

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

W17-02

Title

Juvenile Law: Implementation of Proposition 57, the Public Safety and Rehabilitation Act of 2016

Action Requested

Review and submit comments by February 14, 2017

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 4.116, 5.766, 5.768, and 5.770; revoke rules 4.510 and 5.772; revise forms JV-600, JV-642, JV-710, and JV-735; approve form JV-824

Proposed Effective Date

September 1, 2017

Contact

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Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Jerilyn Borack, Cochair
Hon. Mark Juhas, Cochair

Executive Summary and Origin

Proposition 57, the Public Safety and Rehabilitation Act of 2016, substantially amends the process by which juvenile offenders may be transferred to the jurisdiction of the criminal court by (1) eliminating the authority of prosecutors to directly file petitions in criminal court, and (2) requiring that the juvenile court hold a hearing and determine if a transfer is appropriate. To implement the changes enacted by Prop. 57, the Family and Juvenile Law Advisory Committee is proposing amending or revoking six California Rules of Court and revising four forms to be consistent with the amended provisions. In addition, the committee proposes approval of a new optional writ petition form for seeking appellate review of the juvenile court's transfer decision.

Background

On November 8, 2016, the people of the State of California enacted Proposition 57, the Public Safety and Rehabilitation Act of 2016, which became effective on November 9, 2016. Proposition 57 amends existing law to require that the juvenile court consider a motion by the district attorney or other appropriate prosecuting officer to transfer the minor to the jurisdiction of the criminal court before a juvenile can be prosecuted in a criminal court. To accomplish this,

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 These proposals are circulated for comment purposes only.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 proposition repeals all of Welfare and Institutions Code section 602(b), which provided that certain serious and violent felonies were to be prosecuted in criminal court, as well as all of section 707(d), which authorized the district attorney to directly file an accusatory pleading involving certain minors in criminal court. Because the proposition eliminates the ability of the prosecutor to direct file a case in criminal court, it also makes obsolete the reverse remand provisions of Penal Code section 1170.17 that allow a criminal court to consider whether a minor convicted of an offense that was not eligible for direct file should be sentenced under the juvenile court law.

In addition, the proposition substantially simplifies the existing standards for the juvenile court to employ when determining whether a minor's case should be heard in the criminal court. The prior version of section 707 required the juvenile court to evaluate whether the minor is "a fit and proper subject to be dealt with under the juvenile court law." The revisions to section 707 enacted by Prop. 57 instead ask the court to consider simply whether "the minor should be transferred to a court of criminal jurisdiction." Thus, in section 707, the concept of fitness has been eliminated and replaced with the term "transfer."

Under the prior statutory scheme, some minors were subject to a presumption of unfitness for juvenile court adjudication based on their age and/or prior offense history. Proposition 57 eliminates all of those presumptions and provides the court with one set of criteria to apply in a determination of whether "the minor should be transferred to a court of criminal jurisdiction." The criteria are those currently found in section 707(a), with broad discretion given to the court to evaluate and weigh each factor. Minors who may be subject to a motion to transfer jurisdiction to criminal court are those who are either:

- Alleged to have committed a felony when 16 years of age or older; or
- Alleged to have committed an offense listed in section 707(b) at age 14 or 15.

If the juvenile court orders that jurisdiction over the minor be transferred to the criminal court, the court must "recite the basis for its decision in an order entered upon the minutes." In addition, the court may not take a plea in any case in which a hearing has been noticed to hear a motion for the transfer of jurisdiction.

The Proposal

The proposal recommends amending three of the current juvenile rules on transfer to adult court, as well as one criminal rule that has obsolete statutory references to bring them into compliance with Proposition 57. Two rules that are entirely obsolete because they address issues pertaining to direct file or the prior presumptions are proposed to be revoked. The current optional order form for fitness hearings would be substantially revised to reflect the new law, and three other forms would be revised to correct obsolete statutory references. Finally, the proposal includes a new optional writ petition form for seeking appellate review of the court's decision on transfer of jurisdiction.

Amended and revoked rules on transfer to criminal court

The current rules that govern the procedures to be followed when the juvenile court is asked to determine whether a child's case should be heard in juvenile or criminal court are rules 5.766, 5.768, 5.770, and 5.772. Three of these rules (5.766, 5.768, and 5.770) need to be amended to reflect the new terminology and provisions of Prop. 57. The key proposed changes to the rules would:

- Eliminate references to fitness and amenability to handling under the juvenile court law and replace them with a focus on whether the child should be retained under juvenile court jurisdiction or transferred to criminal court jurisdiction;
- Clarify that the court has broad discretion to weigh the existing statutory criteria in making its order;
- Require the court to set forth its reasons for making a transfer order in its minute order; and
- Add the requirement that no plea be taken after a motion for transfer has been noticed, and that no plea that has been entered be considered as evidence at a transfer hearing.

