent as provided by Chapter 2 of Division 11 of Title 4 of the Penal Code (commencing with section 33850). Firearms, ammunition, or magazines that are not claimed are subject to the requirements of section 34000.
- If someone other than the Respondent claims title to any of the firearms, ammunition, or magazines surrendered, determine whether that person is the lawful owner. If so, return the firearms, ammunition, and magazines to that person as provided by Chapter 2 of Division 11 of Title 4 of the Penal Code (commencing with section 33850).

**This is a Court Order.**



**Instructions for Law Enforcement***(continued)***Enforcing This Order**

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The respondent was informed of the Order by an officer.
- Item 9a is checked.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

**Instructions to Clerk**

This order must be served on all parties by the court, if it is made following the filing of a *Relinquishment of Firearm Rights* (form GV-125).

*(Clerk will fill out this part.)***—Clerk's Certificate—**

*Clerk's Certificate*  
[seal]

I certify that this *Gun Violence Restraining Order After Hearing or On Relinquishment of Firearm Rights (CLETS-OGV)(Gun Violence Prevention)* (form GV-130) is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

Use this form to request the court to terminate a gun violence restraining order against you. You may make only one request each year that the order is in effect.

**1 Respondent**

- a. Full 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. You do not have to give telephone, fax, or e-mail.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:**

**2 Petitioner**

- a. Full Name or name of law enforcement agency: \_\_\_\_\_
- b. Address (if known): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**3 Request to Terminate Restraining Order**

- a. I ask the court to terminate the
  - Gun Violence Restraining Order After Hearing on EPO-002 (Form GV-030)
  - Gun Violence Restraining Order After Hearing (Form GV-130)
  - Order on Request to Renew Gun Violence Restraining Order (Form GV-730)

because (give reasons below):

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Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 3 —Reasons to Terminate Order" for a title. You may use Form MC-025, Attachment.

**This is not a Court Order.**





**3**  **Request to Terminate Restraining Order** *(continued from the prior page)*

- b.  A copy of the current order is attached.
- c.  I have not previously requested that the court terminate the Order.
  - I have requested the court to terminate the Order before but it was denied. It has been a year since I made my previous request.
  - The Order has been renewed. I have not previously requested that the court terminate the Order since it was renewed.

*(You may only request termination of a gun violence restraining order one time each year while the order is in effect and one time each year during any period of renewal. If the court denies your request, you may not request termination again for another year.)*

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*

**This is not a Court Order.**

Clerk stamps date here when form is filed.

Respondent **must** complete items ① and ② **only**.

**① Respondent**

- a. Full 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. You do not have to give telephone, fax, or e-mail.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:**

**② Petitioner**

- a. Full Name **or name of law enforcement agency:** \_\_\_\_\_
- b. Address (if known): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**③ Court Hearing**

The judge has set a court hearing date. Court will fill in box below.

**The current restraining order stays in effect unless terminated by the court.**

**Hearing Date** →

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above:

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

**To the Respondent:**

**④ Service**

Someone age 18 or older—**not you**—must serve a copy of the following forms on the Petitioner:

- GV-600, Request to Terminate Gun Violence Restraining Order;
- GV-610, Notice of Hearing on Request to Terminate Gun Violence Restraining Order (this form); and
- GV-620, Response to Request to Terminate Gun Violence Restraining Order (blank copy).

**This is a Court Order.**



- The forms must be personally served on the Petitioner \_\_\_\_\_ days before the hearing.
- The forms may be served by mail on the Petitioner or the Petitioner's attorney \_\_\_\_\_ days before the hearing.

The person who serves the forms must fill out either Form GV-200, *Proof of Personal Service*, or Form GV-250, *Proof of Service by Mail*. Have the person who served sign the original. Take the completed proof-of-service form back to the court clerk for filing or bring it with you to the hearing. For help with personal service, see Form GV-200-INFO, *What is "Proof of Personal Service"?*.

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

\_\_\_\_\_  
Judicial Officer

**To the Petitioner:**

If you wish to make a written response to this request to terminate the current firearms restraining order, you may fill out Form GV-620, *Response to Request to Terminate Gun Violence Restraining Order*. File the original with the court before the hearing and have someone age 18 or older—**not you**— mail a copy of it to the other party at the address in ① at least \_\_\_\_\_ days before the hearing. Also file Form GV-250, *Proof of Service by Mail*, with the court before the hearing.

