

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR19-22

| | |
|---|--|
| Title | Action Requested |
| Juvenile Law: Legal Accuracy of Forms | Review and submit comments by June 10, 2019 |
| Proposed Rules, Forms, Standards, or Statutes | Proposed Effective Date |
| Revise forms JV-180, JV-364, and JV-618 | January 1, 2020 |
| Proposed by | Contact |
| Family and Juvenile Law Advisory Committee | Nicole Giacinti, 415-865-7598 |
| Hon. Jerilyn L. Borack, Cochair | nicole.giacinti@jud.ca.gov |
| Hon. Mark A. Juhas, Cochair | |

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends revising three forms to comply with recent statutory changes reforming juvenile justice and out-of-home case processes:

- Form JV-618, to comply with Senate Bill 190 (Mitchell; Stats. 2017, ch. 678), which rescinded the requirement that the family of a child who has been declared a delinquent ward pay certain fees associated with probation conditions and out-of-home placement of a child;
- Form JV-364, the dependency dismissal form, to include the necessary title IV-E findings.
- Form JV-180, to comply with permanency goals established by Continuum of Care Reform (CCR), to include a check box for resumption of reunification services; and

The Proposal

Waiver of Rights (form JV-618)

Under SB 190, delinquent wards may no longer be ordered to pay fees associated with out-of-home placement, drug testing, or home detention programs such as ankle monitors.

Consequently, to maintain legal accuracy, *Waiver of Rights* (form JV-618), which states that the minor may be required to pay fees, must be revised. This form also contains a citation to an outdated Penal Code section related to firearm restrictions; hence, a revision is recommended to reflect the current Penal Code section.

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 It is circulated for comment purposes only.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 specific form revisions proposed are:

- Delete the reference to payment of “fees” in item 4g.
- Update item 4d to reflect the correct Penal Code section related to firearm restrictions, which changed since the form was last revised.

Termination of Dependency in Adoption (form JV-364)

Proposed revisions to forms JV-364 and JV-180 are driven by Continuum of Care reform (CCR), which seeks to improve the time to, and stability of, permanency for foster youth.¹ *Termination of Dependency* (form JV-364), is a mandatory form that is part of a series of adoption forms for use in juvenile cases.

The committee recommends that form JV-364 be revised to include the title IV-E findings that are required to claim federal dollars, to ensure that gaps in funding do not occur.² Such gaps are detrimental to the stability of placements; consequently, to comply with the permanency goals established by CCR, it is important to ensure that juvenile forms do not have the potential to create funding issues. Under the federal statutory scheme, title IV-E funding is retroactive, which means that the findings the court makes at status review hearings are backward looking. For this same reason, whenever a case is dismissed, findings must establish that the agency complied with federal requirements for those months leading up to the dismissal. Form JV-364—which dismisses the dependency case--does not currently include those findings.

The specific form revisions proposed are:

- Include two title IV-E findings, the *reasonable efforts* finding and the *permanent plan* finding, to ensure that the form contains the required federal findings.
- Revise the title to clarify that the form is only to be used when the permanent plan achieved is adoption.

Request to Change Court Order (form JV-180)

Currently, form JV-180 includes a check box to request termination of reunification services but does not include a check box to request that services be resumed under Welfare and Institutions Code section 366.3(f). Recognizing that return home is often the best permanent plan for some children, CCR revised Welfare and Institutions Code section 366.22(a)(3) to include return home as a permanent plan option for children who are in out-of-home care when reunification services are terminated. In light of this statutory change implemented by CCR, it is necessary to revise form JV-180 to reflect this change in law and provide a mechanism for parents to have their request for additional services heard.

While revising the form to comply with the law, the committee is also proposing revising it to use the nongendered terms “parent” and “sibling” for mother, father, sister, and brother.

¹ See Assembly Bill 403 (Stone; Stats. 2015, ch. 773) and Senate Bill 794 (Comm. on Hum. Svcs; Stats. 2015, ch. 425).

² See 42 U.S.C. 671 et seq., which establishes guidelines for receipt of federal dollars for foster care.

The specific form revisions proposed are:

- Include a check box in item 2 that allows parents to request statutorily authorized resumption of services under Welfare and Institutions Code section 366.3(f).
- Change the terms mother, father, sister, and brother to the nongender terms “parent” and “sibling.”