Rule 5.772 would be revoked in its entirety as the provisions of law that it seeks to implement have been repealed by Prop. 57, and it is therefore obsolete.

Amended and revoked criminal law rules

Two rules in Title 4 of the California Rules of Court are impacted by the changes made by Prop. 57. Rule 4.116, which addresses when a case is filed in criminal court and the court determines that the defendant is a minor—and thus the case needs to be certified to juvenile court—needs to be amended to eliminate some obsolete statutory references in subdivision (a) of the rule. Rule 4.510, which implements the reverse remand provisions in Penal Code section 1170.17, is proposed to be revoked because although Prop. 57 did not repeal section 1170.17, that section only applies to cases that have been direct filed in criminal court and, as direct file has been eliminated by Prop. 57, reverse remand is now an obsolete procedure as no juvenile will be transferred to criminal court without the juvenile court first holding a hearing on the appropriateness of the transfer.

Revised form JV-710

The current optional order form for use after a hearing under section 707 is form JV-710, *Juvenile Fitness Hearing Order*. This form would be retitled *Juvenile Transfer to Criminal Court Jurisdiction Order*, and would be revised to:

- Eliminate obsolete statutory references;
- Replace references to fitness with the new transfer terminology;
- Reframe the court's findings on the statutory criteria to simply require the court to indicate which criteria informed a decision to order a transfer; and
- Simplify the findings and orders to reflect the more streamlined statute.

The revised form would be available to courts to document their findings and orders consistent with the requirements of the amended provisions of section 707.

Forms with minor revisions to reflect updated statutes

Optional forms *Juvenile Wardship Petition* (form JV-600), *Initial Appearance Hearing–Juvenile Delinquency* (form JV-642), and *Juvenile Notice of Violation of Probation* (form JV-735) all include statutory references that are obsolete because of Prop. 57 and need to be updated to reflect the current statutory numbering scheme. In addition, forms JV-600 and JV-642 both reference juvenile fitness hearings and need to be revised to reflect the new transfer terminology.

New writ petition form for juvenile transfer proceedings

The committee is proposing a new optional writ petition form, *Petition for Extraordinary Writ—Juvenile Transfer (Welfare and Institutions Code, § 707)* (form JV-824) to be available to either a child who has been ordered transferred or to the district attorney to seek appellate review of the court's order on a transfer motion.

Alternatives Considered

The committee considered seeking approval of these rule and form changes prior to circulation for comment while also circulating them to ensure that the rules and forms were up to date as early as possible, but determined that this was not necessary because the new law is straightforward and the impacted forms are all optional.

Implementation Requirements, Costs, and Operational Impacts

As a result of the statutory changes made by Prop. 57, it is likely that juvenile courts will receive more requests for hearings from the district attorney seeking to transfer jurisdiction of a child to criminal court under section 707 as direct file is no longer an option, resulting in more of these hearings in the juvenile court. If the juvenile courts retain jurisdiction over children that would have otherwise been subject to direct file, the result will reduce the number of juvenile cases transferred to criminal court jurisdiction. Because Prop. 57 significantly simplified what the court must consider when determining whether to order a transfer, these proceedings may be shorter, and the court may need less time to make its findings and orders. All of these impacts are as a result of the changes in the law and are thus unavoidable. The new writ petition form should streamline the process for filing of writs in these cases and therefore improve access to justice for the parties to these matters.

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?
- Will the proposed new writ form improve the process for challenging transfer orders?
- Does the revised JV-710 order form allow the court to accurately and comprehensively document its findings and orders?
- Should the date for repeal of rule 4.510, which implements the reverse remand procedure in Penal Code section 1170.17 be delayed beyond September 1, 2017 to accommodate cases that precede the enactment of Prop. 57? If so, what should be the effective date of the repeal?

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. Proposed amended and revoked Cal. Rules of Court, rules 4.116, 4.510, 5.766, 5.768, 5.770, and 5.772 at pages 6–14.
2. Proposed new and revised forms JV-600, JV-642, JV-710, JV-735, and JV-824 at pages 15–25.
3. Prop. 57: [https://oag.ca.gov/system/files/initiatives/pdfs/15-0121%20\(Prison%20Sentence%20Reform\)_1.pdf](https://oag.ca.gov/system/files/initiatives/pdfs/15-0121%20(Prison%20Sentence%20Reform)_1.pdf)

Rules 4.510 and 5.772 of the California Rules of Court would be revoked, and rules 4.116, 5.766, 5.768, and 5.770 would be amended, effective September 1, 2017, to read:

1 **Rule 4.116. Certification to juvenile court**

2
3 **(a) Application**

4
5 This rule applies to all cases not filed in juvenile court in which the person charged
6 by an accusatory pleading appears to be under the age of 18, except ~~(1) when the~~
7 ~~child has been found not a fit and proper subject to be dealt with under the juvenile~~
8 ~~court law or (2) when the prosecution was initiated as a criminal case under~~
9 ~~Welfare and Institutions Code section 602(b) or 707(d) when jurisdiction over the~~
10 child has been transferred from the juvenile court under Welfare and Institutions
11 Code section 707.