**Request for Accommodations**



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

**—Clerk's Certificate—**

I certify that this *Notice of Hearing on Request to Terminate Gun Violence Restraining Order (Gun Violence Prevention)* (Form GV-610) is a true and correct copy of the original on file in the court.

Clerk's Certificate  
[seal]

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

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**Use this form to respond to the *Request to Terminate Gun Violence Restraining Order (Form GV-600)*.**

- Fill out this form and then take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Respondent at the address in ② below. Use Form GV-250, *Proof of Service of Response by Mail*.

Clerk stamps date here when form is filed.

**① Petitioner**

a. Your Full Name or name of law enforcement agency:

\_\_\_\_\_

- I am:  A family member of the Respondent  
 An officer of a law enforcement agency  
 An employer of the Respondent  
 A co-worker of the Respondent  
 An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**  
\_\_\_\_\_  
\_\_\_\_\_

Fill in case number:

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

The court will consider your response at the hearing. Write your hearing date, time, and place from Form GV-610 item ③ here.

**Hearing Date** → Date: \_\_\_\_\_  
Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**② Respondent**

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_



**3 Response**

- a.  I do not oppose termination of the order.
- b.  I oppose termination of the order for the following reasons (*specify below*):

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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 3b—Reasons Not to Terminate" for a title. You may use Form MC-025, Attachment.

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

\_\_\_\_\_  
*Lawyer's name, if you have one*

▶ \_\_\_\_\_  
*Lawyer's 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*

**To the Petitioner:**

Have someone age 18 or older—**not you**—mail a copy of this completed Form GV-620 to the Respondent or to the Respondent's lawyer, if any. This is called "service by mail." The person who serves the form by mail must fill out Form GV-250, *Proof of Service by Mail*. Have the person who did the mailing sign the original. Take the completed Proof of Service form back to the court clerk or bring it with you to the hearing.

**Order on Request to Terminate  
Gun Violence Restraining Order**

Clerk stamps date here when form is filed.

Prevailing party completes items ① and ②. If the Order is granted, the Respondent is the prevailing party. If the Order is denied, the Petitioner is the prevailing party.

**① Respondent**

- a. Full 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. You do not have to give telephone, fax, or e-mail.)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****② Petitioner**

- Full Name or name of law enforcement agency: \_\_\_\_\_
- Address (if known): \_\_\_\_\_
- City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**③ Hearing**

There was a hearing on (date): \_\_\_\_\_ at time: \_\_\_\_\_  a.m.  p.m. Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 (Name of judicial officer): \_\_\_\_\_ made the orders at the hearing.

These people were at the hearing:

- a.  The Petitioner
- b.  The Respondent
- c.  The lawyer for the Petitioner (name): \_\_\_\_\_
- d.  The lawyer for the Respondent (name): \_\_\_\_\_

**④ Findings**

- The court finds that there is no longer clear and convincing evidence that:  
 Respondent poses a significant danger of causing personal injury to **themselves**, or another person by having in **the respondent's** custody or control, owning, purchasing, possessing, or receiving firearms, ammunition, or magazines; and

**This is a Court Order.**

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

There remains clear and convincing evidence that grounds continue to exist to support the order.

**5 Order on Request to Terminate**

The request to terminate the *Gun Violence Restraining Order After Hearing* (Form GV-130), originally issued on (date): \_\_\_\_\_  and most recently renewed on (date): \_\_\_\_\_, is:

- a.  **GRANTED.** The order is terminated as of (date of hearing) \_\_\_\_\_
- b.  **DENIED.** The order and expiration date remain in effect.

**To the Prevailing Party:**

**6 Service of Order**

If service is required, someone age 18 or older—**not you**—must serve a copy of this order on the other party. If a party is represented, you are required to serve the attorney instead of the party.

- Order Granted**—The Petitioner attended the hearing. **No further service is required.**
- Order Granted**—The Petitioner did not attend the hearing. **Service is required:** This Order:
  - Must be personally served on the Petitioner within \_\_\_\_\_ days of the date of this Order.
  - May be served by mail on the Petitioner within 5 days of the date of this Order.
- Order Denied**—If the Petitioner did not attend the hearing -- **Service by Mail:** The Petitioner may be served with this Order by mail.

