

AMENDMENTS TO THE CALIFORNIA RULES OF COURT
Adopted by the Judicial Council on May 24, 2018, effective September 1, 2018

1	Rule 3.36. Notice of limited scope representation and application to be relieved as	
2	attorney	2
3	Rule 5.552. Confidentiality of records (§§ 827, 827.12, 828).....	3
4	Rule 5.647. Medi-Cal: Presumptive Transfer of Specialty Mental Health Services .	6
5	Rule 5.840. Dismissal of petition and sealing of records (§ 786).....	11
6	Rule 5.850 Sealing of records by probation in diversion cases (§ 786.5)	12
7		

1 **(f) No objection**

2
3 If no objection is served and filed with the court within 15 days from the date that
4 the *Application to Be Relieved as Attorney on Completion of Limited Scope*
5 *Representation* (form ~~MC-955~~CIV-151) is served on the client, the attorney making
6 the application must file an updated form ~~MC-955~~CIV-151 indicating the lack of
7 objection, along with a proposed *Order on Application to Be Relieved as Attorney*
8 *on Completion of Limited Scope Representation* (form ~~MC-958~~CIV-153). The clerk
9 must then forward the order for judicial signature.

10
11 *(Subd (f) amended effective September 1, 2018.)*

12
13 **(g) Objection**

14
15 If an objection to the application is served and filed within 15 days, the clerk must
16 set a hearing date on the *Objection to Application to Be Relieved as Attorney on*
17 *Completion of Limited Scope Representation* (form ~~MC-956~~CIV-152). The hearing
18 must be scheduled no later than 25 days from the date the objection is filed. The
19 clerk must send the notice of the hearing to the parties and the attorney.

20
21 *(Subd (g) amended effective September 1, 2018.)*

22
23 **(h) Service of the order**

24
25 If no objection is served and filed and the proposed order is signed under (f), the
26 attorney who filed the *Application to Be Relieved as Attorney on Completion of*
27 *Limited Scope Representation* (form ~~MC-955~~CIV-151) must serve a copy of the
28 signed order on the client and on all parties or the attorneys for all parties who have
29 appeared in the case. The court may delay the effective date of the order relieving
30 the attorney until proof of service of a copy of the signed order on the client has
31 been filed with the court.

32
33 *(Subd (h) amended effective September 1, 2018.)*

34
35 *Rule 3.36 amended effective September 1, 2018; adopted effective January 1, 2007.*

36
37 **Rule 5.552. Confidentiality of records (§§ 827, 827.12, 828)**

38
39 **(a) * * ***

40
41 **(b) Petition**

42

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

12
13 (1)–(2) * * *

14
15 *(Subd (b) amended effective September 1, 2018; adopted as subd (c); previously amended*
16 *effective July 1, 1997, and January 1, 2007; previously amended and relettered effective*
17 *January 1, 2018.)*

18
19 **(c)–(d) * * ***

20
21 **(e) Release of case file information for research (§ 872.12(a)(2))**

22
23 The court may authorize a chief probation officer to access and provide data
24 contained in juvenile delinquency case files and related juvenile records in the
25 possession of the probation department for the purpose of data sharing or
26 conducting or facilitating research on juvenile justice populations, practices,
27 policies, or trends if the court finds the following:

28
29 (1) The research, evaluation, or study includes a sound method for the
30 appropriate protection of the confidentiality of an individual whose juvenile
31 delinquency case file is accessed for this purpose. In considering whether a
32 method is sound, the court must have information on:

33
34 (A) The names and qualifications of any nonprobation personnel who will
35 have access to personally identifying information as defined in Civil
36 Code section 1798.79.8(b);

37
38 (B) Procedures to mask personally identifying information that is shared
39 electronically; and

40
41 (C) Data security protocols to ensure that access to the information is
42 limited to those people authorized by the court.

43

1 (2) No further release, dissemination, or publication of personally identifying
2 information by the probation department or a program evaluator, researcher,
3 or research organization that is retained by the probation department will take
4 place for research or evaluation purposes.

6 (3) The disclosure requirements of section 10850 are met if any dependency
7 information in a delinquency file may be disclosed.