12
13 **(b)–(d) * * ***

14
15 **Rule 4.510. Reverse remand**

16
17 ~~**(a) Minor prosecuted under Welfare and Institutions Code section 602(b) or**~~
18 ~~**707(d) and convicted of offense listed in Welfare and Institutions Code section**~~
19 ~~**602(b) or 707(d) (Penal Code, § 1170.17)**~~

20
21 ~~If the prosecuting attorney lawfully initiated the prosecution as a criminal case~~
22 ~~under Welfare and Institutions Code section 602(b) or 707(d), and the minor is~~
23 ~~convicted of a criminal offense listed in those sections, the minor must be~~
24 ~~sentenced as an adult.~~

25
26 ~~**(b) Minor convicted of an offense not listed in Welfare and Institutions Code**~~
27 ~~**section 602(b) or 707(d) (Penal Code, § 1170.17)**~~

28
29 ~~(1) If the prosecuting attorney lawfully initiated the prosecution as a criminal~~
30 ~~case and the minor is convicted of an offense not listed in Welfare and~~
31 ~~Institutions Code section 602(b) or 707(d), but one that would have raised the~~
32 ~~presumption of unfitness under juvenile court law, the minor may move the~~
33 ~~court to conduct a postconviction fitness hearing.~~

34
35 ~~(A) On the motion by the minor, the court must order the probation~~
36 ~~department to prepare a report as required in rule 5.768.~~

37
38 ~~(B) The court may conduct a fitness hearing or remand the matter to the~~
39 ~~juvenile court for a determination of fitness.~~

40
41 ~~(C) The minor may receive a disposition hearing under the juvenile court~~
42 ~~law only if he or she is found to be fit under rule 5.772. However, if the~~
43 ~~court and parties agree, the minor may be sentenced in adult court.~~

1 (D) — If the minor is found unfit, the minor must be sentenced as an adult,
2 unless all parties, including the court, agree that the disposition be
3 conducted under juvenile court law.
4

5 (2) — If the minor is convicted of an offense not listed in Welfare and Institutions
6 Code section 602(b) or 707(d), but one for which the minor would have been
7 presumed fit under the juvenile court law, the minor must have a disposition
8 hearing under juvenile court law, and consistent with the provisions of Penal
9 Code section 1170.19, either in the trial court or on remand to the juvenile
10 court.
11

12 (A) — If the prosecuting attorney objects to the treatment of the minor as
13 within the juvenile court law and moves for a fitness hearing to be
14 conducted, the court must order the probation department to prepare a
15 report as required by rule 5.768.
16

17 (B) — The court may conduct a fitness hearing or remand the matter to the
18 juvenile court for a determination of fitness.
19

20 (C) — If found to be fit under rule 5.770, the minor will be subject to a
21 disposition hearing under juvenile court law and Penal Code section
22 1170.19.
23

24 (D) — If the minor is found unfit, the minor must be sentenced as an adult,
25 unless all parties, including the court, agree that the disposition be
26 conducted under juvenile court law.
27

28 (3) — If the minor is convicted of an offense that would not have permitted a fitness
29 determination, the court must remand the matter to juvenile court for
30 disposition, unless the minor requests sentencing in adult court and all
31 parties, including the court, agree.
32

33 (4) — Fitness hearings held under this rule must be conducted as provided in title 5,
34 division 3, chapter 14, article 2.
35

36 Rule 5.766. General provisions

37 (a) Fitness Transfer of jurisdiction to criminal court hearing (§ 707)

38 A child who is the subject of a petition under section 602(a) and who was 14 years
39 or older at the time of the alleged offense may be considered for prosecution under
40 the general law in a court of criminal jurisdiction. The prosecuting attorney may
41 request a hearing to determine whether the child is a fit and proper subject to be
42 dealt with under the juvenile court law make a motion to transfer the child from
43 juvenile court to a court of criminal jurisdiction, in one of the following
44 circumstances:
45
46

1 (1) ~~Under section 707(a)(1), the~~ The child was 16 years or older at the time of
2 the alleged felony offense ~~if the offense is not listed in section 707(b).~~

3
4 ~~(2) Under section 707(a)(2), the child was 16 years or older at the time of the~~
5 ~~alleged felony offense not listed in section 707(b) and has been declared a~~
6 ~~ward of the court under section 602 on at least one prior occasion and:~~

7
8 ~~(A) The child has previously been found to have committed two or more~~
9 ~~felony offenses; and~~

10
11 ~~(B) The felony offenses in the previously sustained petitions were~~
12 ~~committed when the child was 14 years or older.~~

13
14 ~~(3)(2) Under section 707(c), the~~ The child was 14 years or older at the time of the
15 alleged offense listed in section 707(b).