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

\_\_\_\_\_  
*Judicial Officer*

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

I certify that this *Order on Request to Terminate Gun Violence Restraining Order (Gun Violence Prevention)* (Form **GV-630**) is a true and correct copy of the original on file in the court.

*Clerk's Certificate*  
*[seal]*

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

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

**1** Petitioner

a. Your Full Name or name of law enforcement agency:

- I am:  A family member of the Respondent  
 An officer of a law enforcement agency  
 An employer of the Respondent  
 A co-worker of the Respondent  
 An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months

b. Your Lawyer (*if you have one for this case*):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.*)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number:

**Case Number:****2** Respondent

Full Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**3** Request to Renew Restraining OrderI ask the court to renew the *Gun Violence Restraining Order After Hearing* (Form GV-130) for an additional period of between one to five years. A copy of the order is attached.a. The order currently will end on (*date*): \_\_\_\_\_  
(*If the order has already expired, you must file a new petition.*)

- b.  This is my first request to renew the order.  
 The order has been renewed \_\_\_\_\_ times.

**This is not a Court Order.**



c. I ask the court to renew the gun violence restraining order because *(explain below)*:

Multiple horizontal lines for providing an explanation.

Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 3c—Reasons to Renew Order" for a title. You may use Form MC-025, Attachment.

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

\_\_\_\_\_  
*Lawyer's name (if any)*

▲ \_\_\_\_\_  
*Lawyer's signature*

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

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

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

▲ \_\_\_\_\_  
*Sign your name*

**This is not a Court Order.**

**Request to Renew Gun  
Violence Restraining Order  
(Gun Violence Prevention)**

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

*Clerk stamps date here when form is filed.*

**DRAFT NOT APPROVED BY  
JUDICIAL COUNCIL 10/23/19**

*Petitioner completes items ① and ② .*

**① Petitioner**

a. Your Full Name **or name of law enforcement agency:**

\_\_\_\_\_

- I am:  A family member of the Respondent  
 An officer of a law enforcement agency  
 An employer of the Respondent  
 A co-worker of the Respondent  
 An employee or teacher of a secondary or post secondary school that the Respondent has attended in the last 6 months

Your Lawyer *(if you have one for this case):*

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number:*

**Case Number:**

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)*

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Fax: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**② Respondent**

Full Name: \_\_\_\_\_

Address *(if known):* \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**③ Court Hearing**

The judge has set a court hearing date. *Court will fill in box below.*

**The current restraining order stays in effect.**

**Hearing Date** →

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

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above:

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

**This is a Court Order.**



**To the Petitioner:**

**4 Service on Respondent**

Someone age 18 or older—**not you**—must serve a copy of the following forms on the Respondent

- GV-700, *Request to Renew Gun Violence Restraining Order*;
- GV-710, *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (this form);
- GV-720, *Response to Request to Renew Gun Violence Restraining Order* (blank copy);

- The forms must be personally served on the Respondent \_\_\_\_\_ days before the hearing.
- The forms may be served by mail on the Respondent or the Respondent's attorney \_\_\_\_\_ days before the hearing.

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

\_\_\_\_\_  
*Judicial Officer*

**To the Respondent:**

At the hearing, the judge can renew the current restraining order for a period **between one to five years**. You *must* continue to obey the current restraining order. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* continue to obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out Form GV-720, *Response to Request to Renew Gun Violence Restraining Order*. File the original with the court before the hearing and have someone age 18 or older—**not you**—mail a copy of it to the Petitioner at the address in **1** at least \_\_\_\_\_ days before the hearing. Also file Form GV-250, *Proof of Service by Mail*, with the court before the hearing or bring it with you to the hearing.

**Requests for Accommodations**



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* ([form MC-410](#)). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*Clerk's Certificate*  
*[seal]*

I certify that this *Notice of Hearing on Request to Renew Gun Violence Restraining Order (Gun Violence Prevention)* (form GV-710) is a true and correct copy of the original on file in the court.

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

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**