9 (4) A date for destruction of records containing personally identifying
10 information in the possession of nonprobation department personnel has been
11 set to prevent inappropriate disclosure of the records.

13 If the information is being released for human subject research as defined in 45
14 Code of Federal Regulations part 46, the probation department must provide notice
15 to the office of the public defender 30 days before the court authorizes the release
16 of the information so that the office has an opportunity to file an objection to the
17 release with the court. If such an objection is filed within the 30 day period the
18 court must set a hearing on the objection within 30 days of the filing of the
19 objection to consider the objection and make a determination on whether and how
20 release of information should be accomplished. Upon receiving authorization, but
21 prior to the release of information, the probation department must enter into a
22 formal agreement with the entity or entities conducting the research that specifies
23 what may and may not be done with the information disclosed.

25 *(Subd (e) was adopted effective September 1, 2018.)*

27 **~~(e)~~(f) Reports of law enforcement agencies (§ 828)**

29 * * *

31 *(Subd (f) relettered effective September 1, 2018; adopted as subd (f) effective January 1,*
32 *1994; previously relettered as subd (g) effective January 1, 2001, and as subd (f) effective*
33 *January 1, 2009; previously amended effective January 1, 2007; previously amended and*
34 *relettered as subd (e) effective January 1, 2018.)*

37 **~~(f)~~(g) Other applicable statutes**

39 * * *

41 *(Subd (g) relettered effective September 1, 2018; adopted as subd (f); previously amended*
42 *and relettered as subd (h) effective July 1, 1995; previously relettered as subd (g) effective*
43 *January 1, 1994, as subd (i) effective January 1, 2001, and as subd (h) effective January 1,*

1 2009; previously amended effective January 1, 2007; previously amended and relettered as
2 subd(f) effective January 1, 2018.)

3
4 Rule 5.552 amended effective September 1, 2018; adopted as rule 1423 effective July 1, 1992;
5 previously amended and renumbered effective January 1, 2007; previously amended effective
6 January 1, 1994, July 1, 1995, July 1, 1997, January 1, 2001, January 1, 2004, January 1, 2009
7 and January 1, 2018.

8
9 **Rule 5.647. Medi-Cal: Presumptive Transfer of Specialty Mental Health Services**

10
11 **(a) Applicability**

12
13 This rule applies to the court’s review under Welfare and Institutions Code section
14 14717.1 of the presumptive transfer of responsibility to arrange and provide for a
15 child’s or nonminor’s specialty mental health services to the child’s or nonminor’s
16 county of residence. The rule applies to presumptive transfer following any change
17 of placement within California for a child or nonminor to a placement that is
18 outside the county of original jurisdiction, including the initial placement. Nothing
19 in this rule relieves the placing agency of the reporting requirements and duties
20 under section 14717.1 when no hearing under this rule is held.

21
22 **(b) Requesting a hearing to review the request for waiver of presumptive transfer**
23 **(§ 14717.1)**

24
25 (1) The following persons or agencies may make a request to the placing agency
26 that presumptive transfer be waived and that the responsibility for providing
27 specialty mental health services remain in the child’s or nonminor’s county of
28 original jurisdiction:

29
30 (A) The foster child or nonminor;

31
32 (B) The person or agency that is responsible for making mental health care
33 decisions on behalf of the foster child or nonminor;

34
35 (C) The child welfare services agency or the probation agency with
36 responsibility for the care and placement of the child or nonminor; and

37
38 (D) Any other interested party who owes a legal duty to the child or
39 nonminor involving the child’s or nonminor’s health or welfare, as
40 defined by the department.

41
42 (2) The person or agency who requested the waiver, or any other party to the
43 case who disagrees with the placing agency’s determination on the request

1 for the waiver of presumptive transfer, may request a judicial review of the
2 placing agency's determination.

3
4 (3) A request for a hearing must be made by filing a *Request for Hearing on*
5 *Waiver of Presumptive Transfer* (form JV-214). If a hearing is requested,
6 form JV-214 must be provided to the placing agency within seven court days
7 of the petitioner's being noticed of the placing agency's determination on the
8 request for waiver of presumptive transfer.