Alternatives Considered

The committee initially considered whether the *Termination of Dependency* (form JV-364) should apply to those instances where dependency is terminated after finalization of legal guardianship or placement with a noncustodial parent, in addition to adoption. After a robust discussion about the purpose of form JV-364, the committee determined that the form’s purpose is strictly for use in adoption cases, as stated in rule 5.730(g); as such, the form should not be expanded for use in legal guardianship or cases where the child is placed with the previously noncustodial parent. To address any confusion caused by the fact that the form is mandatory but does not state on its face that it is limited to adoptions, the committee recommends changing the title of the form to clarify that it applies only to adoption cases.

While discussing how to include an option to request resumption of reunification services on the *Request to Change Court Order* (form JV-180), the committee also considered whether the form should be restructured so that the requesting party need not answer questions 6 and 7, which ask for a description of what previous order should be changed and what, if any, circumstances have changed since that order was issued. Although a typical request to change a court order requires a showing of changed circumstances, a request to resume reunification services does not; thus, the committee considered whether answering those questions put an additional burden on the party requesting services. After consideration, the committee determined the form should not be restructured to allow those parties requesting resumption of services to skip questions 6 and 7. In coming to this decision, the committee reasoned that questions 6 and 7 provide useful information for the court and answering them does not impose an additional burden on the requesting party.

The committee also discussed changing the name of the form. Form JV-180 is titled *Request to Change Court Order*, but often the request is for the court to *make* an order, rather than to change an existing order. Upon consideration, the committee determined it best to leave the title as is, both for consistency and because a request for a court order can be considered a change from the status quo.

Fiscal and Operational Impacts

Because minor changes are being made to existing forms, this proposal is unlikely to impose any implementation costs or result in operational impacts beyond the training of judicial officers as to the content of the new forms.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

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

Attachments and Links

1. Forms JV-180, JV-364, and JV-618, at pages 5–10

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

6. My attorney has explained that when I admit to: _____, listed **Count(s)** *Initial*
as: _____, I will have crime(s) on my record that are "Strike" offenses under the Three Strikes Law. I have
talked with my attorney about what this could mean in my future and how I may have to spend much more time in jail or
prison if I get in trouble again because I am admitting to these offenses today. _____
7. I have talked to my lawyer about the charge(s) in the petition, the facts of what happened, and any possible defenses.
We have talked about what could happen if I admit, including what could happen if I break the rules of probation. _____

I declare under penalty of perjury, which means that I am guilty of a crime if I am lying, that my attorney has gone over this form with me, explained what it means, and answered my questions. I understand the rights I am giving up, I know what could happen because of my admission, and I am admitting to doing what the petition says because I want to and not because someone is forcing me to do this.

Date: _____

| | | |
|----------------------|---|----------------------|
| _____ | ▶ | _____ |
| (TYPE OR PRINT NAME) | | (SIGNATURE OF YOUTH) |

DECLARATION OF INTERPRETER

The primary language of the child is

Spanish.
 other (*specify*): _____

I certify that I interpreted this form for the parent or legal guardian in that person's primary language to the best of my ability.

Date: _____

| | | |
|----------------------|---|----------------------------|
| _____ | ▶ | _____ |
| (TYPE OR PRINT NAME) | | (SIGNATURE OF INTERPRETER) |

DECLARATION OF ATTORNEY

I am the attorney for the child. I have explained and discussed with my client the above rights, the facts of his or her case, possible defenses, and the consequences of his or her decision to enter an admission. Based on my conversation with the minor, I am satisfied that his/her admission to the petition is knowingly, intelligently, and voluntarily made, and I consent to the admission.

Date: _____

| | | |
|----------------------|---|-------------------------|
| _____ | ▶ | _____ |
| (TYPE OR PRINT NAME) | | (SIGNATURE OF ATTORNEY) |

ORDER AND FINDING

I have spoken with the child, reviewed the waiver form, and find that the child has been fully informed of the constitutional rights and the consequences of the admission in this case and understands them. I further find that the child has knowingly, intelligently, and voluntarily waived his/her rights and that there is a factual basis for the minor's admission.

IT IS ORDERED that the minor's admission be accepted and entered in the minutes of this court. This executed waiver of rights form is filed in the records of this court and incorporated in the above-numbered case by reference.

Date: _____

| | |
|---|------------------|
| ▶ | _____ |
| | JUDICIAL OFFICER |

| | |
|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): | FOR COURT USE ONLY DRAFT Not approved by the Judicial Council |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | JUVENILE DEPENDENCY CASE NUMBER: |
| CHILD'S NAME: | |
| TERMINATION OF DEPENDENCY FOR ADOPTION (Juvenile) | |

The county agency has complied with the case plan by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

The permanent plan of adoption has been achieved.

