

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

### SPR22-10

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<b>Title</b>	<b>Action Requested</b>
Rules and Forms: Parentage Actions Under Assembly Bill 429	Review and submit comments by May 13, 2022
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Adopt Cal. Rules of Court, rule 5.51 and form FL-211	January 1, 2023
<b>Proposed by</b>	<b>Contact</b>
Family and Juvenile Law Advisory Committee Hon. Stephanie E. Hulseley, Cochair Hon. Amy M. Pellman, Cochair	Gabrielle D. Selden, 415-865-8085 <a href="mailto:gabrielle.selden@jud.ca.gov">gabrielle.selden@jud.ca.gov</a> Gregory Tanaka, 415-865-7671 <a href="mailto:gregory.tanaka@jud.ca.gov">gregory.tanaka@jud.ca.gov</a>

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes the adoption of one new rule of court and a new confidential cover sheet, effective January 1, 2023, to comply with the mandate of Family Code section 7643.5, added by Assembly Bill 429 (Stats. 2021, ch. 52). The new form would be used by the petitioner to identify that the action or proceeding initially filed with the court to determine a parental relationship involves assisted reproduction under Family Code section 7613 or 7630(f), or sections 7960–7962, and provide information regarding the limitations on access to documents in such actions.

### Background

Actions to determine a parental relationship under the Uniform Parentage Act in the Family Code have historically been confidential—the proceedings are closed to the public, and the public has limited access to records in the court file. However, AB 429 has amended the provisions governing the confidentiality currently applicable to all proceedings and records under the Uniform Parentage Act. Under amended Family Code section 7643, parentage actions filed before January 1, 2023, will remain confidential. However, those actions filed after January 1, 2023, which do not involve assisted reproduction, will no longer be confidential.

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 It is circulated for comment purposes only.*

AB 429 also added section 7643.5 to the Family Code to provide that confidentiality will continue to apply to parentage cases involving assisted reproduction, whenever they are, or were, filed in family court. Like all parentage actions filed before January 1, 2023, parentage cases involving assisted reproduction may be held in closed court with limited access to inspect and copy records.

Section 7643.5 also provides that “ [o]n or before January 1, 2023, the Judicial Council, shall create a new form or modify an existing form, as it deems appropriate, that requires a party initiating an action or proceeding filed under Section 7613, subdivision (f) of Section 7630, or Part 7 (commencing with Section 7960) to designate the action or proceeding as filed under the identified statutory provision.”

## **The Proposal**

In response to the mandate of section 7643.5, the committee proposes that the Judicial Council adopt the following rule and form:

### ***Rule 5.51, Confidential cover sheet for parentage actions or proceedings involving assisted reproduction; other requirements***

This rule would specify the responsibilities of the petitioner to complete the confidential cover sheet and attach it to the initial document filed with the court. The proposed new rule would be placed under chapter 4 (Starting and Responding to a Family Law Case; Service of Papers), article 1 (Summonses, Notices, and Declarations), with the other rules that relate to the first papers issued by the court or required to be filed by the parties.

### ***Confidential Cover Sheet—Parentage Action Involving Assisted Reproduction (form FL-211)***

This proposed form would require the petitioner to identify that the initial filing in the case involves assisted reproduction and specify the name of the form attached to the cover sheet. It would also include instructions to the court clerk, as well as a section to provide notice to the parties and the court about the limitations on inspection and copying of records in the matter. The one-page form is based on the existing confidential cover sheet, *Confidential Cover Sheet—False Claims Action* (form [CM-011](#)), used in civil actions.

## **Alternatives Considered**

Family Code section 7643.5 requires that the Judicial Council adopt a form or modify an existing form to comply with the statute. The committee, therefore, considered whether it should propose revising existing parentage forms as an additional way to comply with the mandate of the statute. Because there is no set of Judicial Council forms specific to assisted reproduction parentage cases, and litigants and attorneys may use their own pleadings, the committee decided to propose a new confidential cover sheet and require it to be attached to whatever form or pleading initiates the case.