16
17 **(b) Notice (§ 707)**

18
19 Notice of the ~~fitness~~ hearing on transfer of jurisdiction must be given at least five
20 judicial days before the ~~fitness~~ hearing.

21
22 **(c) Time of fitness hearing—rules 5.774, 5.776**

23
24 The ~~fitness~~ transfer of jurisdiction hearing must be held and the court must rule on
25 the issue of ~~fitness~~ the request to transfer jurisdiction before the jurisdiction hearing
26 begins. Absent a continuance, the jurisdiction hearing must begin within the time
27 limits under rule 5.774.

28
29 **Rule 5.768. Report of probation officer**

30
31 **(a) Contents of report (§ 707)**

32
33 The probation officer must ~~investigate the issue of fitness~~ prepare and submit to the
34 court a report on the behavioral patterns and social history of the child being
35 considered. The report must include information relevant to the determination of
36 whether or not the child ~~would be amenable to the care, treatment, and training~~
37 ~~program available through the facilities of the juvenile court, including information~~
38 ~~regarding all of the criteria listed in rules 5.770 and 5.772~~ should be retained under
39 the jurisdiction of the juvenile court or transferred to the jurisdiction of the criminal
40 court, including information regarding all of the criteria in section 707(a)(2). The
41 report must also include any written or oral statement offered by the victim
42 pursuant to section 656.2. The report may also include information concerning:

43
44 (1) The social, family, and legal history of the child;

45
46 (2) Any statement the child chooses to make regarding the alleged offense;

- 1 (3) Any statement by a parent or guardian;
2
3 (4) If the child is or has been under the jurisdiction of the court, a statement by
4 the social worker, or probation officer, or Youth Authority parole agent who
5 has supervised the child regarding the relative success or failure of any
6 program of rehabilitation; and
7
8 (5) Any other information relevant to the determination of fitness.
9

10 **(b) Recommendation of probation officer (§§ 281, 707)**

11
12 The probation officer must make a recommendation to the court as to whether the
13 child ~~is a fit and proper subject to be dealt with under the juvenile court law~~ should
14 be retained under the jurisdiction of the juvenile court or transferred to the
15 jurisdiction of the criminal court.
16

17 **(c) Copies furnished**

18
19 The probation officer's report on the behavioral patterns and social history of the
20 child must be furnished to the child, the parent or guardian, and all counsel at least
21 24 hours before commencement of the fitness hearing on the motion. A
22 continuance of 24 hours must be granted on the request of any party who has not
23 been furnished the probation officer's report in accordance with this rule.
24

25 **Rule 5.770. Conduct of fitness transfer of jurisdiction hearing under section**
26 **707(a)(1)**

27
28 **(a) Burden of proof (§ 707(a)(1))**

29
30 In a fitness transfer of jurisdiction hearing under section 707(a)(1), the burden of
31 proving that the child ~~is unfit~~ should be transferred to criminal court jurisdiction is
32 on the petitioner, by a preponderance of the evidence.
33

34 **(b) Criteria to consider (§ 707)**

35
36 Following receipt of the probation officer's report and any other relevant evidence,
37 the court may ~~find that order that~~ the child is not a fit and proper subject to be dealt
38 with under juvenile court law be transferred to the jurisdiction of the criminal court
39 if the court finds:

- 40
41 (1) The child was 16 years or older at the time of the alleged felony offense, ~~and~~
42 or the child was 14 or 15 years at the time of an alleged offense listed in
43 section 707(b); and
44
45 (2) The child ~~would not be amenable to the care, treatment, and training program~~
46 available through facilities of the juvenile court, should be transferred to the

1 jurisdiction of the criminal court based on an evaluation of all of the
2 following criteria:

- 3
4 (A) The degree of criminal sophistication exhibited by the child;
5
6 (B) Whether the child can be rehabilitated before the expiration of
7 jurisdiction;
8
9 (C) The child's previous delinquent history;
10
11 (D) The results of previous attempts by the court to rehabilitate the child;
12 and
13
14 (E) The circumstances and gravity of the alleged offense.