9
10 (4) When a hearing is requested in (b)(3), the transfer of the responsibility for
11 providing specialty mental health services cannot occur until the court makes
12 a ruling as required in (c)(1).

13
14 **(c) Setting of a hearing (§ 14717.1)**

15
16 (1) The court on its own motion may direct the clerk to set a hearing no later than
17 five court days after the request for a hearing was filed, or may deny the
18 request for a hearing without ruling on the transfer of jurisdiction.

19
20 (2) If the court sets a hearing, the clerk must provide notice of the hearing date
21 to:

22
23 (A) The parents—unless parental rights have been terminated—or
24 guardians of the child;

25
26 (B) The petitioner;

27
28 (C) The social worker or probation officer;

29
30 (D) The mental health care decision maker for the child or nonminor, if one
31 has been appointed under section 361(a)(1);

32
33 (E) The Indian child's tribe, if applicable, as defined in rule 5.502;

34
35 (F) The child—if 10 years of age or older—or nonminor; and

36
37 (G) All other persons entitled to notice under section 293 or section
38 727.4(a).

39
40 (3) If the court grants a hearing under (c)(1), responsibility for providing
41 specialty mental health services cannot be transferred until the court makes a
42 ruling as required in (e)(2) and section 14717.1(d)(4).

43

1 **(d) Reports**

2
3 When a hearing is granted under (c)(1), the social worker or probation officer must
4 provide a report including discussion or documentation of the following:

5
6 (1) The placing agency’s rationale for its decision on the request for a waiver of
7 presumptive transfer, including:

8
9 (A) Any requests for waiver, and the exceptions claimed as the basis for
10 those requests;

11
12 (B) The placing agency’s determination of whether waiver of presumptive
13 transfer is appropriate under section 14717.1(d)(5)(A)–(D);

14
15 (C) Any objections to the placing agency’s determination in (B); and

16
17 (D) The ways that the child’s or nonminor’s best interests will be promoted
18 by the placing agency’s presumptive transfer determination.

19
20 (2) That the child or nonminor, his or her parents if applicable, the child and
21 family team, and others who serve the child or nonminor as appropriate—
22 such as the therapist, mental health care decision maker for the child or
23 nonminor if one has been appointed under section 361(a)(1), and Court
24 Appointed Special Advocate volunteer—were consulted regarding the waiver
25 determination.

26
27 (3) That notice of the placing agency’s determination of whether to waive
28 presumptive transfer was provided to the individual who requested waiver of
29 presumptive transfer, along with all parties to the case.

30
31 (4) Whether the mental health plan in the county of original jurisdiction
32 demonstrates an existing contract with a specialty mental health care
33 provider, or the ability to enter into a contract with a specialty mental health
34 care provider within 30 days of the waiver decision, and the ability to deliver
35 timely specialty mental health services directly to the foster child or
36 nonminor.

37
38 (5) The child’s or nonminor’s current provision of specialty mental health
39 services, and how those services will be affected by the placing agency’s
40 presumptive transfer determination.

41

1 **(e) Conduct at the hearing**

- 2
- 3 (1) The social worker or probation officer must provide the report in (d) to the
4 court, all parties to the case, and the person or agency that requested the
5 waiver no later than two court days after the hearing is set under (c)(1).
6
- 7 (2) At the hearing, the court may confirm or deny the transfer of jurisdiction or
8 application of an exception based on the best interests of the child or
9 nonminor. A waiver of presumptive transfer is contingent on the mental
10 health plan in the county of original jurisdiction demonstrating an existing
11 contract with a specialty mental health care provider, or the ability to enter
12 into such a contract within 30 days of the waiver decision, and the ability to
13 deliver timely specialty mental health services directly to the child or
14 nonminor.
15
- 16 (3) The person or agency that requested the waiver of presumptive transfer bears
17 the burden to show that an exception to presumptive transfer is in the best
18 interests of the child or nonminor by a preponderance of the evidence.
19
- 20 (4) The hearing must conclude within five court days of the initial hearing date,
21 unless a showing of good cause consistent with section 352 or section 682
22 supports a continuance of the hearing beyond five days.
23
- 24 (5) When considering whether it is in the child's or nonminor's best interests to
25 confirm or deny the request for a waiver of presumptive transfer, the court
26 may consider the following in addition to any other factors the court deems
27 relevant:
28
- 29 (A) The child's or nonminor's access to specialty mental health services,
30 the current provision of specialty mental health services to the child or
31 nonminor, and whether any important service relationships will be
32 affected by the transfer of jurisdiction or a waiver of presumptive
33 transfer;
34
- 35 (B) If reunification services are being provided, the impact that the transfer
36 of jurisdiction would have on reunification services;
37
- 38 (C) The anticipated length of stay in the child's or nonminor's new
39 placement;
40
- 41 (D) The position of the child or nonminor, or of the child's or nonminor's
42 attorney, on presumptive transfer; and
43