In addition, the committee considered proposing only the mandatory cover sheet without an accompanying rule of court. However, because the Legislature required a new form to

commence a legal action or proceeding in family court, the committee decided it was important that the Title V rules reflect this important change in the law in chapter 4.

### **Fiscal and Operational Impacts**

The impact to the courts includes costs to copy the new form, as well as the cost to educate court clerks about the new form and rule. Courts may also need to update their case management systems and create new docket codes due to the new form, which must remain attached to the initial document filed in the parentage action or proceeding.

#### **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?
- To inform its future work, the Family and Juvenile Law Advisory Committee is interested in comments about whether it would be beneficial to the courts and litigants to create rules of court and/or forms specifically for assisted reproduction parentage cases. If so, what should be included?

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 5.51, at page 4
2. Form FL-211, at page 5
3. Link A: Assembly Bill 429,  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB429](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB429)

Rule 5.51 of the California Rules of Court would be adopted, effective January 1, 2023, to read:

1           **Chapter 4. Starting and Responding to a Family Law Case; Service of Papers**

2

3                           **Article 1. Summonses, Notices, and Declarations**

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5           **Rule 5.51. Confidential cover sheet for parentage actions or proceedings involving**  
6                           **assisted reproduction; other requirements**

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8           **(a) Application**

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10           This rule applies to actions or proceedings involving assisted reproduction in which  
11           the parties seek to determine a parental relationship under Family Code section  
12           7613 or 7630, or sections 7960–7962, that are filed with the court after January 1,  
13           2023.

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15           **(b) Filing Requirement**

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17           To comply with Family Code section 7643.5, for all actions in (a) petitioner must  
18           complete *Confidential Cover Sheet—Parentage Action Involving Assisted*  
19           *Reproduction* (form FL-211) and attach it to the initial paper being filed with the  
20           court.

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ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:  STATE:                      ZIP CODE: FAX NO.:	<b>FOR COURT USE ONLY</b>  <b>DRAFT-</b>  <b>NOT APPROVED BY THE</b> <b>JUDICIAL COUNCIL</b>  <b>V 3.09.22gs</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER: RESPONDENT:		
<b>CONFIDENTIAL COVER SHEET—</b> <b>PARENTAGE ACTION INVOLVING ASSISTED REPRODUCTION</b>		CASE NUMBER:

**TO THE CLERK:** The *Confidential Cover Sheet* and the attached documents must each be separately file-stamped.

<b>INSTRUCTIONS</b>
<ol style="list-style-type: none"> <li>Complete items 1 and 2 to identify the matter as an action or proceeding to determine a parental relationship involving assisted reproduction under Family Code section 7613 or 7630(f), or sections 7960—7962.</li> <li>Sign and date the form.</li> <li>Attach the completed form as the cover page of the initial documents and then file with the court clerk.</li> </ol>

<b>LIMITATIONS ON INSPECTION AND COPYING OF RECORDS:</b>
<p>All papers and records, other than the final judgment, pertaining to the action or proceeding are confidential. They are subject to inspection and copying only by:</p> <ol style="list-style-type: none"> <li>The parties to the action or their attorneys;</li> <li>Agents acting on a written authorization from the parties to the action;</li> <li>Agents acting on a written authorization of the attorneys for the parties; (Note: The agent's written authorization must state that the attorney obtained the consent of the party before authorizing the agent to inspect and copy the permanent record.)</li> <li>Any local child support agency, as defined in Family Code section 17000(h), for purposes of establishing parentage and enforcing child support orders; and</li> <li>All others only by court order for good cause shown.</li> </ol>

- This action or proceeding is filed under (*check a or b*):
  - Family Code sections 7613 or 7630(f).
  - Family Code sections 7960—7962.
- The document to which this coversheet is attached is (*specify*):
  - Petition to Determine Parental Relationship* (form FL-200).
  - Stipulation of Entry of Judgment Re: Determination of Parental Relationship* (form FL-240).
  - Other (*specify below*):

Date:

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

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