DEPENDENCY AND JUVENILE COURT JURISDICTION OF THE ABOVE-REFERENCED CHILD ARE TERMINATED.

ORDER FOR REVIEW HEARING SET ON (DATE): IS VACATED.

Date: _____
JUDICIAL OFFICER

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council

This form can be used to ask the court to change an order, to ask the court to dismiss your case, to ask the court to terminate reunification services, or to ask the court to recognize your relationship with your sister or brother. After filling out this form, take it to the clerk of the court.

- 1** Your information:
- a. I am the:
- child or youth parent legal guardian
- foster parent sibling or other relative (*specify*): _____
- social worker probation officer attorney
- other _____
- b. My name: _____
- c. My address: _____
- d. My city, state, zip code: _____
- e. My telephone number: _____
- f. *If you are an attorney:*
- My client's name: _____
- My client's address (*if confidential, see item 3*): _____
- _____
- My client's relationship to the child or youth: _____
- My State Bar number: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Name of Child or Youth:

Clerk fills in case number when form is filed.

Case Number:

- 2** Type of request (*check the appropriate box below and add specific details in items 6–9, as applicable*):
- a. I am asking the court to change an order.
- b. I am asking the court to terminate its jurisdiction.
- c. I am asking the court to terminate reunification services.
- d. I am asking the court to order that reunification services be resumed for six months.
- e. I am asking the court to recognize my relationship with my sibling(s).
- (1) I am related to my sibling(s) through (*name of parent*): _____
- (2) I am related to my sibling(s) by blood or adoption by marriage.

- 3** *If you want to keep your address or your client's address confidential, fill out Confidential Information (Request to Change Court Order) (form JV-182), and do not write the address on this form.*
- Check here if form JV-182 is attached.

- 4** Child's or youth's information:
- a. Name: _____
- b. Date of birth: _____
- c. Attorney (*if known*): _____
- d. The child or youth lives with or in a (*check all that apply*):
- parent legal guardian relative
- foster home group home I don't know
- e. Name of the person the child or youth lives with or the place where he or she lives: _____
- Address: _____
- Check here if unknown.



Case Number: _____

Name of child or youth: _____

- 5 Information about parents, legal guardians, and others:
- a. Names of parents or legal guardians: _____
 Check here if unknown.
 - b. Address of parent/legal guardian: _____
 Check here if unknown.
 - c. Address of parent/legal guardian: _____
 Check here if unknown.
 - d. Indian tribe (if applicable and known): _____
 - e. CASA volunteer (if applicable and known): _____
 - f. Educational rights holder (if applicable and known): _____
 - g. Social worker or probation officer (if applicable and known): _____

If you are asking the court to recognize your relationship with your brother or sister but not asking the court to change an order, you may skip to item 8.

6 On (date, if known): _____ the judge made the following order that I think should be changed:

7 What has happened since that order that might change the judge’s mind? (Give new information that the judge did not have when the order was made):

8 What new order or orders do you want the judge to make now?

9 Why would the requested order or action be better for the child or youth?

10 Check here if you need more space for any of the answers. Attach a sheet of paper and write “JV-180” at the top of the page. Number of pages attached: _____



Case Number: _____

Name of child or youth: _____

11 I have had a copy of my request sent to the people listed below, as applicable. I have checked the correct box to the right of each name to show whether, as far as I know, that person agrees with my request.

If you do not have an attorney, the clerk will send notice and copies of your request to all persons required to receive notice under Welfare and Institutions Code sections 297 and 386 and rules 5.524 and 5.570 of the California Rules of Court.

| Name | Agree | Disagree | Don't Know | Not Applicable |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| Child (if 10 years old, or older) or youth: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Child's or youth's attorney: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parent: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parent: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Legal guardian: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Legal guardian: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Social worker: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Probation officer: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Current caregiver/foster parent: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Preadoptive parent: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CASA volunteer: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Educational rights holder: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Indian tribe: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Indian custodian: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sibling (if petition filed & 10+ years old): _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sibling's caregiver: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sibling's attorney: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Attorney for parent/legal guardian: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Attorney for parent/legal guardian: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| County counsel: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| District attorney: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

12 You can ask the judge to make a decision without a court hearing if all the people named above agree with your request. Check here if you want a decision without a hearing.

13 If anyone disagrees with your request, please explain why (if known):

14 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct to the best of my knowledge.

Date:

Type or print name



Signature