1 (E) The ability to maintain specialty mental health services in the county of
2 original jurisdiction or to arrange for specialty mental health services in
3 the county of residence after the child or nonminor changes placements.
4

5 (6) Findings and orders must be made on *Order after Hearing on Waiver of*
6 *Presumptive Transfer* (form JV-215).
7

8 **(f) Existing out-of-county placement**
9

10 This rule applies to presumptive transfer for any child or nonminor who resided in
11 a county other than the county of original jurisdiction after June 30, 2017, and who
12 continues to reside outside his or her county of original jurisdiction after December
13 31, 2017, and has not had a presumptive transfer determination as required under
14 Welfare and Institutions Code section 14717.1(c)(2). Unless amended by Judicial
15 Council action effective after the effective date of this rule, this subdivision will be
16 repealed effective January 1, 2020.
17

18 *Rule 5.647 adopted effective September 1, 2018.*
19

20 **Advisory Committee Comment**
21

22 The exceptions to the presumptive transfer of the responsibility to provide for and arrange for
23 specialty mental health services to the county of the child’s or nonminor’s out-of-county
24 residence are found in Welfare and Institutions Code section 14717.1(d)(5)(A–D). A court review
25 hearing under this rule may not necessarily be common, but under section 14717.1(d)(7), for all
26 cases, a request for waiver, the exceptions claimed as the basis for the request, a determination
27 whether a waiver is appropriate under Welfare and Institutions Code section 14717.1, and any
28 objections to the determination must be documented in the child’s or nonminor’s case plan under
29 Welfare and Institutions Code section 16501.1. The Department of Health Care Services and
30 California Department of Social Services are responsible for providing policy guidance and
31 regulations to implement Assembly Bill 1299 (Ridley-Thomas; Stats. 2016, ch. 603). The policy
32 guidance and regulations should be used during the administrative process related to presumptive
33 transfer. This would include determining who is entitled to make a request for waiver under
34 (b)(1)(D) of the rule and section 14717.1(d)(2), where “department” refers to the Department of
35 Health Care Services. In the policy guidance and regulations, the Department of Health Care
36 Services and California Department of Social Services will determine who owes a legal duty to
37 the child or nonminor and thus may request a waiver of presumptive transfer. In addition, the
38 policy guidance and regulations will address the timelines for the period to request a hearing.
39 Presumptive transfer cannot occur until the court has made a ruling on the request for a hearing,
40 and if a hearing is granted, makes a ruling as required in (c)(3). In accordance with the policy
41 guidance issued by the Department of Health Care Services and California Department of Social
42 Services, the delivery of existing specialty mental health services to the child or nonminor must
43 however continue without interruption, and be provided or arranged for, and paid for by the

1 Mental Health Plan in the county of original jurisdiction until the court makes a ruling on the
2 request for a hearing or makes a ruling as required in (c)(3) if a hearing is granted.

3
4 **Rule 5.840. Dismissal of petition and sealing of records (§ 786)**

5
6 (a) * * *

7
8 (b) **Dismissal of petition**

9
10 If the court finds that a minor subject to this rule has satisfactorily completed his or
11 her informal or formal probation supervision, the court must order the petition
12 dismissed. The court must not dismiss a petition if it was sustained based on the
13 commission of an offense listed in subdivision (b) of section 707 when the minor
14 was 14 or older unless the finding on that offense has been dismissed or was
15 reduced to a misdemeanor or an offense not listed in subdivision (b) of section 707.
16 The court may also dismiss prior petitions filed or sustained against the minor if
17 they appear to the satisfaction of the court to meet the sealing and dismissal criteria
18 in section 786. An unfulfilled order, condition, or restitution or an unpaid
19 restitution fee must not be deemed to constitute unsatisfactory completion of
20 probation supervision. The court may not extend the period of supervision or
21 probation solely for the purpose of deferring or delaying eligibility for dismissal
22 and sealing under section 786.

