

**Invitation to Comment**

Title	<b>Criminal and Juvenile Law: Subpoena Standby Agreement (approve form CR-125(A)/JV-525(A))</b>
Summary	A new form, the <i>Subpoena Standby Agreement</i> (form CR-125(A)/JV-525(A)) is proposed for optional use by parties and witnesses in criminal and juvenile matters as an attachment to the <i>Order to Attend Court or Provide Documents: Subpoena/Subpoena Duces Tecum</i> (form CR-125/JV-525). The purpose of the form is to facilitate and document standby agreements between witnesses and parties to criminal and juvenile matters as authorized by statute.
Source	Criminal Law Advisory Committee Hon. Steven Z. Perren, Chair  Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Arturo Castro, Attorney, Office of the General Counsel, 415-865-7702, arturo.castro@jud.ca.gov  Carrie Zoller, Attorney, Center for Families, Children & the Courts, 415-865-8829, carrie.zoller@jud.ca.gov
Discussion	<p>A witness who has been subpoenaed to appear in a criminal or juvenile delinquency or dependency proceeding may agree with the party who issued the subpoena to appear at a time different from the time specified in the subpoena or on receipt of an agreed form of notice. (Pen. Code, § 1331.5; Code Civ. Proc., § 1985.1.) Commonly known as “standby” agreements, these arrangements alleviate courtroom congestion and reduce unnecessary appearances by witnesses.</p> <p>Currently, there is no Judicial Council form to facilitate standby agreements in criminal and juvenile matters. The proposed form would be an optional attachment to the mandatory <i>Order to Attend Court or Provide Documents: Subpoena/Subpoena Duces Tecum</i> (form CR-125/JV-525) for use by parties and witnesses who enter into standby agreements in criminal and juvenile matters.</p> <p>The proposed form (1) includes the name of the witness, (2) includes the original time and place for appearance required by the underlying subpoena, (3) requires a description of the agreed-on form of notice, (4) requires the witness to acknowledge the potential consequences of failing to appear when notified in the manner agreed on, (5) identifies</p>

the person entering into the agreement with the witness, and (6) requires the signature of the subpoenaed witness acknowledging consent to the agreement and its terms.

As an optional form, the proposed form would promote standardized standby agreements statewide without requiring local justice partners to abandon use of any locally developed forms already in use.

Because the proposed form would be available for use in both criminal and juvenile proceedings, this proposal is co-authored by the Criminal Law and Family and Juvenile Law Advisory Committees. It is dual numbered for use in both criminal and juvenile proceedings.

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Attachment

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY   <p style="text-align: center;"><b>DRAFT ONLY</b></p> <p style="text-align: center;"><i>Not For Use</i></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>SUBPOENA STANDBY AGREEMENT</b> <i>(This attachment may be used only with form CR-125/JV-525.)</i>	CASE NUMBER:

I (name of witness) hereby acknowledge that:

1. I have received a subpoena from the person named in item 4 that orders me to attend court in the above-entitled case at the following date, time, and place:

<b>Court hearing:</b>	<b>The court hearing will be at</b> (specify the name and address of the court):
Date: _____	Time: _____
Dept.: _____	Rm.: _____

2. I have entered into a standby agreement with the person named in item 4. Under this agreement, I do *not* have to appear in court at the date, time, and place specified in item 1. Instead, I agree to appear at any other time and place designated by the person in item 4, upon receipt of the following notice (specify):

3. If I fail to appear at the time and place designated by the person in item 4 after being notified in the manner indicated in item 2, I understand that the court may punish me for contempt, fine me, send me to jail, or issue a warrant for my arrest.

4. I have entered into this standby agreement with the following person:

Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

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

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

\_\_\_\_\_  
 SIGNATURE OF WITNESS

## Item SPR09-25 Response Form

**Title:** **Criminal and Juvenile Law: Subpoena Standby Agreement** (approve form CR-125(A)/JV-525(A))

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_

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**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

### **To Submit Comments**

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

**Internet:** <http://www.courtinfo.ca.gov/invitationstocomment/>

**Email:** [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Mail:** Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

**Fax:** (415) 865-7664, Attn: Camilla Kieliger

<b>DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 17, 2009</b>
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*Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.*