15
16 **(c) Findings under section 707(a)(1)(2)**

17 ~~The findings must be stated in the order.~~

18
19
20 ~~(1) — *Finding of fitness*~~

21
22 ~~The court may find the child to be fit and state that finding.~~

23
24 ~~(2) — *Finding of unfitness*~~

25
26 ~~If the court determines the child is unfit, the court must find that:~~

27
28 ~~(A) — The child was 16 years or older at the time of the alleged offense; and~~

29
30 ~~(B) — The child would not be amenable to the care, treatment, and training~~
31 ~~program available through the juvenile court because of one or a~~
32 ~~combination of more than one of the criteria listed in (b)(2).~~

33 If the court orders a transfer of jurisdiction to the criminal court, the court must
34 recite the basis for its decision in an order entered upon the minutes.

35
36 **~~(d) — Maintenance of juvenile court jurisdiction~~**

37
38 ~~If the court determines that one or more of the criteria listed in (b)(2) apply to the~~
39 ~~child, the court may nevertheless find that the child is amenable to the care,~~
40 ~~treatment, and training program available through the juvenile court and may find~~
41 ~~the child to be a fit and proper subject to be dealt with under juvenile court law.~~

42
43 **~~(e)(d) Extenuating circumstances~~**

44
45 The court may consider extenuating or mitigating circumstances in the evaluation
46 of each relevant criterion.

1 **~~(f)~~(e) Procedure following findings**

- 2
- 3 (1) If the court finds the child ~~to be fit~~ should be retained within the jurisdiction
- 4 of the juvenile court, the court must proceed to jurisdiction hearing under rule
- 5 5.774.
- 6
- 7 (2) If the court finds the child ~~to be unfit~~ should be transferred to the jurisdiction
- 8 of the criminal court, the court must make orders under section 707.1 relating
- 9 to bail and to the appropriate facility for the custody of the child, or release
- 10 on own recognizance pending prosecution. The court must dismiss the
- 11 petition without prejudice.
- 12

13 **~~(g)~~(f) Continuance to seek review**

14

15 If the prosecuting attorney informs the court orally or in writing that a review ~~of a~~

16 ~~finding of fitness of the court's decision not to order a transfer of jurisdiction~~ will

17 be sought and requests a continuance of the jurisdiction hearing, the court must

18 grant a continuance for not less than two judicial days to allow time within which

19 to obtain a stay of further proceedings from the reviewing judge or appellate court.

20

21 **~~(h)~~(g) Subsequent role of judicial officer**

22

23 Unless the child objects, the judicial officer who has conducted a ~~fitness hearing on~~

24 a motion to transfer jurisdiction may participate in any subsequent contested

25 jurisdiction hearing relating to the same offense.

26

27 **~~(i)~~(h) Review of ~~fitness determination on a motion to transfer jurisdiction to~~**

28 **criminal court**

29

30 An order that a child is ~~or is not a fit and proper subject to be dealt with under the~~

31 ~~juvenile court law~~ should or should not be transferred to the jurisdiction of the

32 criminal court is not an appealable order. Appellate review of the order is by

33 petition for extraordinary writ. Any petition for review of a judge's order

34 ~~determining the child unfit to transfer jurisdiction of the child~~, or denying an

35 application for rehearing of the referee's determination ~~of unfitness to transfer~~

36 jurisdiction of the child, must be filed no later than 20 days after the child's first

37 arraignment on an accusatory pleading based on the allegations that led to the

38 ~~unfitness determination~~ transfer of jurisdiction order.

39

- 40 **(i)** In any case in which a hearing for transfer of jurisdiction has been noticed under
- 41 section 707, the court must postpone the taking of a plea to the petition until the
- 42 conclusion of the transfer hearing, and no pleas that may have been entered already
- 43 may be considered as evidence at the hearing.
- 44

45 **Rule 5.772. Conduct of fitness hearings under sections 707(a)(2) and 707(e)**

46

1 **(a) — Presumption (§§ 707(a)(2), 707(c))**

2
3 In a fitness hearing under section 707(a)(2) or 707(c), the child is presumed to be
4 unfit, and the burden of rebutting the presumption is on the child, by a
5 preponderance of the evidence.
6

7 **(b) — Prima facie showing**

8
9 On the child's motion, the court must determine whether a prima facie showing has
10 been made that the offense alleged is a felony or is specified in section 707(b).
11

12 **(c) — Criteria to consider (§ 707(a)(2))**

13
14 Following receipt of the probation officer's report and any other relevant evidence,
15 the court must find that the child is not a fit and proper subject to be dealt with
16 under the juvenile court law, unless the court finds:
17

18 (1) — The child was under 16 years of age at the time of the alleged felony offense;

19
20 (2) — The child had not been declared a ward at the time of the alleged offense or
21 any time previously;