23
24 *(Subd (b) amended effective September 1, 2018.)*

25
26 (c) **Sealing of records**

27
28 For any petition dismissed by the court under section 786, including any petition
29 dismissed before adjudication, the court must also order sealed all records in the
30 custody of the court, law enforcement agencies, the probation department, and the
31 Department of Justice pertaining to those dismissed petition(s) using form JV-596,
32 *Dismissal and Sealing of Records—Welfare and Institutions Code Section 786*, or a
33 similar form. The court may also seal records pertaining to these cases in the
34 custody of other public agencies upon a request by an individual who is eligible to
35 have records sealed under section 786, if the court determines that sealing the
36 additional record(s) will promote the successful reentry and rehabilitation of the
37 individual. The prosecuting attorney, probation officer, and court must have access
38 to these records as specifically provided in section 786. Access to the records for
39 research purposes must be provided as required in section 787.

40
41 *(Subd (c) amended effective September 1, 2018.)*
42

1 (d)–(f) * * *

2
3 *Rule 5.840 amended effective September 1, 2018; adopted effective July 1, 2016.*

4
5 **Rule 5.850 Sealing of records by probation in diversion cases (§ 786.5)**

6
7 **(a) Applicability**

8
9 This rule states the procedures to seal the records of persons who are subject to
10 section 786.5.

11
12 **(b) Sealing of records**

13
14 Upon satisfactory completion of a program of diversion or supervision under a
15 referral by the probation officer or the prosecutor instead of filing a petition to
16 adjudge the person a ward of the juvenile court, including a program of informal
17 supervision under section 654, the probation department must seal the arrest and
18 other records in its custody relating to the arrest or referral and participation in the
19 program. The probation department must also notify the public or private agency
20 operating the diversion program to which the person has been referred to seal any
21 records in its custody relating to the arrest or referral and participation in the
22 program, and the operator of the program must do so promptly.

23
24 **(c) Notice to participant**

25
26 Within 60 days of the satisfactory completion of a program subject to this rule, the
27 probation department must notify the person in writing that his or her records have
28 been sealed. If the probation department determines that the program has not been
29 completed satisfactorily, it must notify the person in writing of the reason or
30 reasons for not sealing the record and provide the person with a copy of the
31 *Petition to Review Denial of Sealing of Records After Diversion Program* (form
32 JV-598) or similar local form to allow the person to seek court review of the
33 probation department's determination within 60 days of making that
34 determination.

35
36 **(d) Review of unsatisfactory completion of program by the juvenile court**

37
38 A person who receives notice from the probation department that he or she has not
39 satisfactorily completed the program and that his or her records have not been
40 sealed may seek review of that determination by the court by submitting a petition
41 to the probation department on the *Petition to Review Denial of Sealing of Records*
42 *After Diversion Program* (form JV-598) or similar local form, and the probation
43 department must file that petition with the court for a hearing to review whether he

1 or she has met the satisfactory completion requirement and is eligible for record
2 sealing by the probation department. The petition must be provided to the probation
3 department within 60 days of the date the notice from the probation department was
4 sent, and must include a copy of that notice. The probation department must file the
5 petition with the juvenile court in the county that issued the notice within 30 days of
6 receiving it. The clerk of the court must set the matter for hearing and notify the
7 petitioner and the probation department of the date, time, and location of the
8 hearing. The court must appoint counsel to represent the child before or at the
9 hearing unless the court finds that the child has made an intelligent waiver of the
10 right to counsel under section 634 or is already represented. If the court finds after
11 the hearing that the petitioner is eligible to have the records sealed under section
12 786.5, it must order the probation department to promptly comply with the sealing
13 and notice requirements of this rule.

14
15 *Rule 5.850 adopted effective September 1, 2018.*