22
23 (3) — The child has not previously been found to have committed two or more
24 felony offenses;

25
26 (4) — The prior felony offenses were committed before the child had reached the
27 age of 14 years; or

28
29 (5) — The child would be amenable to the care, treatment, and training program
30 available through the juvenile court, based on evaluation of each of the
31 following criteria:

32
33 (A) — The degree of criminal sophistication exhibited by the child;

34
35 (B) — Whether the child can be rehabilitated before the expiration of
36 jurisdiction;

37
38 (C) — The child's previous delinquent history;

39
40 (D) — The results of previous attempts by the court to rehabilitate the child;
41 and

42
43 (E) — The circumstances and gravity of the alleged offense.
44

45 **(d) — Findings under section 707(c)**

1 Following receipt of the probation officer's report and any other relevant evidence,
2 the court must find that the child is not a fit and proper subject to be dealt with
3 under the juvenile court law, unless the court finds:

4
5 (1) ~~The child was under 14 years of age at the time of the offense specified in~~
6 ~~section 707(b);~~

7
8 (2) ~~The offense alleged is not listed in section 707(b); or~~

9
10 (3) ~~The child would be amenable to the care, treatment, and training program~~
11 ~~available through the juvenile court, based on evaluation of each of the~~
12 ~~criteria described in (c)(5).~~

13
14 ~~(e) Extenuating circumstances~~

15
16 The court may consider extenuating or mitigating circumstances in the evaluation
17 of each relevant criterion.

18
19 ~~(f) Findings (§§ 707(a)(2), 707(c))~~

20
21 The findings must be stated in the order.

22
23 (1) ~~Finding of unfitness (§ 707(a)(2))~~

24
25 If the child has failed to rebut the presumption of unfitness, the court must
26 find that:

27
28 (A) ~~The child has previously been found to have committed two or more~~
29 ~~offenses listed in section 707(b) and was 14 years of age or older at the~~
30 ~~time of the felony offenses; and~~

31
32 (B) ~~The child would not be amenable to the care, treatment, and training~~
33 ~~program available through the juvenile court because of one or a~~
34 ~~combination of more than one of the criteria in (c)(5).~~

35
36 (2) ~~Finding of unfitness (§ 707(c))~~

37
38 If the child has failed to rebut the presumption of unfitness, the court must
39 find that:

40
41 (A) ~~The child was 14 years or older at the time of the alleged offense and~~
42 ~~the offense is listed in section 707(b); and~~

43
44 (B) ~~The child would not be amenable to the care, treatment, and training~~
45 ~~program available through the juvenile court because of one or a~~
46 ~~combination of more than one of the criteria in (c)(5).~~

1 ~~(3) — Finding of fitness (§§ 707(a)(2), 707(c))~~

2
3 ~~In order to find the child fit, the court must find that the child would be~~
4 ~~amenable to the care, treatment, and training program through the juvenile~~
5 ~~court on each and every criterion in (c)(5), and the court must state that~~
6 ~~finding of amenability under each and every criterion.~~

7
8 **(g) — Procedure following findings**

9
10 ~~(1) — If the court finds the child to be unfit, the court must make orders under~~
11 ~~section 707.1 relating to bail, and to the appropriate facility for the custody of~~
12 ~~the child, or release on own recognizance pending prosecution. The court~~
13 ~~must dismiss the petition without prejudice.~~

14
15 ~~(2) — If the court finds the child to be fit, the court must proceed to jurisdiction~~
16 ~~hearing under rule 5.774.~~

17
18 **(h) — Continuance to seek review**

19
20 ~~If the prosecuting attorney informs the court orally or in writing that a review of a~~
21 ~~finding of fitness will be sought and requests a continuance of the jurisdiction~~
22 ~~hearing, the court must grant a continuance for not less than 2 judicial days to allow~~
23 ~~time within which to obtain a stay of further proceedings from the reviewing judge~~
24 ~~or appellate court.~~

25
26 **(i) — Subsequent role of judicial officer**

27
28 ~~Unless the child objects, the judicial officer who has conducted a fitness hearing~~
29 ~~may participate in any subsequent contested jurisdiction hearing relating to the~~
30 ~~same offense.~~

31
32 **(j) — Review of fitness determination**

33
34 ~~An order that a child is or is not a fit and proper subject to be dealt with under the~~
35 ~~juvenile court law is not an appealable order. Appellate review of the order is by~~
36 ~~extraordinary writ. Any petition for review of a judge's order determining the child~~
37 ~~to be unfit or denying an application for rehearing of the referee's determination of~~
38 ~~unfitness must be filed no later than 20 days after the child's first arraignment on an~~
39 ~~accusatory pleading based on the allegations that led to the unfitness determination.~~

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 DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
JUVENILE WARDSHIP PETITION <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) <input type="checkbox"/> § 602	CASE NUMBER: _____

1. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following sections of the Welfare and Institutions Code (*check applicable boxes; see attachments for concise statements of facts*):
 601(a) 601(b) 602 Violation (*specify code section*): _____

b. Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section 601(a) 601(b) 602

c. Child's name and address: _____	d. Age: _____	e. Date of birth: _____	f. Sex: _____
------------------------------------	---------------	-------------------------	---------------

g. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	h. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged
--	--

i. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	j. Other (<i>name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.
--	--

k. Attorney for child (<i>if known</i>): Address: _____ Phone number: _____	l. Child is <input type="checkbox"/> not detained. <input type="checkbox"/> detained. Date and time of detention (<i>custody</i>): _____ Current place of detention (<i>address</i>): _____
---	--

(See important notices on page 2.)

CHILD'S NAME:	CASE NUMBER:
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- 2. Petitioner requests that the court find these allegations to be true.
- 3. Petitioner requests a hearing to determine whether the child should be transferred to the jurisdiction of the criminal court under Welfare and Institutions Code section 707.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

(TYPE OR PRINT NAME)

 _____

(SIGNATURE OF PETITIONER)

Indian Child Inquiry Attachment (form ICWA-010(A)) is completed and attached.

Number of pages attached: _____

**TO PARENTS OR OTHERS LEGALLY RESPONSIBLE FOR THE
SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for your child or you by a public defender or other attorney, the cost of supervision of your child by order of the juvenile court, and the cost of any restitution owed to the victim.

RECORD SEALING

The court may seal your records at the conclusion of your case or you may request sealing at a later date. Please see form JV-595-INFO, *How to Ask the Court to Seal Your Records*, and form JV-596-INFO, *Sealing of Records for Satisfactory Completion of Probation*, available through your attorney or www.courts.ca.gov/forms.htm, for more information about record sealing.

CHILD'S NAME:	CASE NUMBER:
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- 27. A prima facie showing has been made that the child's disposition is by section 601 or 602.
- 28. Based on the facts stated on the record, the child is detained in secure custody on the following grounds (*check all that apply*):
 - a. The child has violated an order of the court.
 - b. The child has escaped from a court commitment.
 - c. The child is likely to flee the jurisdiction of the court.
 - d. It is a matter of immediate and urgent necessity for the protection of the child.
 - e. It is reasonably necessary for the protection of the person or property of another.
- 29. Based on the facts stated on the record, continuance in the child's home is contrary to the child's welfare.
- 30. Based on the facts stated on the record, there are no available services that would prevent the need for further detention.
- 31. Temporary placement and care is the responsibility of the probation department.
- 32. Reasonable efforts to prevent or eliminate the need for detention of the child have have not been made.
- 33. Probation is ordered to provide services that will assist with reunification of the child and the family.
- 34. Probation is granted the authority to authorize medical, surgical, or dental care under Welfare and Institutions Code section 739.
- 35. The child and the parent or legal guardian have been advised that if the child cannot be returned home within the statutory timelines, a proceeding may be scheduled to determine an alternative permanent home, including an adoptive home after parental rights are terminated.
- 36. The mother father legal guardian are ordered to supply the names and contact information of adult relatives to probation so probation can notify them of the removal and of their options to be included in the child's life.
- 37. The probation officer must file a case plan within 60 days.
- 38. Probation is authorized to release the minor at its discretion under the following circumstances:
- 39. The court accepts transfer from the County of:
- 40. Other orders:
- 41. Child Counsel waives time for (*check all that apply*)
 - jurisdiction hearing disposition hearing other:
- 42. **The next hearings will be**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:
- 43. The child
 - a. is ordered to return to court on the above date and time.
 - b. remains detained.
- 44. All prior orders not in conflict, including any terms and conditions of probation, remain in full force and effect.
- 45. All appointed counsel are relieved.

Date: _____

JUDGE
 JUDGE PRO TEMPORE
 COMMISSIONER
 REFEREE

Countersignature for detention orders (*if necessary*): _____

Date: _____

JUDICIAL OFFICER

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: 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:	
Case Name:	
JUVENILE TRANSFER TO CRIMINAL COURT JURISDICTION ORDER (Welfare and Institutions Code, § 707)	CASE NUMBER:

1. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (name): _____
 c. Persons present: Youth Youth's attorney (name): _____
 Deputy District Attorney (name): _____
 Other: _____
2. The court has read and considered: The petition and report of the probation officer.
 Other relevant evidence.
3. The court has considered each of the following criteria and has determined that the youth should be transferred to the jurisdiction of the criminal court based on _____
- a. the degree of criminal sophistication of the youth for the reasons stated on the record.
 - b. whether the youth can be rehabilitated prior to the expiration of jurisdiction for the reasons stated on the record.
 - c. the youth's previous delinquent history for the reasons stated on the record.
 - d. the results of previous attempts by the court to rehabilitate the youth for the reasons stated on the record.
 - e. the circumstances and gravity of the offense for the reasons stated on the record.
4. **THE COURT FINDS AND ORDERS (check one):**
Welfare and Institutions Code section 707
- a. The youth was at least 16 years old at the time of the alleged felony offense; or
 - b. The youth was at least 14 years old at the time of the alleged offense, and the current alleged offense is an offense listed in Welfare and Institutions Code section 707(b).
5. **THE COURT ALSO FINDS AND ORDERS**
- a. The youth should be retained under the jurisdiction of the juvenile court.
 The next hearing is on (date): _____ at (time): _____
 for (specify): _____
 - b. The youth should be transferred to the jurisdiction of the criminal court.
 - 1. The matter is referred to the District Attorney for prosecution under the general law.
 - 2. The petition filed on (date): _____ is dismissed.
 - 3. The youth is to be detained in juvenile hall county jail (section 207.1).
 - 4. Bail is set in the amount of: \$ _____
 - 5. The youth is released on own recognizance.
 to the custody of: _____

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
JUVENILE NOTICE OF VIOLATION OF PROBATION <input type="checkbox"/> § 725 <input type="checkbox"/> § 777(a)	
CASE NUMBER:	

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was NOT declared a ward and was placed on summary probation under Welfare and Institutions Code section 725(a).			
c. Child's name and address	d. Age:	e. Date of birth:	f. Sex:
g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
i. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	j. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
k. Attorney for child (if known): Address: Phone number:	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention (custody): Current place of detention (address):		

(See important notice on page 2.)

CHILD'S NAME:	CASE NUMBER:
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2. The child is a: probationer or ward of the court under Welfare and Institutions Code section 601 602 725(a) and the child has violated a condition of probation or order of the court. (State supporting facts concisely, and number them 1, 2, etc.)
- See Attachment 2.

3. The recommended modification consequence is:
- a. Removal from the custody of a parent guardian relative friend
 - b. Placement in a foster home or relative's home
 - c. Commitment to a private institution
 - d. Commitment to a county institution
 - e. Commitment to the California Department of Corrections and Rehabilitation, Division of Juvenile Facilities
 - f. To be determined
 - g. Other (specify):

4. The child violated nonwardship probation. Petitioner requests a hearing be set under Welfare and Institutions Code section 725(a) to decide if the child should be a ward and determine the appropriate disposition.

5. Number of pages attached: _____

**TO PARENTS OR OTHERS LEGALLY
RESPONSIBLE FOR THE SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for your child or you by a public defender or other attorney, the cost of supervision of your child by order of the juvenile court, and the cost of any restitution owed to the victim.

COURT OF APPEAL _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number (court will provide): _____
--	---

in re the Matter of:

(Name and date of birth of child)

Petitioners

v.

Superior Court of California, County of:

Respondent

Real Party in Interest

(FILE STAMP)

Superior Court No. _____

Related Appeal Pending
Appellate Court No. _____

**PETITION FOR EXTRAORDINARY WRIT—
JUVENILE TRANSFER
(Welfare and Institutions Code, § 707)**

STAY REQUESTED (see item 11).

INSTRUCTIONS—READ CAREFULLY

- Read the entire form *before* completing any items.
- This petition must be clearly handprinted in ink or typed.
- Complete all applicable items in the proper spaces. If you need additional space, add an extra page and mark the additional page box.
- This petition must be filed no later than 20 days after the child's first arraignment in the adult criminal court for the transferred case.
- If you are filing this petition electronically and you are an attorney, follow the requirements of rules 8.70–8.79 and the court's local rules regarding electronically filed documents. If you are filing this petition in paper form and you are an attorney, follow the requirements of rule 8.44 regarding the number of copies. If you are *not* represented by an attorney, file the original and one set of any supporting documents.
- Notify the clerk of the court in writing if you change your address after filing your petition.

Individual Courts of Appeal or the Supreme Court may require documents other than or in addition to this form. Contact the clerk of the reviewing court for local requirements.

CASE NAME:	CASE NUMBER:
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11. Petitioner requests a temporary stay pending the granting or denial of the petition for extraordinary writ.
- a. Hearing date (*must specify*):
 - b. Reasons for stay (*specify*):

Additional pages attached.

12. Total number of pages are attached: _____

13. I am the petitioner attorney for petitioner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except for matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER ATTORNEY)

Address: