



RULES COMMITTEE

MINUTES OF OPEN VIDEOCONFERENCE MEETING

Wednesday, February 7
4:00 p.m. - 5:00 p.m.

Rules Committee Members Present:	Hon. Carin T. Fujisaki, Hon. Michelle Williams Court, Ms. Kate Bieker, Hon. Charles S. Crompton, Hon. Maria D. Hernandez, Ms. Rachel W. Hill, Mr. Charles Johnson, and Hon. Erica R. Yew.
Rules Committee Members Absent:	Mr. Maxwell V. Pritt.
Rules Committee Staff Present:	Ms. Anne M. Ronan and Ms. Benita Downs
Advisory Bodies Chair(s) and Staff Present	Hon. Maria D. Hernandez, Hon. Lisa R. Rodriguez, Mr. James Barolo, Ms. Deirdre Benedict, Ms. Grace DiLaura, Ms. Sarah Fleischer-Ihn, Ms. Jenny Grantz, Ms. Anna Maves, Ms. Saskia Kim, Ms. Kara Portnow, Mr. Daniel Richardson, and Ms. Marina Soto. Mr. Oliver Greene
Other JC Staff Present	Mr. Michael Giden

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 4:05 p.m., and Ms. Downs took roll call.

Approval of Minutes (Approved)

Approve minutes of the August 22, August 28, October 11. October 13, October 26 and December 7, Rules Committee meetings.

DISCUSSION AND ACTION ITEMS (ITEMS 01-07)

ADVISORY COMMITTEE ON CRIMINAL JURY INSTRUCTIONS (CALCRIM)

Judicial Council Report—Recommend Council Action

Item 01

Jury Instructions: Criminal Jury Instructions (2024 Edition)

The committee reviewed a recommendation from the Advisory Committee on Criminal Jury Instructions to approve for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. The proposed changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions

will be published in the 2024 supplement of Judicial Council of California Criminal Jury Instructions (CALCRIM).

Action: The committee unanimously approved the Advisory Committee on Criminal Jury Instructions recommendation, which is to go to the Judicial Council for action at the March council meeting.

CRIMINAL

Rules Committee–Action Only

Item 02

The committee reviewed a request from the Criminal Law Advisory Committee to amend its annual agenda, including approval of the creation of the Pretrial Policy and Data Subcommittee as a standing CLAC subcommittee to address the increase scope of pretrial justice issues.

Action: The committee unanimously approved the Criminal Law Advisory Committee’s request to amend its annual agenda to create the Pretrial Policy and Data Subcommittee as a standing CLAC subcommittee, after discussing that the committee expects to review Criminal Law Advisory Committee’s proposed annual agenda items for the subcommittee before the subcommittee takes any action.

FAMILY AND JUVENILE LAW

Invitation to Comment–Recommend Circulation for Comment

Item 03

Child Support: Implementing Amendments to the Family Code

The committee reviewed a proposal from the Family and Juvenile Law Advisory Committee proposing approval of 2 new forms, revising 20 forms, and revoking 3 forms related to child support. This action is necessary to implement changes to the Family Code made by Assembly Bill 207 (Stats. 2022, ch. 573) and Senate Bill 343 (Stats. 2023, ch. 213) to bring California into compliance with federal regulations requiring child support orders be based on evidence of actual income or, where actual income is unknown, the specific circumstances of the obligor parent. The proposed action is also necessary to implement changes made to the Family Code by Assembly Bill 2960 (Stats. 2022, ch. 420), which mandates that local child support agencies provide notice regarding payment of support to parents and the court when they begin and cease to provide child support enforcement services, and Assembly Bill 1148 (Stats. 2023, ch. 565), which increases the time period before child support resumes after an obligor parent has been released from incarceration or confinement.

Action: The committee unanimously approved the proposal for circulation on a special Cycle through March 22.

TRIAL COURT PRESIDING JUDGES ADVISORY COMMITTEE

Invitation to Comment–Recommend Circulation for Comment

Item 04

Civil Remote Proceedings: When a Judicial Officer May Preside Remotely

The committee reviewed a proposal from the Trial Court Presiding Judges Advisory Committee recommending the adoption of proposed rule 3.674 to satisfy Code of Civil Procedure section 367.10's statutory mandate. As required by the statute, the rule sets out the limited circumstances under which, in the interest of justice, a judicial officer may preside remotely from a location other than a courtroom.

Action: The committee unanimously approved the recommendation with one abstention (Judge Hernandez), which is to go to the Judicial Council for action at the March council

JUDICIAL COUNCIL STAFF

Judicial Council Report–Recommend Council Action

Item 05

Rules and Forms: Order for Debtor's Examination

The committee reviewed a proposal from the Judicial Council staff recommending revising the instructions on one Judicial Council form to implement a statutory change made by Assembly Bill 1119 (Stats. 2023, ch. 562), enacted October 8, 2023. Staff recommended revising the form without circulation to ensure it conforms to existing law and to avoid causing confusion for court users, clerks, and judicial officers.

Action: The committee unanimously approved the recommendation, which is to go to the Judicial Council for action at the March council meeting.

Item 06

Rules and Forms: Technical Form Changes to Reflect Federal Poverty Guidelines

The committee reviewed a proposal from Judicial Council staff recommending the revision of four Judicial Council forms containing figures that are based on the federal poverty guidelines. Staff recommended revising the forms without circulation to ensure they conform to existing law.

Action: The committee unanimously approved the recommendation, which is to go to the Judicial Council for action at the March council meeting.

Item 07

Rules and Forms: Adjustments to Dollar Amounts of Civil Penalty

The committee reviewed a proposal from Judicial Council staff recommending that the Judicial Council amend Appendix H of the California Rules of Court to reflect changes in the California Consumer Price Index as required by Health and Safety Code section 25249.7(k)(2)(B)(ii). Appendix H sets out the five-year adjustment to the dollar amount of a civil penalty for an alleged violation of Health and Safety Code section 25249.6. Because the necessary revision to the CPI had not yet been issued, this proposal contains only the text of the report and appendix item, with the final version including dollar amounts to be emailed to committee when available.

Action: The committee unanimously approved the recommendation, pending final approval of the dollar amounts, and it is to go to the Judicial Council for action at the March council meeting.

I. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Next Rules Committee Meeting: March 28, 2024

ADJOURNMENT

There being no further business, the meeting was adjourned at 4:55 p.m.

Approved by the committee on



Judicial Council of California

Rules Committee

www.courts.ca.gov/rulescomm.htm
rulesmeetings@jud.ca.gov

RULES COMMITTEE

MINUTES OF ACTION BY EMAIL

Tuesday, February 20, 2023

Rules Committee Members Who Participated:

Hon. Carin T. Fujisaki, Hon. Michelle Williams Court, Ms. Kate Bieker, Hon. Charles S. Crompton, Hon. Maria D. Hernandez, Mr. Charles Johnson, Mr. Maxwell V. Pritt, and Hon. Erica R. Yew.

Rules Committee Members Who Did Not Participate:

Ms. Rachel Hill

Rules Committee Staff:

Ms. Anne M. Ronan and Ms. Benita Downs

ACTION BY EMAIL

As provided in the California Rules of Court, rule 10.75 (o)(1)(B), the chair concluded that prompt action was needed. This action by e-mail concerned a matter that would otherwise be discussed in an open meeting; therefore, in accordance with rule 10.75(o)(2), public notice and the proposal were posted on Friday, February 16, 2024, to allow at least one complete business day for public comment before the committee took action. No public comments were received.

OPEN ACTION AND DISCUSSION ITEMS (01)

JUDICIAL COUNCIL STAFF**Item 01****Rules and Forms: Adjustments to Dollar Amounts of Civil Penalty**

The committee reviewed the final version, including dollar amounts, of a proposal from Judicial Council staff recommending that the Judicial Council, effective April 1, 2024, amend Appendix H of the California Rules of Court to reflect changes in the California Consumer Price Index as required by Health and Safety Code section 25249.7(k)(2)(B)(ii). Staff recommended revising the form without circulation to ensure it conforms to existing law.

Action: *The committee unanimously approved the recommendation from Judicial Council staff, which is to go to the Judicial Council for action at the March council meeting.*

CLOSURE OF ACTION

The action by e-mail concluded on Tuesday, February 20, 2024, at 5:00 p.m.

Approved by the committee on

DRAFT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (July 1 cycle)

Title of proposal: Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend Cal. Rules of Court, rules 8.100, 8.212, 8.360, 8.412, and 8.882; adopt form CR-127; revise forms APP-001-INFO, APP-004, APP-006, APP-101-INFO, APP-106, CR-126, JV-816, and JV-817

Committee or other entity submitting the proposal:
 Appellate Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, (415) 865-7653, kendall.hannon@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda:

Consider rules and forms relating to appeal procedures, from the recommendations of the Appellate Caseflow Workgroup7 and which the council's Executive and Planning Committee directed the Appellate Advisory Committee to consider:

- Consider revising the Civil Case Information Statement (form APP-004) and the applicable rules of court related to that form. The workgroup encouraged the Judicial Council to consider revising form APP-004 to allow litigants to identify nonstatutory grounds for an appeal to be given priority. In addition, a committee member has noted that it is often impossible to comply with the rule requiring form APP-004 to be filed with the reviewing court within 15 days after the superior court clerk sends notification of the filing of a notice of appeal because the appeal has not been docketed within that time frame.
- Consider amending the rules of court to require litigants who request extensions of time without using the council's optional forms to include in their request some or all of the information contained on the request forms, or making the request forms (forms APP 006, APP-106, CR-126, JV-816, and JV-817) mandatory. The workgroup encouraged the council to consider requiring litigants to provide certain information in extension of time requests to enable courts to better evaluate whether the moving party has demonstrated good cause.
- Consider revising the INFO sheets applicable to various types of appeals (e.g., forms APP-100-INFO and APP-101-INFO), and any other rules and forms as needed to reflect the above changes.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-02

Title

Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 8.100, 8.212, 8.360, 8.412, and 8.882; adopt form CR-127; revise forms APP-001-INFO, APP-004, APP-006, APP-101-INFO, APP-106, CR-126, JV-816, and JV-817

Contact

Kendall W. Hannon, 415-865-7653
kendall.hannon@jud.ca.gov

Proposed by

Appellate Advisory Committee
Hon. Louis Mauro, Chair

Executive Summary and Origin

The Appellate Advisory Committee proposes revising *Civil Case Information Statement* (form APP-004) to allow the appellant to provide a nonstatutory reason why the appeal is eligible for calendar preference and amending rule 8.100 to require the civil case information statement to be filed within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number. The Appellate Advisory Committee also proposes adopting a new mandatory form for requesting extensions of time to file a brief in misdemeanor appeals, revising all existing forms for requesting an extension of time to file briefs to make the forms mandatory, and revising the rules to reflect this new mandatory status. This proposal originated with a suggestion from the former Chief Justice's Appellate Caseflow Workgroup and a committee member.

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.

The Proposal

Civil case information statement rule and forms

California Rules of Court, rule 8.100(g)(1) requires an appellant, within 15 days after the superior court sends notification that a notice of appeal has been filed, to serve and file in the reviewing court a completed *Civil Case Information Statement* (form APP-004). The committee proposes amending the due date in rule 8.100(g)(1) and revising form APP-004.

Deadline for filing Civil Case Information Statement

The committee has received feedback that appellants are, in practice, unable to comply with Rule 8.100(g)(1)'s current deadline because the reviewing court has not docketed and assigned the appeal a case number within 15 days after the notice of appeal has been filed. When this happens, there is no case in which the appellant can file the *Civil Case Information Statement*.

The committee proposes that rule 8.100(g)(1) be amended to require the appellant to serve and file a completed *Civil Case Information Statement* (form APP-004) within "15 days after the reviewing court lodges the notice of appeal and assigns the appeal a case number." Tying the deadline to the date that the reviewing court assigns a case number and lodges the notice of appeal will ensure that there is a case in the reviewing court where the appellant can file form APP-004, thus preventing confusion among appellants.

The committee further proposes that the instructions on form APP-004 and *Information on Appeal Procedures for Unlimited Civil Appeals* (form APP-001-INFO) be revised to reflect this new deadline. The committee also proposes revising APP-001-INFO to advise appellants that they can use the Appellate Courts Case Information website to check whether their notice of appeal has been lodged and the case has been assigned a case number.

Calendar preference or priority

Last December, the Appellate Caseflow Workgroup¹ made a number of recommendations on ways to improve the efficiency of the appellate process. Among recommendations referred to the Appellate Advisory Committee by the workgroup via the Executive and Planning Committee was for the advisory committee to propose revisions to form APP-004 to "allow litigants or counsel to identify an alternative, non-statutory ground for an appeal to be given priority."

For civil cases in the Court of Appeal, rule 8.240 governs calendar preference and requires a party seeking preference to promptly serve and file a motion for preference in the reviewing court. "Calendar preference" can mean an expedited appeal schedule, including expedited briefing and preference in setting the date of oral argument. The advisory committee comment to

¹ The Appellate Caseflow Workgroup was appointed by former Chief Justice Tani G. Cantil-Sakauye in June 2022 and made its report to her in December 2022. The report is accessible at https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report_Final.pdf.

this rule advises that the rule covers motions for preference based on statute² as well as situations where the court should exercise its discretion to grant preference on a nonstatutory ground.³

Currently, item 2 of part II of form APP-004 reads: “This appeal is entitled to calendar preference/priority on appeal (*cite authority*).” The use of the word “entitled” and the direction to “cite authority” could be construed as narrowing the item only to cases where a statute expressly grants a type of case calendar preference or priority. To prevent this narrow reading, the committee proposes that the item be revised to read: “This appeal is eligible for calendar preference/priority on appeal (*cite authority or explain*).”

Extension of time rules and forms

Rules 8.212, 8.360, and 8.412 of the California Rules of Court permit parties to apply to the Court of Appeal for an extension of time to file a brief in civil, criminal, and juvenile appeals, respectively. Extensions of time to file a brief in the appellate division are permitted by rule 8.882. Currently, parties may use one of five optional forms to request an extension of time to file a brief:

- *Application for Extension of Time to File Brief—Unlimited Civil Case* (form APP-006), in unlimited civil cases in the Court of Appeal
- *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106), in limited civil cases in the appellate division
- *Application for Extension of Time to File Brief—Criminal Case* (form CR-126), in criminal cases
- *Application for Extension of Time to File Brief—Juvenile Justice Case* (form JV-816), in juvenile justice cases
- *Application for Extension of Time to File Brief—Juvenile Dependency Case* (form JV-817), in juvenile dependency cases

For the reasons discussed below, the committee proposes revising these forms to make them mandatory for all parties seeking an extension of time to file a brief and revise the applicable rules of court to reflect this change. The committee also proposes that the council adopt a new mandatory form for seeking an extension of time to file a brief in misdemeanor appeals, *Application for Extension of Time to File Brief—Misdemeanor Case* (form CR-127).

² For example, Code Civ. Proc., § 44 (probate proceedings, contested elections, libel by public official) or § 45 (judgments freeing minors from parental custody).

³ See, e.g., *Warren v. Schechter* (1997) 57 Cal.App.4th 1189, 1199-1200 (finding court had discretion to grant appellate calendar preference where one of the parties was elderly and ailing).

Mandatory extension-of-time forms

In its report to the former Chief Justice, the Appellate Caseflow Workgroup recommended that the committee consider revising the extension-of-time forms to include items for the applicant to indicate that the appeal was a priority case and to describe the degree to which the requested extension would prejudice the parties. In addition to these substantive form recommendations, the Workgroup also suggested that the council “consider whether the rules of court should be modified to require the parties to include all or some of this information when they request an extension without using an approved form.” The Workgroup’s recommendations were designed to ensure that courts had sufficient information to evaluate whether there was good cause for the requested extension.

Earlier this year, the committee proposed, and the council approved, various revisions to the extension-of-time forms to implement the Workgroup’s recommendations and to generally improve the forms.⁴ The committee also considered the Workgroup’s recommendation that the applicable rules be revised to require that applicants provide the same information on the forms when seeking an extension of time using some other application or motion.

The committee now proposes revising the extension-of-time forms to make them mandatory.⁵ Requiring litigants to use the council’s forms when seeking an extension of time to file a brief would achieve the Workgroup’s goal of ensuring that reviewing courts have sufficient information to evaluate whether the requested extension is supported by good cause. In addition, the committee believes that this approach is superior to that suggested by the Workgroup in that it would ensure that the information in the applications is presented in a predictable, easy-to-find format.⁶

To advise litigants that these forms are now mandatory, the committee also proposes amending rules 8.212, 8.360, 8.412, and 8.882 to indicate that parties seeking an extension of time to file a brief must use the appropriate council form. Additionally, the committee proposes revising *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) and

⁴ Judicial Council of Cal., Advisory Com. Rep., *Appellate Procedure: Forms for Extension of Time* (June 29, 2023), <https://jcc.legistar.com/LegislationDetail.aspx?ID=6299977&GUID=F7BCCFE4-23CB-4FF7-8A8D-9EC0E4DED062>.

⁵ In addition to this change, this proposal would revise form APP-006 to provide more space to the applicant to list the reasons why the extension of time is needed. The proposal would also revise form APP-106 to provide a check box for the applicant to indicate the need for additional space and attach a declaration.

⁶ In February 2024, the First District Court of Appeal issued its opinion in *Public Guardian of Contra Costa County v. K.Y.*, No. A166825. In this opinion, the court suggested that the Judicial Council consider (1) clarifying which form should be used for conservatorship or other civil commitment cases, and (2) having the applicable extension of time form prompt the parties to indicate the date on which the challenged order expires. The committee seeks specific comment on whether a new extension of time form or further rules and form revisions are needed to implement this decision.

Information on Appeal Procedures for Limited Civil Cases (form APP-101-INFO) to further advise litigants of this change.⁷

New extension-of-time application form for use in misdemeanor cases

Currently, there is no council form by which the parties in a misdemeanor appeal can request an extension of time to file their briefs. Form CR-126, while applicable in criminal appeals, is formatted for use in the Court of Appeal. Form APP-106 is formatted for use in the appellate division but is applicable in limited civil appeals only.

The committee is therefore proposing the adoption of a new mandatory form, *Application for Extension of Time to File Brief—Misdemeanor Case* (form CR-127). This form is substantively similar to form CR-126 but formatted for use in the appellate division.

Additional minor revisions

The committee proposes making the following minor revisions to the extension-of-time forms:

- Adding an item on each form for the party requesting an extension to indicate how many days they are requesting for the extension.
- Revising the language on the item asking about whether a previous court order granting an extension was marked “no further,” to make the item clearer to litigants.
- Removing the references to cross-appeal briefs from form CR-126. Given the relative rarity of cross-appeals in criminal cases, the committee believes that the form can be simplified by removing these references. If there is a cross-appeal in a criminal case and an extension of time is sought, the committee envisions that the requesting party would use the “supplemental or other brief” option.
- Revising forms CR-126 and JV-816 to direct the party requesting the extension to address prejudice to the parties, as opposed to just prejudice to the defendant or juvenile, respectively.

Alternatives Considered

The committee considered proposing that the civil case information statement deadline be 15 days after the reviewing court “dockets” the appeal but concluded that self-represented litigants may be confused by this term.

The committee considered proposing that the applicable rules of court require extension-of-time applications to include certain information but opted to propose that the existing council forms be made mandatory for the reasons discussed above.

⁷ Attached proposed form APP-101-INFO also incorporates changes from a separate proposal relating to form appellate briefs in limited civil appeals. This separate proposal is being circulated for public comment simultaneously with this proposal.

The committee considered not proposing any changes to the civil case information statement and extension-of-time rules and forms but rejected this option because the proposal would aid appellate efficiency.

Fiscal and Operational Impacts

The committee anticipates no fiscal or operational impacts on the courts as a result of the proposed amendments and revisions. Implementation requirements for courts would involve making litigants, court staff, and judicial officers aware of the changes.

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?
- As discussed in footnote 6, should the committee recommend adoption of a new extension of time form for use in conservatorship or other civil commitment cases or, alternatively, should the committee recommend other revisions to rules or forms to implement the *Public Guardian of Contra Costa v. K.Y.* decision?

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. Cal. Rules of Court, rules 8.100, 8.212, 8.360, 8.412, and 8.882, at pages 7–9
2. Forms APP-001-INFO, APP-004, APP-006, APP-101-INFO, APP-106, CR-126, CR-127, JV-816, and JV-817, at pages 10–56

Rules 8.100, 8.212, 8.360, 8.412, and 8.882 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 8.100. Filing the appeal**

2
3 (a)–(f) * * *

4
5 (g) **Civil case information statement**

6
7 (1) Within 15 days after the ~~superior court clerk sends~~ reviewing court lodges the
8 ~~notification of the filing of the notice of appeal required by (e)(1) and assigns~~
9 the appeal a case number, the appellant must serve and file in the reviewing
10 court a completed *Civil Case Information Statement* (form APP-004),
11 attaching a copy of the judgment or appealed order that shows the date it was
12 entered.

13
14 (2) * * *

15
16 **Rule 8.212. Service and filing of briefs**

17
18 (a) * * *

19
20 (b) **Extensions of time**

21
22 (1)–(2) * * *

23
24 (3) Before the brief is due, a party may apply to the presiding justice for an
25 extension of each period under (a), or under rule 8.200(c)(6) or (7), on a
26 showing that there is good cause and that:

27
28 (A) The applicant was unable to obtain—or it would have been futile to
29 seek—the extension by stipulation; or

30
31 (B) The parties have stipulated to the maximum extension permitted under
32 (1) and the applicant seeks a further extension.

33
34 (4) A party need not apply for an extension or relief from default if it can file its
35 brief within the time prescribed by rule 8.220(a). The clerk must file a brief
36 submitted within that time if it otherwise complies with these rules.

37
38 (5) Parties seeking an extension of time to file a brief must use *Application for*
39 *Extension of Time to File Brief—Unlimited Civil Case* (form APP-006).

40
41 (c) * * *

Rules 8.100, 8.212, 8.360, 8.412, and 8.882 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1
2 **Rule 8.360. Briefs by parties and amici curiae**

3
4 **(a)–(b)** * * *

5
6 **(c) Time to file**

- 7
8 (1) The appellant’s opening brief must be served and filed within 40 days after
9 the record is filed in the reviewing court.
10
11 (2) The respondent’s brief must be served and filed within 30 days after the
12 appellant’s opening brief is filed.
13
14 (3) The appellant must serve and file a reply brief, if any, within 20 days after the
15 respondent files its brief.
16
17 (4) The time to serve and file a brief may not be extended by stipulation, but only
18 by order of the presiding justice under rule 8.60. Parties seeking an extension
19 of time to file a brief must use *Application for Extension of Time to File*
20 *Brief—Criminal Case* (form CR-126).

21
22 (5)–(6) * * *

23
24 **(d)–(f)** * * *

25
26 **Rule 8.412. Briefs by parties and amici curiae**

27
28 **(a)–(b)** * * *

29
30 **(c) Extensions of time**

31
32 The superior court may not order any extensions of time to file briefs. Except in
33 appeals governed by rules 8.416 and 8.417, the reviewing court may order
34 extensions of time for good cause. Parties seeking an extension of time to file a
35 brief must use *Application for Extension of Time to File Brief—Juvenile Justice*
36 *Case* (form JV-816) or *Application for Extension of Time to File Brief—Juvenile*
37 *Dependency Case* (form JV-817).

38
39 **(d)–(e)** * * *

40
41 **Rule 8.882. Briefs by parties and amici curiae**

Rules 8.100, 8.212, 8.360, 8.412, and 8.882 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 (a) * * *

2

3 (b) Extensions of time

4

5 (1)–(2) * * *

6

7 (3) Before the brief is due, a party may apply to the presiding judge of the
8 appellate division for an extension of the time period for filing a brief under
9 (a). The application must show that there is good cause to grant an extension
10 under rule 8.811(b). In civil appeals, the application must also show that:

11

12 (A) The applicant was unable to obtain—or it would have been futile to
13 seek—the extension by stipulation; or

14

15 (B) The parties have stipulated to the maximum extension permitted under
16 (1) and the applicant seeks a further extension.

17

18 (4) A party need not apply for an extension or relief from default if it can file its
19 brief within the time prescribed by (c). The clerk must file a brief submitted
20 within that time if it otherwise complies with these rules.

21

22 (5) Parties seeking an extension of time to file a brief must use *Application for*
23 *Extension of Time to File Brief—Limited Civil Case* (form APP-106) in
24 limited civil appeals or *Application for Extension of Time to File Brief—*
25 *Misdemeanor Case* (form CR-127) in misdemeanor appeals.

26

27 (c)–(e) * * *

28

GENERAL INFORMATION

1 What does this information sheet cover?

This information sheet tells you about appeals in unlimited civil cases. These are civil cases in which the amount of money claimed is more than \$35,000, as well as other types of cases, such as those filed in family court, probate court, and juvenile court.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read "Information for the Appellant," starting on page 3. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read "Information for the Respondent," starting on page 13.

This information sheet does not cover everything you may need to know about appeals in unlimited civil cases. It gives you a general idea of the appeal process. To learn more:

- Read [rules 8.100–8.278](#) of the California Rules of Court, which set out the procedures for unlimited civil appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.
- Read the local rules and find out about self-help resources for the district in which you filed your appeal at www.courts.ca.gov/courtsofappeal.htm.
- Visit the Self-Help Guide to the California Courts at <https://selfhelp.courts.ca.gov/>.
- Review the counties included in each appellate district at www.courts.ca.gov/documents/appdistmap.pdf.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in the superior court. In an unlimited civil case, the court hearing the appeal is the Court of Appeal for the district in which the superior court is located. The lower court—called the "trial court" in this information sheet—is the superior court.

It is important to understand that **an appeal is NOT a new trial**. The Court of Appeal will not consider new evidence, such as the testimony of new witnesses or new exhibits.

The appellate court's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made.

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#))
- *Information on Appeal Procedures for Infractions* (form [CR-141-INFO](#))
- *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#))

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

3 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person's guardian or conservator).

4 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. [Code of Civil Procedure section 904.1](#) lists a few types of orders in an unlimited civil case that can be appealed right away. These include orders that:

- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum.
- Grant a new trial or deny a motion for judgment notwithstanding the verdict.
- Discharge or refuse to discharge an attachment or grant a right to attach.
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction. Note: Injunctions include restraining orders.
- Appoint a receiver.
- Are made after final judgment in the case.



- Are made appealable by the Family Code or the Probate Code.

You should consult with a lawyer or a court self-help center to determine if your order is final and appealable. Go to www.courts.ca.gov/selfhelp-selfhelpcenters.htm to find information about the self-help center in your county.

(You can view [Code of Civil Procedure section 904.1](#) using the link below: leginfo.legislature.ca.gov/faces/codes.xhtml.)

5 What does the appellant need to prove to win on appeal?

The appellant must prove that an error in the trial court proceedings was made and that the error affected the outcome of the court's or jury's decision. An error that affected the outcome of the case is called a "prejudicial error."

An error can include things like errors made by the judge about the law, errors or misconduct by the lawyers or by the jury, incorrect instructions given to the jury, or insufficient evidence to support the judgment, order, or other decision being appealed. Note: This is not a complete list of all possible errors.

When the appellant argues that the error was based on insufficient evidence to support the judgment or other decision being appealed, the Court of Appeal will determine whether there was "substantial evidence" to support the judgment, order, or other decision being appealed. But in conducting its review, the Court of Appeal only looks to see if there was evidence that reasonably supports the decision.

The Court of Appeal generally will not reconsider the jury's or the trial court's conclusions about which side had more or stronger evidence or whether witnesses were believable. It only determines whether the evidence is sufficient to support the judgment, order, or other decision.

The Court of Appeal will generally not overturn the judgment, order, or other decision being appealed unless the record shows a prejudicial error was made. The winning party does not have to prove that the judgment, order, or other decision was correct. Instead, it is up to the appellant to prove that the error was made and that the error affected the outcome of the case.

6 Do I need a lawyer to represent me in an appeal?

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court.

However, if you need to keep your contact information private (for instance, in an appeal involving a domestic violence restraining order), you may give a different mailing address instead. But if you use a different address, be sure to check it regularly to stay informed about your case and about your obligations regarding your case.

You must keep the Court of Appeal, the trial court (if the trial court proceedings continue or are expected to continue), and the other parties in your case informed of any change in your contact information for service of notices and other documents relating to the appeal.

For your trial court case, you may complete *Notice of Change of Address or Other Contact Information* (form [MC-040](#)), file it in the trial court, and have it served on the parties in the case.

For your case in the Court of Appeal, you may refer to form MC-040 as an example of the information that you need to include in a notice regarding the change in your contact information. That notice must be filed in the Court of Appeal and served on the parties in the appellate case.

7 Where can I find a lawyer to help me with my appeal?

You have to hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help.



INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in an unlimited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 13 of this information sheet.

8 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to prepare a notice of appeal in an unlimited civil case. You can get form APP-002 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

9 How do I “serve and file” the notice of appeal?

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or send (by mail or electronically) the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court.

Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

10 Is there a deadline to serve and file my notice of appeal?

Yes. Generally, in an unlimited civil case, the notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court within **60 days** after the trial court clerk or a party serves either (1) a document called a “Notice of Entry” of the trial court judgment or appealable order or (2) a file-stamped copy of the judgment or appealable order.

If the clerk or a party served neither of these documents, the notice of appeal must be filed within 180 days after entry of judgment or appealable order (generally, the date the judgment or appealable order is file-stamped).

This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the Court of Appeal will not be able to consider your appeal.

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a “cross-appeal.”

To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later. A party that wishes to cross-appeal may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to file this notice in an unlimited civil case.

11 Do I have to pay a fee to file a notice of appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in an unlimited civil case in the current Statewide Civil Fee Schedule at www.courts.ca.gov/7646.htm (see the “Appeal and Writ Related Fees” section near the end of the schedule).



If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

12 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money, deliver property to another party, or comply with child custody or visitation orders (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at www.leginfo.legislature.ca.gov/faces/codes.xhtml). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request or some other procedure authorizes a stay (such as filing a bond in appropriate cases).

In most cases, if the trial court denies your request for a stay, you can apply to the Court of Appeal for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

13 What do I need to do after I file my notice of appeal?

Within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form [APP-004](#)), attaching a copy of the judgment or appealed order that shows the date it was entered. See [rules 8.100](#) and [8.104](#) of the California Rules of Court. You may check to see if your notice of appeal has been lodged and a case number assigned to your appeal by going to the Appellate Courts Case Information website located at appellatecases.courtinfo.ca.gov/index.cfm.

In addition, since the Court of Appeal justices were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the Court of Appeal for its review.

Within 10 days of filing the notice of appeal, the appellant must tell the trial court in writing (designate) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. You will need to designate all parts of the record that the Court of Appeal will need to decide the issues you raised in the appeal.

You can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to designate the record in an unlimited civil case. You can get form APP-003 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. “Serving and filing” this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or send (by mail or electronically) the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.



You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

14 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of the documents filed in the trial court (other than exhibits);
- A record of what was said in the trial court (this is called the “oral proceedings”); and
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court.

Read below for more information about these parts of the record.

a. Record of the documents filed in the trial court

The first part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the Court of Appeal:

- A *clerk’s transcript* or an *appendix*,
- The original *trial court file*, or
- An *agreed statement*.

Read below for more information about these options.

(1) Clerk’s transcript or appendix

Description: A clerk’s transcript is a compilation of the documents filed in the trial court that is prepared by the trial court clerk. An appendix is a compilation of these documents prepared by a party. (Cal. Rules of Court, rule [8.124](#).)

Contents: Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in rule [8.122\(b\)](#) and rule [8.124\(b\)](#) of the California Rules of Court and in Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case) (form [APP-003](#)).

Clerk’s transcript. If you want any documents other than those listed in rule [8.122\(b\)](#) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form [APP-003](#) to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you (the appellant) request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk’s transcript.

Cost: The appellant is responsible for paying for preparing a clerk’s transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk’s transcript.

You must do one of the following three things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm. The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the clerk’s transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk’s transcript to the Court of Appeal for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.



Appendix: If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk’s transcript, that appendix must include all of the documents and be prepared in the form required by rule [8.124](#) of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. The appellant’s appendix or a joint appendix must be served and filed before or together with the appellant’s opening brief. See [\(16\)](#) for information about the brief.

(2) Trial court file

When available: If the Court of Appeal has a local rule allowing this, and the parties agree, the clerk can send the Court of Appeal the original trial court file instead of a clerk’s transcript as a record of documents filed in the trial court (see rule [8.128](#) of the California Rules of Court).

Cost: As with a clerk’s transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost.

You must do one of the following things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.court.ca.gov/forms. The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will number the pages and send the file and a list of the documents in the file to the Court of Appeal. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order and number the pages.

(3) Agreed statement

Description: An agreed statement is a summary of the trial court proceedings agreed to by the parties. (See: rule [8.134](#) of the California Rules of Court.)

When available: If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter’s transcript, if it is available.

Contents: An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal has “jurisdiction”), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a “stipulation”) that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.



b. Record of what was said in the trial court (the “oral proceedings”)

Important! The type of record of the oral proceedings that you choose, including a reporter’s transcript or a settled statement, should be carefully considered, as it may affect your appeal. You should consult with a lawyer to determine the best option in your case.

The second part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the “oral proceedings”). You do not *have* to send the Court of Appeal a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the Court of Appeal to consider what was said in the trial court, the Court of Appeal will need a record of those oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the Court of Appeal will presume there was substantial evidence unless it has a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the Court of Appeal. **If the Court of Appeal does not receive this record, you may forfeit your arguments on appeal, or the Court of Appeal may make presumptions in favor of the judgment or order.**

In an unlimited civil case, you can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to tell the trial court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form [APP-003](#) at any courthouse or county law library or online at www.courts.ca.gov/forms.

There are three ways in which a record of the oral proceedings can be prepared for the Court of Appeal:

- If you or the other party arranged to have a court reporter present during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- You can use an *agreed statement*.
- You can use a *settled statement*.

Read below for more information about these options.

(1) Reporter’s transcript

Description: A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule [8.130](#) of the California Rules of Court establishes the requirements for reporter’s transcripts.

When available: If a court reporter was present in the trial court and made a record of the oral proceedings, you can choose (elect) to have the court reporter prepare a reporter’s transcript for the Court of Appeal. But a court reporter might not have been present unless you or another party in your case had made specific arrangements to have a court reporter present. If you are unsure, check with the trial court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want to be included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#))—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed



without a reporter's transcript, however, the respondent may not designate a reporter's transcript without first getting an order from the Court of Appeal.

Cost: The appellant is responsible for paying for preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.130 with the trial court clerk within 10 days after this notice is sent. (See rule [8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#rtf.

If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a settled statement, which are described below.

Completion and delivery: After the cost of preparing the reporter's transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the Court of Appeal and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter's transcript will also be mailed to the respondent.

(2) Agreed statement

Description: An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. See rule [8.134](#) of the California Rules of Court.

When available: If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter's transcript, if it is available.

Contents: An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a "stipulation") that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.

(3) Settled statement

Description: A settled statement is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners, referees, hearing officers, and temporary judges).

When available: Under rule [8.137](#) of the California Rules of Court, you can choose (elect) to use a settled statement as the record of the oral



proceedings if (1) the trial court proceedings were not recorded by a court reporter or (2) if you have an order waiving your court fees and costs. Please note that it may take more of your time to prepare a settled statement than to use a reporter's transcript, if it is available.

If you want to use a settled statement as the record of the oral proceedings for reasons other than the two previously mentioned, you must file a motion to ask the trial court for an order. You may use *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) for this purpose. Read rule [8.137](#) about the requirements of your motion or request for order.

Contents: A settled statement must include:

- A statement of the points you (the appellant) are raising on appeal;
- A condensed narrative of the oral proceedings that you specified in the notice designating the record on appeal or motion. The condensed narrative is a summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal; and
- A copy of the judgment or order you are appealing attached to the settled statement.

Preparing a proposed settled statement: If you elect to use a settled statement, you must prepare a proposed settled statement. You may use *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form [APP-014](#)) to prepare your proposed statement. You can get the form at any courthouse or county law library or online at www.courts.ca.gov/forms.

(See rule 8.137 of the California Rules of Court for more information about what must be included in a settled statement and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Serving and filing a proposed settled statement:

You must serve and file the proposed statement within 30 days after filing your notice electing to use a settled statement or within 30 days after the trial court clerk sends, or a party serves, the order granting the motion to use a settled statement.

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the proposed settled statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed settled statement has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed settled statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.



Respondent's review: The respondent has 20 days from the date you serve your proposed settled statement to serve and file either:

- Proposed changes (called “amendments”) to the proposed statement; or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that the respondent is electing to provide a reporter’s transcript instead of proceeding with a settled statement.

Review of appellant’s proposed settled statement: If the respondent proposes changes, the trial court judge then reviews both your proposed statement and the respondent’s proposed amendments. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal. For more information, see rule [8.137\(f\)](#) of the California Rules of Court. See also rule [8.140](#), which explains the consequences for a party’s failure to make corrections that are ordered to be made to the proposed statement.

Request for hearing to review proposed settled statement: No later than 10 days after the respondent files proposed amendments, or the time to do so has expired, a party may request a hearing to review and correct the proposed statement. No hearing will be held unless ordered by the trial court judge. A judge will not ordinarily order a hearing unless there is a factual dispute about a material aspect of the trial court proceeding. If there is a hearing, see rule [8.137](#) for more information.

Additional review procedures: If there is no hearing after the respondent proposes changes to the settled statement, and if the judge makes any

corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review.

If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. See rule [8.140](#), which explains the consequences for a party’s failure to make corrections to the proposed statement.

If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file proposed amendments or objections to the statement. The judge then reviews the modified or corrected statement and any proposed modifications. If the judge decides that further corrections or modifications are necessary, the review process described above takes place again.

Completion and certification: If the judge does not order any corrections or modifications to the proposed statement, the judge must promptly certify the statement as an accurate summary of the evidence and testimony of each witness relevant to the issues you indicated you are raising on appeal.

Alternatively, the parties may serve and file a stipulation (agreement) that the statement as originally served or corrected or modified is correct. Such a stipulation is equivalent to the judge’s certification of the statement.

Sending settled statement to the Court of Appeal: Once the trial court judge certifies the statement or the trial court receives the parties’ stipulation, the trial court clerk will send the statement to the Court of Appeal as required under rule [8.150](#) of the California Rules of Court.



c. Exhibits

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the Court of Appeal at the time briefs are filed. (See rule [8.224](#) for more information about this procedure and see below for information about briefs.)

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk’s transcript or sent to the Court of Appeal, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

15 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal for the district in which the trial court is located. When the Court of Appeal receives the record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

16 What is a brief?

Description: A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself.

You should read rules [8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

Contents and format of briefs: If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain the legal errors you believe were made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Each brief must be no longer than 14,000 words if produced on a computer, including footnotes. A brief produced on a typewriter must not be longer than 50 pages. The brief must contain a table of contents and a table of authorities. The cover of appellant’s opening brief filed in paper form must be green. For other content and formatting requirements for the brief, read rules [8.40](#) and [8.204](#) of the California Rules of Court.

Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

Serving and filing: You must serve and file your opening brief within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant chooses to proceed with no reporter’s transcript under rule [8.124](#). “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.



- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk’s transcript, the appellant’s appendix or a joint appendix must be served and filed before or together with the appellant’s opening brief.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see [rule 8.212\(b\)](#) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension (see [rule 8.63](#) for information about extensions of time). You **must** use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

If you do not file your brief by the deadline set by the Court of Appeal, the court may dismiss your appeal.

17 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent must respond by serving and filing a respondent’s brief. Within 20 days after the respondent’s brief was filed, you may, but are not required to, file another brief replying to the respondent’s brief. This is called a “reply brief.”

18 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

19 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in [rule 8.256](#) of the California Rules of Court and online at www.courts.ca.gov/12421.htm.

20 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

21 What should I do if I want to give up my appeal?

If you do not want to continue with your appeal, you must notify the court. If the record has not yet been filed in the Court of Appeal, file *Abandonment of Appeal (Unlimited Civil Case)* (form [APP-005](#)) in the superior court.

If the record has already been filed in the Court of Appeal, file *Request for Dismissal of Appeal (Civil Case)* (form [APP-007](#)) in the Court of Appeal.



INFORMATION FOR THE RESPONDENT

This part of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in an unlimited civil case. The information may also be helpful to the appellant.

22 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything, but there may be consequences if you do nothing. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help.

23 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to file this notice in an unlimited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 3 of this information sheet, if you are considering filing a cross-appeal.

24 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 60 days after service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 20 days after the clerk of the trial court serves notice of the first appeal, whichever is later.

25 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything, but there may be consequences if you do nothing. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the Court of Appeal. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record;
- Participate in preparing the record; *or*
- Ask for a copy of the record.

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question **14** above. Then read below for what your options are when the appellant has chosen that form of the record.

a. Clerk's transcript or appendix

Clerk’s transcript: If the appellant is using a clerk’s transcript, you have the option of asking the clerk to include additional documents in the clerk’s transcript. To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk’s transcript. You may use *Respondent’s Notice Designating Record on Appeal—Unlimited Civil Case* (form [APP-010](#)) for this purpose.



Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent.

If you cannot afford to pay this cost, you can ask the trial court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The trial court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit payment for the cost or obtain a fee waiver.

Appendix: If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent's appendix. See pages 5–6 for more information about preparing an appendix.

If the appellant chooses a clerk's transcript but does not have a waiver of the fee for a clerk's transcript, you can choose an appendix instead of a clerk's transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form APP-010) within 10 days after the appellant's notice designating the record on appeal is filed.

b. Reporter's transcript

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript. You may use *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form [APP-010](#)) for this purpose.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule [8.130](#) with the trial court clerk within 10 calendar days after this notice is sent. (See rule [8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#trf.

The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or provide one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

c. Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 40 days after the appellant files its notice of appeal. See rule [8.134](#) of the California Rules of Court.

d. Settled statement

If the appellant elects to use a settled statement (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed settled statement to review. You will have 20 days from the date the appellant served you this proposed statement to serve and file either:



- Suggested changes (called “amendments”) that you think are needed to make sure that the settled statement provides an accurate summary of the evidence and testimony of each witness relevant to the issues the appellant is raising on appeal (see page 10 of this form and rule [8.137\(e\)–\(h\)](#) for more information about the amendment process); or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that you are choosing to provide a reporter’s transcript, at your expense, instead of proceeding with a settled statement (see [rule 8.137\(e\)\(2\)](#) for the requirements for choosing to provide a reporter’s transcript).

Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

26 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal. When the Court of Appeal receives this record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself.

You should read rules [8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

The appellant serves and files the first brief, called an “appellant’s opening brief.” You must respond by serving and filing a “respondent’s brief” within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record.



The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see rule 8.212(b) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension. You **must** use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

If you do not file a respondent’s brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

If you file a respondent’s brief, the appellant then has an opportunity to serve and file another brief within 20 days to reply to your brief.

27 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

28 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in rule [8.256](#) of the California Rules of Court and online at www.courts.ca.gov/12421.htm.

29 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	COURT OF APPEAL CASE NUMBER (if known):
ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">02.14.2024</h2> <h2 style="margin: 0;">Not approved</h2> <h2 style="margin: 0;">by Judicial</h2> <h2 style="margin: 0;">Council</h2>
APPELLANT: RESPONDENT:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
JUDGES (all who participated in case):	SUPERIOR COURT CASE NUMBER:
CIVIL CASE INFORMATION STATEMENT	
NOTE TO APPELLANT: You must file this form with the clerk of the Court of Appeal within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number. You must attach to this form a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered"). A copy of this form must also be served on the other party or parties to this appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2) or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).	

PART I – APPEAL INFORMATION

1. APPEALABILITY

a. Appeal is from:

- judgment after jury trial.
- judgment after court trial.
- default judgment.
- judgment after an order granting a summary judgment motion.
- judgment of dismissal under Code Civ. Proc., § 581d, 583.250, 583.360, or 583.430.
- judgment of dismissal after an order sustaining a demurrer.
- an order after judgment under Code Civ. Proc., § 904.1(a)(2).
- an order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13).
- Other (describe and specify code section that authorizes this appeal):

b. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

- Yes No (If no, please explain why the judgment is appealable):

2. TIMELINESS OF APPEAL (Provide all applicable dates.)

- a. Date of entry of judgment or order appealed from:
- b. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.104:
- c. Was a motion for new trial, for judgment notwithstanding the verdict, for reconsideration, or to vacate the judgment made and denied?

- Yes No (If yes, please specify the type of motion):

Date notice of intention to move for new trial (if any) filed:

Date motion filed:

Date motion denied:

Date denial served:

d. Date notice of appeal or cross-appeal filed:

3. BANKRUPTCY OR OTHER STAY

Is there a related bankruptcy case or a court-ordered stay that affects this appeal? Yes No
 (If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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4. APPELLATE CASE HISTORY (*Provide additional information, if necessary, on attachment 4.*) Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court?

Yes No (If yes, insert name of appellate court):

Appellate court case no.:

Title of case:

Name of trial court:

Trial court case no.:

5. SERVICE REQUIREMENTS

Is service of documents in this matter, including a notice of appeal, petition, or brief, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute?

Yes No (*If yes, please indicate the rule or statute that applies*)

Rule 8.29 (e.g., constitutional challenge; state or county party) Code Civ. Proc., § 1355 (Escheat)

Bus. & Prof. Code, §16750.2 (Antitrust)

Gov. Code, § 946.6(d) (Actions against public entities)

Bus. & Prof. Code, § 17209 (Unfair Competition Act)

Gov. Code, § 4461 (Disabled access to public buildings)

Bus. & Prof. Code, § 17536.5 (False advertising)

Gov. Code, § 12656(a) (False Claims Act)

Civ. Code, § 51.1 (Unruh, Ralph, or Bane Civil Rights Acts; antiboycott cause of action; sexual harassment in business or professional relations; civil rights action by district attorney)

Health & Saf. Code, § 19954.5 (Accessible seating and accommodations)

Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations)

Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing)

Pub. Resources Code, § 21167.7 (CEQA)

Other (*specify statute*):

NOTE: The rule and statutory provisions listed above require service of a copy of a party's notice of appeal, petition, or brief on the Attorney General or other public officer or agency. Other statutes requiring service on the Attorney General or other public officers or agencies may also apply.

PART II – NATURE OF ACTION

1. Nature of action (*check all that apply*):

a. Conservatorship

b. Contract

c. Eminent domain

d. Equitable action (1) Declaratory relief (2) Other (*describe*):

e. Family law

f. Guardianship

g. Probate

h. Real property rights (1) Title of real property (2) Other (*describe*):

i. Tort

(1) Medical malpractice

(2) Product liability

(3) Other personal injury

(4) Personal property

(5) Other tort (*describe*):

j. Trust proceedings

k. Writ proceedings in superior court

(1) Mandate (Code Civ. Proc., § 1085) (2) Administrative mandate (Code Civ. Proc., § 1094.5)

(3) Prohibition (Code Civ. Proc., § 1102) (4) Other (*describe*):

l. Other action (*describe*):

2. This appeal is eligible for calendar preference/priority on appeal (*cite authority or explain*):

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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PART III – PARTY AND ATTORNEY INFORMATION

In the spaces below or on a separate page or pages, list all the parties and all their attorneys of record who will participate in the appeal. For each party, provide all of the information requested on the left side of the page. On the right side of the page, if a party is self-represented please check the appropriate box and provide the party's mailing address, telephone number, fax number, and e-mail address. If a party is represented by an attorney, on the right side of the page, check the appropriate box and provide all of the requested information about that party's attorney.

Responses to Part III are attached instead of below

Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: Email address:
Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: Email address:
Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: Email address:
Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: Email address:

Additional pages attached

Date:

This statement is prepared and submitted by:



(SIGNATURE OF ATTORNEY OR SELF-REPRESENTED PARTY)

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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NOTICE TO PARTIES: A copy of this form must be served on the other party or parties to this appeal. If served by mail or personal delivery, THE MAILING OR DELIVERY MUST BE PERFORMED BY SOMEONE WHO IS NOT A PARTY TO THE APPEAL. Electronic service is authorized only if ordered by the court or if the party served has agreed to accept electronic service. A person who is at least 18 years old must complete the information below and serve all pages of this document. When all pages of this document have been completed and a copy served, the original may then be filed with the court.

PROOF OF SERVICE

Mail **Personal Service** **Electronic Service**

1. At the time of service I was at least 18 years of age.
2. My residence or business address is (*specify*):

3. I mailed, personally delivered, or electronically served a copy of the *Civil Case Information Statement (Appellate)* as follows (*complete a, b, or c*):
 - a. **Mail.** I am a resident of or employed in the county where the mailing occurred and am not a party to this legal action.
 - (1) I enclosed a copy in an envelope **and**
 - (a) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:

 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. **Personal delivery.** I am not a party to this legal action. I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:

 - (3) Date delivered:
 - (4) Time delivered:
 - c. **Electronic service.** My electronic service address is (*specify*):
 I electronically served a copy as follows:
 - (1) Name of person served:
 - (2) Electronic service address of person served:
 - (3) On (*date*):

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

Date:

(TYPE OR PRINT NAME)

 _____

(SIGNATURE OF DECLARANT)

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER:		SUPERIOR COURT CASE NUMBER:
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):		<h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">2.07.2024</h2> <h2 style="margin: 0;">Not approved</h2> <h2 style="margin: 0;">by Judicial</h2> <h2 style="margin: 0;">Council</h2>
APPELLANT: RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— UNLIMITED CIVIL CASE		
Notice: Please read Judicial Council form APP-001-INFO before completing this form.		

1. a. I (name): _____ request that the time to file (check one)
 - appellant's opening brief (AOB)
 - respondent's brief (RB)
 - combined respondent's brief (RB) and appellant's opening brief (AOB) (see Cal. Rules of Court, rule [8.216](#))
 - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
 - appellant's reply brief (ARB)
 - supplemental or other brief
- b. now due on (date): _____
- c. be extended to (date): _____ for an extension of (total number of days sought): _____ days.
2. I have have not received a Cal. Rules of Court, rule [8.220](#) default notice.
3. I have received
 - no previous extensions to file this brief.
 - the following previous extensions:
 - (number of extensions): _____ extensions by stipulation totaling (total number of days): _____
 - (number of extensions): _____ extensions from the court totaling (total number of days): _____

Did the court use the words "no further" in a prior order or directive granting an extension? Yes No
4. I am unable to file a stipulation to an extension because
 - the other party is unwilling to stipulate to an extension.
 - the maximum stipulated time has already been used.
 - other reason (please specify): _____
5. The last brief filed by any party was AOB RB RB and AOB ARB and RB ARB Other filed on (date): _____
6. The record in this case is

	Volumes (#)	Pages (#)	Date filed
Appendix/Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____
7. The trial court has ordered the proceedings in this case stayed until this appeal is decided.

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
---------------------------	------------------------------

8. This appeal is eligible for, or has been granted, calendar preference/priority (*cite authority or explain*):

9. The reasons that I need an extension to file this brief are stated

below

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose. (*Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties*):

10. For attorneys filing application on behalf of client, I certify that I have delivered a copy of this application to my client (Cal. Rules of Court, rule [8.60](#)).

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

_____ _____
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS

granted to (*date*):

denied

Date:

 (SIGNATURE OF PRESIDING JUSTICE)

GENERAL INFORMATION

1 What does this information sheet cover?

This information sheet tells you about appeals in limited civil cases. These are civil cases in which the amount of money claimed is \$35,000 or less.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read Information for the Appellant, starting on page 2. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read Information for the Respondent, starting on page 11.

This information sheet does not cover everything you may need to know about appeals in limited civil cases. It is meant only to give you a general idea of the appeal process. To learn more, you should read rules 8.800–8.843 and 8.880–8.891 of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. **In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made:

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form [APP-001-INFO](#))
- *Information on Appeal Procedures for Infractions* (form [CR-141-INFO](#))
- *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#))

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”).

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the jury's or trial court's conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.



3 Do I need a lawyer to represent me in an appeal?

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

4 Where can I find a lawyer to help me with my appeal?

You have to hire your own attorney if you want one. You can get information about finding an attorney on the Self-Help Guide to the California Courts at selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help.

INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 11 of this information sheet.

5 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person’s guardian or conservator).

6 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. Code of Civil Procedure section 904.2 lists a few types of orders in a limited civil case that can be appealed right away. These include orders that:

- Change or refuse to change the place of trial (venue)
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum
- Grant a new trial or deny a motion for judgment notwithstanding the verdict
- Discharge or refuse to discharge an attachment or grant a right to attach
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction
- Appoint a receiver
- Are made after final judgment in the case

(You can get a copy of Code of Civil Procedure section 904.2 at leginfo.legislature.ca.gov/faces/codes.xhtml.)

7 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal—Limited Civil Case* (form [APP-102](#)) to prepare a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or online at www.courts.ca.gov/forms.

8 How do I “serve and file” the notice of appeal?

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.



- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or mail the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

9 Is there a deadline to file my notice of appeal?

Yes. In a limited civil case, except in the very limited circumstances listed in rule 8.823, you must file your notice of appeal within **30 days** after the trial court clerk or a party serves either a document called a “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within 90 days after entry of the judgment, whichever is earlier.

This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.

10 Do I have to pay to file an appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in a limited civil case in the current Statewide Civil Fee Schedule linked at www.courts.ca.gov/7646.htm (note that the “Appeal and Writ Related Fees” section is near the end of this schedule and that there are different fees for limited civil cases depending on the amount demanded in the case). If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

11 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money or to deliver property to another party (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at www.leginfo.legislature.ca.gov/faces/codes.xhtml). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. In most cases, other than unlawful detainer cases in which the trial court’s judgment gives a party possession of the property, if the trial court denies your request for a stay, you can apply to the appellate division for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

12 What do I need to do after I file my notice of appeal?

You must ask the clerk of the trial court to prepare and send the official record of what happened in the trial court in your case to the appellate division.



Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the appellate division for its review. You can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. "Serving and filing" this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or mail the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

13 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of what was said in the trial court (this is called the "oral proceedings")
- A record of the documents filed in the trial court (other than exhibits)
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

Read below for more information about these parts of the record.

a. Record of what was said in the trial court (the "oral proceedings")

The first part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the "oral proceedings"). You do not *have* to send the appellate division a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of those oral proceedings. For example, if you are claiming that there was not evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what was said in the trial court and it may dismiss your appeal.**

In a limited civil case, you can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get



form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

There are four ways in which a record of the oral proceedings can be prepared for the appellate division:

- If you or the other party arranged to have a court reporter there during the trial court proceedings, the reporter can prepare a record, called a “reporter's transcript.”
- If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the court has a local rule permitting this and you and the other party agree (“stipulate”) to this, you can use the *official electronic recording* itself instead of a transcript.
- You can use an agreed statement.
- You can use a statement on appeal.

Read below for more information about these options.

(1) Reporter's transcript

Description: A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule 8.834 of the California Rules of Court establishes the requirements relating to reporter’s transcripts.

When available: If a court reporter was there in the trial court and made a record of the oral proceedings, you can choose (“elect”) to have the court reporter prepare a reporter's transcript for the appellate division. In most limited civil cases, however, a court reporter will not have been there unless you or another party in your case made specific arrangements to have a court reporter there. Check with the court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed without a reporter's transcript, however, the respondent may not designate a reporter’s transcript without first getting an order from the appellate division.

Cost: The appellant is responsible for paying for preparing a reporter’s transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter’s transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk’s transcript, the court cannot waive the fee for preparing a reporter’s transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#rtf. If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a statement on appeal, which are described below.

Completion and delivery: After the cost of preparing the reporter’s transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter’s transcript will also be mailed to the respondent.



(2) Official electronic recording or transcript

When available: In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. If your case was officially recorded, you can choose (“elect”) to have a transcript prepared from the recording. Check with the trial court to see if the oral proceedings in your case were officially electronically recorded before you choose this option. If the court has a local rule permitting this and all the parties agree (“stipulate”), a copy of an official electronic recording itself can be used as the record, instead of preparing a transcript. If you choose this option, you must attach a copy of this agreement (“stipulation”) to your notice designating the record on appeal.

Contents: If you elect to use a transcript of an official electronic recording, you must identify by date (this is called “designating”) what proceedings you want included in the transcript. You can use the same form you used to tell the court you wanted to use a transcript of an official electronic recording—*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

Cost: The appellant is responsible for paying the court for the cost of either (a) preparing a transcript *or* (b) making a copy of the official electronic recording.

(a) If you elect to use a transcript of an official electronic recording, you will need to deposit the estimated cost of preparing the transcript with the trial court clerk and pay the trial court a \$50 fee. There are two ways to determine the estimated cost of the transcript:

- You can use the amounts listed in rule 8.130 (b)(1)(B) for each full or half day of court proceedings to estimate the cost of making a transcript of the proceeding you have designated in your notice designating the record on appeal. Deposit this estimated amount and the \$50 fee with the trial court clerk when you file your notice designating the record on appeal.

- You can ask the trial court clerk for an estimate of the cost of preparing a transcript of the proceedings you have designated in your notice designating the record on appeal. You must deposit this amount and the \$50 fee with the trial court within 10 days of receiving the estimate from the clerk.

(b) If the court has a local rule permitting the use of a copy of the electronic recording itself, rather than a transcript, and you have attached your agreement with the other parties to do this (“stipulation”) to the notice designating the record on appeal that you filed with the court, the trial court clerk will provide you with an estimate of the costs for this copy of the recording. You must pay this amount to the trial court.

If you cannot afford to pay the cost of preparing the transcript, the \$50 fee, or the fee for the copy of the official electronic recording, you can ask the court to waive these costs. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.

Completion and delivery: After the estimated cost of the transcript or official electronic recording has been paid or waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared and the rest of the record is complete, the clerk will send it to the appellate division.

(3) Agreed statement

Description: An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. (See rule 8.836 of the California Rules of Court.)

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose (“elect”) to use an agreed statement as the record of the oral proceedings (please note that it



may take more of your time to prepare an agreed statement than to use either a reporter's transcript or official electronic recording, if they are available).

Contents: An agreed statement must explain what the trial court case was about, describe why the appellate division is the right court to consider an appeal in this case (why the appellate division has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file the agreed statement with your notice designating the record on appeal or, if you and the other parties need more time to work on the statement, you can file a written agreement with the other parties (called a "stipulation") stating that you are trying to agree on a statement. If you file this stipulation, within the next 30 days you must either file the agreed statement or tell the court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

(4) Statement on appeal

Description: A statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners and temporary judges).

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose ("elect") to use a statement on appeal as the record of the oral proceedings (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter's transcript or official electronic recording, if they are available).

Contents: A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;

- A summary of the trial court's rulings and judgment; and
- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule 8.837 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Preparing a proposed statement: If you elect to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Limited Civil Case)* (form APP-104) to prepare your proposed statement. You can get form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file the proposed statement with the trial court within 20 days after you file your notice designating the record. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed statement has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records



before you file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

Review and modifications: The respondent has 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the respondent. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Completion and certification: If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review. If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes or orders you to make any additional corrections to the statement, and certifies the statement as an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Sending statement to the appellate division: Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with any record of the documents filed in the trial court.

b. Record of the documents filed in the trial court

The second part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the appellate division:

- A clerk’s transcript or an appendix
- The original *trial court file* or
- An *agreed statement*

Read below for more information about these options.

(1) Clerk’s transcript or appendix

Description: A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court. An appendix is a record of these documents prepared by a party. (See rule 8.845 of the California Rules of Court.)

Contents: Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in rule 8.832(a) and rule 8.845(b) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103).

Clerk’s transcript: If you want any documents other than those listed in rule 8.832(a) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form APP-103 to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you—the appellant—request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk’s transcript.



Cost: The appellant is responsible for paying for preparing a clerk's transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk's transcript. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the clerk's transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk's transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.

Appendix: If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by rule 8.845 of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the appellate division has ordered otherwise) and file the appendix in the appellate division. The appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief. See (15) for information about the brief.

(2) Trial court file

When available: If the court has a local rule allowing this, the clerk can send the appellate division the original trial court file instead of a clerk's transcript (see rule 8.833 of the California Rules of Court).

Cost: As with a clerk's transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.



(3) Agreed statement

When available: If you and the respondent have already agreed to use an agreed statement as the record of the oral proceedings (see a(3) above) and agree to this, you can use an agreed statement instead of a clerk’s transcript. To do this, you must attach to your agreed statement all of the documents that are required to be included in a clerk’s transcript.

c. Exhibits

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103), includes a space for you to make this request. You also can ask the trial court to send original exhibits to the appellate division at the time briefs are filed (see rule 8.843 for more information about this procedure and see below for information about briefs).

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk’s transcript or sent to the appellate division, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

(14) What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send you a notice telling you when you must file your brief in the appellate division.

(15) What is a brief?

Description: A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

Contents: If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

You may, but are not required to, fill out *Appellant’s Opening Brief—Limited Civil Case* (form APP-200) and use it as your opening brief. You can get more information about using this form opening brief from *Information on Using Form Appellate Briefs* (form APP-200-INFO).

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division or 60 days from the date the appellant chooses to proceed with no reporter’s transcript under rule 8.845. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof



of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk's transcript, the appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You **must** use *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106) to ask the court for an extension.

If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.

16 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent may, but is not required to, respond by serving and filing a respondent's brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent files a brief, within 20 days after the respondent's brief was filed, you may, but are not required to, file another brief replying to the respondent's brief. This is called a "reply brief."

17 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the appellate division will notify you of the date for oral argument in your case.

18 What is "oral argument"?

"Oral argument" is the parties' chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to "waive" oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

19 What happens after oral argument?

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

20 What should I do if I want to give up my appeal?

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called "abandoning") your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form APP-107) to file this notice in a limited civil case. You can get form APP-107 at any courthouse or county law library or online at www.courts.ca.gov/forms.



INFORMATION FOR THE RESPONDENT

This section of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

21 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help.

22 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal—Limited Civil Case* (form APP-102) to file this notice in a limited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 2 of this information sheet, if you are considering filing a cross-appeal.

23 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 30 days after mailing or service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 10 days after the clerk of the trial court mails notice of the first appeal, whichever is later.

24 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the appellate division. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record
- Participate in preparing the record *or*
- Ask for a copy of the record

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question 13 above. Then read below for what your options are when the appellant has chosen that form of the record.

a. Reporter's transcript

If the appellant is using a reporter’s transcript, you have the option of asking for additional proceedings to be included in the reporter’s transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter’s transcript.

Whether or not you ask for additional proceedings to be included in the reporter’s transcript, you must generally pay a fee if you want a copy of the reporter’s transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter’s transcript. If you want a copy of the reporter’s transcript, you must deposit this amount (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the



trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#trf. The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

If the appellant elects not to use a reporter's transcript, you may not designate a reporter's transcript without first getting an order from the appellate division.

b. Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files its notice designating the record.

c. Statement on appeal

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed statement to review. You will have 10 days from the date the appellant sent you this proposed statement to serve and file suggested changes (called "amendments") that you think are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues the appellant indicated the appellant is raising on appeal. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed amendments have been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

d. Clerk's transcript or appendix

Clerk's transcript: If the appellant is using a clerk's transcript, you have the option of asking the clerk to include additional documents in the clerk's transcript.

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk's transcript. You may use *Respondent's Notice Designating Record on Appeal—Limited Civil Case* (form APP-110) for this purpose.



Whether or not you ask for additional documents to be included in the clerk’s transcript, you must pay a fee if you want a copy of the clerk’s transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk’s transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk’s notice was sent.

If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk’s transcript for you unless you deposit payment for the cost or obtain a fee waiver.

Appendix: If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent’s appendix. See pages 8–9 for more information about preparing an appendix.

If the appellant chooses a clerk’s transcript but does not have a waiver of the fee for a clerk’s transcript, you can choose an appendix instead of a clerk’s transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent’s Notice Designating Record on Appeal—Limited Civil Case* (form APP-110) within 10 days after the appellant’s notice designating the record on appeal is filed.

25 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to

prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

The appellant serves and files the first brief, called an “appellant’s opening brief.” You may, but are not required to, respond by serving and filing a respondent’s brief within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed. You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

You may, but are not required to, fill out *Respondent’s Brief—Limited Civil Case* (form APP-201) and use it as your answering brief. You can get more information about using this form answering brief from *Information on Using Form Appellate Briefs* (form APP-200-INFO).



You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding

whether there is good cause for an extension). You **must** use *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106) to ask the court for an extension.

If you do not file a respondent’s brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

If you file a respondent’s brief, the appellant then has an opportunity to serve and file another brief within 20 days replying to your brief.

26 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date for oral argument in your case.

“Oral argument” is the parties’ chance to explain their arguments to appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide the appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

After oral argument is held (or the scheduled date passes if all parties waive argument), the judges of the appellate division will make a decision about the appeal. The appellate division has 90 days after oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division’s decision.

Clerk stamps date here when form is filed.

**DRAFT
02.14.2024
Not approved
by Judicial
Council****Instructions**

- This form is only for requesting an extension of time to file a brief in an appeal in a **limited civil case**. Note that any rules referenced in this form are from the California Rules of Court.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#)) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order that is being appealed:

Superior Court of California, County of

You fill in the number and name of the trial court case in which the judgment or order is being appealed:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number:

Appellate Division Case Number:**1 Your Information**

- a. Name of party requesting extension of time to file brief:

- b. Party's contact information (
- skip this if the appellant has a lawyer for this appeal*
-):

Street address: _____

Mailing address (*if different*): _____
Street City State ZipPhone: _____ Email: _____
Street City State Zip

- c. Party's lawyer (
- skip this if the appellant does not have a lawyer for this appeal*
-):

Name: _____ State Bar number: _____

Street address: _____

Mailing address (*if different*): _____
Street City State ZipPhone: _____ Email: _____
Street City State Zip

Fax: _____



Case Name: _____

- 2 I am requesting an extension on the time to file:
 - Appellant’s opening brief, which is now due on (date): _____
 - Respondent’s brief, which is now due on (date): _____
 - Appellant’s reply brief, which is now due on (date): _____
 - Supplemental or other brief, which is now due on (date): _____
- 3 I am requesting that the time to file the brief identified in 2 be extended to (date): _____
For an extension of (total number of days sought): _____ days.
- 4 I have have not received a default notice under rule 8.882(c) from the clerk that this brief must be filed within 15 days.
- 5 The time to file the brief (check all that apply):
 - Has not been extended before.
 - Has been extended before by the stipulation of the parties. The parties stipulated to (number of extensions) _____ totaling (number of days) _____
 - Has been extended before by the court. The court granted (number of extensions) _____ totaling (number of days) _____
- 6 I am not able to stipulate to an extension to file this brief because (check one):
 - The other party is not willing to stipulate to an extension.
 - The maximum stipulated time has already been used.
 - Other reason (please describe the reason):

- 7 This appeal is eligible for calendar preference/priority because (cite authority or explain):

- 8 The reason I need an extension to file this brief is (describe the reason you need an extension; please address the rule 8.811(b) factors, including possible prejudice to the parties):

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write “Attachment 8” for a title. You may use form APP-031A.
- 9 The last brief filed by any party in this case was:
 - The appellant’s opening brief, filed on (date): _____
 - The respondent’s brief, filed on (date): _____
 - The appellant’s reply brief, filed on (date): _____
 - A supplemental or other brief, filed on (date): _____
- 10 If this extension is being requested by a lawyer on behalf of a client, the lawyer must complete this item.
 - I certify that I have delivered a copy of this application to my client (rule 8.810(e)). I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

 _____
Signature of party or attorney

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:	
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:	
NAME:		DRAFT 02.14.2024 Not approved by Judicial Council	
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:		ZIP CODE:
TELEPHONE NO.:	FAX NO.:		
EMAIL ADDRESS:			
ATTORNEY FOR (<i>name</i>):			
APPELLANT:			
RESPONDENT:			
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— CRIMINAL CASE			

1. a. I (*name*): _____ request that the time to file (*check one*)
 - appellant's opening brief (AOB)
 - respondent's brief (RB)
 - appellant's reply brief (ARB)
 - supplemental or other brief
- b. now due on (*date*): _____
- c. be extended to (*date*): _____ for an extension of (*total number of days sought*): _____ days.

2. I have have not received a Cal. Rules of Court, rule [8.360\(c\)\(5\)](#) default notice.

3. I have received
 - no previous extensions to file this brief.
 - the following previous extensions:
 - (*number of extensions*): _____ extensions from the court totaling (*total number of days*): _____
 - Did the court use the words "no further" in a prior order or directive granting an extension? Yes No

4. The last brief filed by any party was AOB RB ARB Other filed on (*date*): _____

5. The record in this case is

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:			
Reporter's Transcript:			
Augmentation/Other:			

6. Defendant was convicted of (*specify*): _____

7. The conviction is based on a (*check one*)
 - jury or court trial.
 - plea of guilty or no contest.

APPELLANT: RESPONDENT	COURT OF APPEAL CASE NUMBER:
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8. The court imposed the following punishment:

9. The defendant is is not on bail pending appeal.

10. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose.

(Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties):

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF PARTY OR ATTORNEY)
-------------------------------	---	---

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS

granted to (date):

denied

Date:

 (SIGNATURE OF PRESIDING JUSTICE)

Clerk stamps date here when form is filed.

DRAFT
2.14.2024
Not approved
by Judicial
Council

Instructions

- This form is only for requesting an extension of time to file a brief in an appeal in a **misdemeanor case**. Note that any rules referenced in this form are from the California Rules of Court.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#)) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk’s office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order that is being appealed:

Superior Court of California, County of

You fill in the number and name of the trial court case in which the judgment or order is being appealed:

Trial Court Case Number:

Trial Court Case Name:

You fill in the appellate division case number:

Appellate Division Case Number:

1 Your Information

a. Name of party requesting extension of time to file brief:

b. Party’s contact information (*skip this if the appellant has a lawyer for this appeal*):

Street address: _____

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ Email: _____
Street City State Zip

c. Party’s lawyer (*skip this if the appellant does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ Email: _____
Street City State Zip

Fax: _____



Case Name: _____

- 2 I am requesting an extension on the time to file:
 - Appellant’s opening brief, which is now due on (date): _____
 - Respondent’s brief, which is now due on (date): _____
 - Appellant’s reply brief, which is now due on (date): _____
 - Supplemental or other brief, which is now due on (date): _____

- 3 I am requesting that the time to file the brief identified in 2 be extended to (date): _____ for a total extension of (number of days sought): _____ days.

- 4 I have have not received a default notice under rule 8.882(c) from the clerk that this brief must be filed within 30 days.

- 5 The time to file the brief (check all that apply):
 - Has not been extended before.
 - Has been extended before by the court. The court granted (number of extensions) _____ totaling (number of days) _____

- 6 Defendant was convicted of (specify): _____

- 7 The conviction is based on (check all that apply):
 - Jury trial or court trial.
 - Plea of guilty or no contest.

- 8 The reason I need an extension to file this brief is (describe the reason you need an extension; please address the rule 8.811(b) factors, including possible prejudice to the parties):

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write “Attachment 6” for a title. You may use form APP-031A.

- 9 The last brief filed by any party in this case was:
 - The appellant’s opening brief, filed on (date): _____
 - The respondent’s brief, filed on (date): _____
 - The appellant’s reply brief, filed on (date): _____
 - A supplemental or other brief, filed on (date): _____

Date: _____

Type or print your name

 _____
Signature of party or attorney

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER(S):
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:		DRAFT 02.07.2024 Not approved by Judicial Council
EMAIL ADDRESS: ATTORNEY FOR (<i>name</i>):		
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE JUSTICE CASE		

1. a. I (*name*): _____ request that the time to file (*check one*)
 - appellant's opening brief (AOB)
 - respondent's brief (RB)
 - combined respondent's brief (RB) and appellant's opening brief (AOB) (see Cal. Rules of Court, rule [8.216](#))
 - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
 - appellant's reply brief (ARB)
 - supplemental or other brief
- b. now due on (*date*): _____
- c. be extended to (*date*): _____ for an extension of (*total number of days sought*): _____ days.
2. I have have not received a Cal. Rules of Court, rule [8.412\(d\)\(1\)](#) default notice.
3. I have received
 - no previous extensions to file this brief.
 - the following previous extensions:
 - (*number of extensions*): _____ extensions from the court totaling (*total number of days*): _____
 - Did the court use the words "no further" in a prior order or directive granting an extension? Yes No
4. The last brief filed by any party was AOB RB RB and AOB ARB and RB ARB Other filed on (*date*): _____
5. The record in this case is

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____
6. The juvenile was adjudicated a ward of the court based on commission of the following offense(s): _____
7. The disposition followed (*check one*)
 - a contested hearing.
 - an admission.

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
---------------------------	------------------------------

8. The court imposed the following disposition:

9. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose.

(Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to Cal. Rules of Court, rule [8.417](#).)

10. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

_____  _____

(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS

granted to (date):
 denied

Date:

(SIGNATURE OF PRESIDING JUSTICE)

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:	
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		DRAFT 02.07.2024 Not approved by Judicial Council	
NAME:			
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:		ZIP CODE:
TELEPHONE NO.:	FAX NO.:		
EMAIL ADDRESS:			
ATTORNEY FOR (<i>name</i>):			
Case Name: In re _____, person(s), coming under the juvenile court law			
APPELLANT:			
RESPONDENT:			
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE DEPENDENCY CASE			

1. a. I (*name*): _____ request that the time to file (*check one*)
 - appellant's opening brief (AOB)
 - respondent's brief (RB)
 - combined respondent's brief (RB) and appellant's opening brief (AOB) (see Cal. Rules of Court, rule [8.216](#))
 - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
 - appellant's reply brief (ARB)
 - supplemental or other brief
- b. now due on (*date*): _____
- c. be extended to (*date*): _____ for an extension of (*total number of days sought*): _____ days.
2. I have have not received a Cal. Rules of Court, rule [8.412\(d\)\(1\)](#) default notice.
3. I have received
 - no previous extensions to file this brief.
 - the following previous extensions:
 - (*number of extensions*): _____ extensions from the court totaling (*total number of days*): _____
 - Did the court use the words "no further" in a prior order or directive granting an extension? Yes No
4. The last brief filed by any party was AOB RB RB and AOB ARB and RB ARB Other filed on (*date*): _____
5. The record in this case is

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____
6. The order appealed from was made under Welfare and Institutions Code (*check all that apply*)
 - a. section 360 (declaration of dependency) removal of custody from parent or guardian other orders
 - with review of section 300 jurisdictional findings
 - b. section 366.26
 - termination of parental rights appointment of guardian planned permanent living arrangement

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
---------------------------	------------------------------

6. c. section 366.28
 d. other appealable orders relating to dependency (*specify*):

7. The reasons that I need an extension to file this brief are stated
 below.
 on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose.
(Please address the Cal. Rules of Court, rule [8.63\(b\)](#) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to Cal. Rules of Court, rule [8.416.](#))

8. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS
 granted to (*date*):
 denied

Date: _____

(SIGNATURE OF PRESIDING JUSTICE)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (July 1 cycle)

Title of proposal: Appellate Procedure: Expanded Clerk's Transcript in Felony Appeals

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Amend Cal. Rules of Court, rule 8.320

Committee or other entity submitting the proposal:
 Appellate Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, (415) 865-7653, kendall.hannon@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Consider adopting a rule of court that would allow litigants in criminal cases to stipulate to the use of the superior court file in lieu of a clerk's transcript. The Appellate Caseflow Workgroup encouraged the Judicial Council to consider this action. The Workgroup noted that use of the case file would eliminate delays associated with parties needing to cure omissions from, or make augmentations to, the standard criminal record. The Executive and Planning Committee has referred this recommendation to the Appellate Advisory Committee for consideration. Currently, under rule 8.128, litigants in unlimited civil appeals may stipulate to the use of the original superior court file instead of a clerk's transcript if a local rule of the reviewing court permits. This project would involve adoption of a similar rule, applicable to criminal appeals.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-03

Title

Appellate Procedure: Expanded Clerk's
Transcript in Felony Appeals

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 8.320

Proposed Effective Date

January 1, 2025

Proposed by

Appellate Advisory Committee
Hon. Louis Mauro, Chair

Contact

Kendall W. Hannon, 415-865-7653
kendall.hannon@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes amending California Rules of Court, rule 8.320 to authorize the Courts of Appeal to require, by local rule, that the clerk's transcript in felony appeals include either (1) all contents of the superior court file or (2) additional items from the superior court file beyond those currently required in rule 8.320(b). This proposal is designed to help minimize delays in felony appeals occasioned by the need to cure omissions from, or make augmentations to, the clerk's transcript. This proposal originated from a recommendation of the former Chief Justice's Appellate Caseflow Workgroup.

Proposal

Under California Rules of Court, rule 8.320, the normal record on appeal in an appeal from a judgment of conviction (or an appeal from an order granting a new trial) in a felony cases must contain both a reporter's transcript and a clerk's transcript.¹ Rule 8.320(b) governs the contents of the clerk's transcript, and it identifies a number of filings, orders, and other items from the superior court proceedings that must be included in the clerk's transcript.

The need to parse through the superior court records to find all the items that rule 8.320(b) requires to be included in the clerk's transcript can be time consuming. Additionally, required

¹ All further references to rules are to the California Rules of Court.

items can be erroneously omitted. In its December 2022 report, the Appellate Caseflow Workgroup recognized that the “need to cure omissions from and to make augmentations to the standard criminal record are two of the most significant causes for record preparation delay.”²

To address this, the committee proposes amending rule 8.320(b) by adding a new paragraph that authorizes the Courts of Appeal to adopt local rules requiring the clerk’s transcript to include either “all contents of the superior court file” or “[a]dditional filings, orders, or other documents contained in the superior court file, in addition to the items listed in (b)(1).” The committee also proposes to amend the advisory committee comment to state that, for purposes of this rule, items which are excluded from the definition of “court record” under rule 2.502(3) are not considered part of the “superior court file.” This would exclude items such as a judge’s personal notes or memoranda of judges or other judicial branch personnel as well as reporter’s transcripts for which the reporter is entitled to receive a fee. A judge’s notes and memoranda are traditionally not included in the case file or treated as a court record³ and reporter’s transcripts are covered by the rules governing the creation of the reporter’s transcript on appeal. The committee seeks specific comment on whether this limitation should be included in the rule text as opposed to the advisory committee comment.

In addition, the proposed new paragraph would, notwithstanding rule 8.320(e),⁴ authorize a Court of Appeal’s local rule to require the clerk’s transcript to include copies of exhibits admitted into evidence, refused, or lodged. The committee seeks specific comment on whether the proposal should include this provision to provide the Courts of Appeal with greater flexibility on how to handle exhibits.

Requiring the clerk’s transcript to include all the records from the trial court proceeding could alleviate the appellate record-preparation delays identified by the Appellate Caseflow Workgroup. First, the appellate record preparation process would be simplified because clerks would no longer have to determine whether a given record from the trial court proceeding is required to be included in the clerk’s transcript under rule 8.320(b). Second, there would be no need for the clerk to cure omissions from the transcript or time-consuming motions to augment to the clerk’s transcript with items not listed in rule 8.320(b) because the clerk’s transcript would include all records from the trial court proceeding.

² Appellate Caseflow Workgroup, *Report to the Chief Justice* (Dec. 6, 2022), p. 20, https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report_Final.pdf. The Workgroup was appointed by former Chief Justice Tani G. Cantil-Sakauye in June 2022. The Chief Justice directed the Workgroup to “review policies, procedures, and management and administrative practices of the Courts of Appeal, and to recommend measures to promote transparency, accountability, and efficiency in issuing timely judgments.” (*Id.* at p. 1.)

³ Rule 2.502(3); *People v. Lewis & Oliver* (2006) 39 Cal.4th 970 (a judge’s bench notes “are not public or court records in the sense that they represent or record the official work or actions of the judge or his clerk”).

⁴ Under rule 8.320(e), “[e]xhibits admitted into evidence, refused, or lodged are deemed part of the record but may be transmitted to the reviewing court only as provided in rule 8.224.”

At the same time, however, including the all the records from the trial court proceeding in the clerk's transcript would result in larger records on appeal that could include a number of items irrelevant to the issues on appeal. Such an approach could also create practical burdens that could vary based on the superior court from which the case originates. Although many superior courts maintain their records electronically, not all do. In addition, the courts that do maintain their records electronically use a variety of case management systems that may differ in their capabilities. One court may have the ability to easily download all the records from a case for inclusion in the clerk's transcript, while in another court this exercise would require a time-consuming effort. Additionally, although a superior court that maintains paper files may be able to copy the entire file into the clerk's transcript, doing so may impose burdens on the superior court to copy all of this material and on the Court of Appeal to handle the paper record.

The proposed rule, therefore, would permit each Court of Appeal to consider the capabilities of the superior courts in its district, weigh the potential time-saving benefits against the potential costs inherent in preparing or reviewing a larger record on appeal, and tailor its local rule accordingly.

Alternatives Considered

Appellate Caseflow Workgroup recommendation

In addressing the record preparation delays discussed above, the Appellate Caseflow Workgroup encouraged the Judicial Council to consider "adopting a rule of court that would allow litigants in criminal cases to stipulate to the use of the superior court file in lieu of a clerk's transcript."⁵ The committee declined to propose this specific suggestion for the following reasons.

First, the committee believes adoption of a separate rule specifically addressing use of the superior court file as an alternative to the clerk's transcript would add complexity to the rules and record designation process. Such a rule, likely mirrored on rule 8.128, which applies in unlimited civil appeals, would have to provide new deadlines and impose new obligations on superior court clerks describing how to prepare the court file. Authorizing the Courts of Appeal to expand the contents of the clerk's transcript, by contrast, would accomplish the Workgroup's goal of streamlining the record preparation process while using the existing clerk's transcript procedures.

Second, the committee determined that an additional requirement that the parties stipulate to the use of an expanded clerk's transcript may be unnecessary. Rules 8.833, 8.863, and 8.914 which permit the use of the original trial court record in lieu of the clerk's transcript in limited civil, misdemeanor, and infraction appeals, respectively, do not contain a requirement that the parties stipulate to the use of the original trial court file. The committee seeks specific comment on whether the proposal should include a requirement that the parties stipulate to the use of an expanded clerk's transcript.

⁵ Appellate Caseflow Workgroup, *supra*, at p. 2.

Other alternatives considered

As currently drafted, the proposal addresses only rule 8.320(b), which applies where the “defendant appeals from a judgment of conviction” or the “People appeal from an order granting a new trial.”⁶ Rule 8.320(d), by contrast, provides for a “[l]imited normal record” in all other felony appeals, including postconviction proceedings. The committee considered whether the proposal should amend rule 8.320(d) to add a similar provision authorizing the Courts of Appeal to expand the items that will be contained in the clerk’s transcript for these proceedings. The committee seeks specific comment on whether the proposal should be amended in this way.

Finally, the committee considered the alternative of taking no action but rejected this option on the ground that the proposal has the potential to make the record preparation process more efficient.

Fiscal and Operational Impacts

The committee does not anticipate any fiscal or operational impacts on the courts as a result of the proposed amendments. Implementation requirements for courts would involve making the Courts of Appeal aware of the changes and the discretion the amended rule would provide.

⁶ Rule 8.320(a).

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?
- Should the rule text define “superior court file” as excluding items not considered “court records” as defined by rule 2.502(3), or is it enough to have this limitation addressed in the advisory committee comment?
- Should the proposal include a provision allowing for a Court of Appeal’s local rule to require inclusion of exhibits in the clerk’s transcript?
- In addition to authorizing Courts of Appeal to adopt a local rule expanding the contents of the clerk’s transcript, should the proposal include a requirement that the parties stipulate before an expanded clerk’s transcript is used?
- Should rule 8.320(d) be similarly amended to allow the Courts of Appeal to adopt a local rule expanding the contents of the clerk’s transcript in appeals governed by that rule?

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. Cal. Rules of Court, rule 8.320, at pages 6–8

Rule 8.320 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 8.320. Normal record; exhibits**

2
3 (a) * * *

4
5 (b) **Clerk's transcript**

6
7 (1) The clerk's transcript must contain:

8
9 (1) ~~(A)~~ (A) The accusatory pleading and any amendment;

10
11 (2) ~~(B)~~ (B) Any demurrer or other plea;

12
13 (3) ~~(C)~~ (C) All court minutes;

14
15 (4) ~~(D)~~ (D) All jury instructions that any party submitted in writing and the
16 cover page required by rule 2.1055(b)(2) indicating the party requesting
17 each instruction, and any written jury instructions given by the court;

18
19 (5) ~~(E)~~ (E) Any written communication between the court and the jury or
20 any individual juror;

21
22 (6) ~~(F)~~ (F) Any verdict;

23
24 (7) ~~(G)~~ (G) Any written opinion of the court;

25
26 (8) ~~(H)~~ (H) The judgment or order appealed from and any abstract of
27 judgment or commitment;

28
29 (9) ~~(I)~~ (I) Any motion for new trial, with supporting and opposing
30 memoranda and attachments;

31
32 (10) ~~(J)~~ (J) The notice of appeal and any certificate of probable cause filed
33 under rule 8.304(b);

34
35 (11) ~~(K)~~ (K) Any transcript of a sound or sound-and-video recording furnished to
36 the jury or tendered to the court under rule 2.1040;

37
38 (12) ~~(L)~~ (L) Any application for additional record and any order on the
39 application;

40
41 (13) ~~(M)~~ (M) And, if the appellant is the defendant:
42

- ~~(A)~~ (i) Any written defense motion denied in whole or in part, with supporting and opposing memoranda and attachments;
- ~~(B)~~ (ii) If related to a motion under ~~(A)~~ (i), any search warrant and return and the reporter's transcript of any preliminary examination or grand jury hearing;
- ~~(C)~~ (iii) Any document admitted in evidence to prove a prior juvenile adjudication, criminal conviction, or prison term;
- ~~(D)~~ (iv) The probation officer's report; and
- ~~(E)~~ (v) Any court-ordered diagnostic or psychological report required under Penal Code section 1203.03(b) or 1369.

(2) The reviewing court may, by local rule, require the clerk's transcript to include:

- (A) All contents of the superior court file; or
- (B) Additional filings, orders, or other documents contained in the superior court file, in addition to the items listed in (b)(1).

Notwithstanding (e), the reviewing court's local rule under (A) or (B) may require the clerk's transcript to include copies of exhibits admitted into evidence, refused, or lodged.

(c)-(d) * * *

(e) Exhibits

Exhibits admitted in evidence, refused, or lodged are deemed part of the record, but may be transmitted to the reviewing court only as provided in rule 8.224.

(f) * * *

Advisory Committee Comment

Rules 8.45–8.46 address the appropriate handling of sealed and confidential records that must be included in the record on appeal. Examples of confidential records include Penal Code section 1203.03 diagnostic reports, records closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera proceedings

1 on a confidential informant, and defense expert funding requests (Pen. Code, § 987.9; *Keenan v.*
2 *Superior Court* (1982) 31 Cal.3d 424, 430).

3
4 **Subdivision (d)(1)(E).** This rule identifies the minutes that must be included in the record. The
5 trial court clerk may include additional minutes beyond those identified in this rule if that would
6 be more cost-effective.

7
8 **Subdivision (b)(2).** This rule authorizes the Courts of Appeal to adopt local rules which require
9 additional materials to be included in the clerk’s transcript, up to the entire contents of the
10 superior court file. For purposes of this rule, items excluded from the definition of “court records”
11 under rule 2.502(3) are not considered part of the superior court file.

12
13 Rule 8.483 governs the normal record and exhibits in civil commitment appeals.
14
15

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (July 1 cycle)

Title of proposal: Appellate Procedure: Deadline for Amicus Curiae Briefs

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 8.200

Committee or other entity submitting the proposal:
Appellate Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, (415) 865-7653, kendall.hannon@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda:

Rule 8.200(c) provides that an application for permission to file an amicus curiae brief must be filed within 14 days after the last appellant's reply brief is filed or could have been filed under Rule 8.212, whichever is earlier. Where a respondent fails to file an answering brief, however, no reply brief will be, or can be, filed. Rule 8.200(c) does not provide a deadline which would apply in these situations. It has been reported that this situation arises often in family law cases and courts have interpreted Rule 8.200 differently in these situations. This project was recommended by the Family Violence Appellate Project and a committee member.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-04

Title

Appellate Procedure: Deadline for Amicus Curiae Briefs

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 8.200

Proposed Effective Date

January 1, 2025

Proposed by

Appellate Advisory Committee
Hon. Louis Mauro, Chair

Contact

Kendall W. Hannon, 415-865-7653
kendall.hannon@jud.ca.gov

Executive Summary and Origin

The Appellate Advisory Committee proposes amending California Rules of Court, rule 8.200 to provide a deadline for filing an application to file an amicus brief when no respondent's brief has been filed. The current rule requires that applications to file an amicus brief be filed within 14 days after the reply brief "is filed or could have been filed." The rule, however, does not provide a deadline in cases where the respondent does not file a brief and, therefore, there is no reply brief. The proposed amendment would close this gap in the rules. This proposal originated with a suggestion from the Family Violence Appellate Project.

The Proposal

Under California Rules of Court, rule 8.200(c)(1), a person or entity may file an application for permission to file an amicus curiae brief "[w]ithin 14 days after the last appellant's reply brief is filed or could have been filed under rule 8.212, whichever is earlier."¹ Under rule 8.212, an appellant's optional reply brief must be served and filed "within 20 days after the respondent files its brief."² Thus, in the usual case, an amicus curiae application will be due no later than 34 days after the filing of the respondent's brief.

¹ All further rule references are to the California Rules of Court unless otherwise noted.

² Rule 8.212(a)(3).

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.

Rule 8.200, however, does not expressly indicate what happens when no respondent's brief is filed, and the resulting ambiguity could be subject to competing interpretations. One possible reading of rules 8.200 and 8.212 is that *no* amicus curiae applications can be filed when the respondent does not file a brief. When the respondent does not file a brief, it is impossible to calculate a deadline for the reply brief and thus impossible to determine when the reply brief "could have been filed" for purposes of rule 8.200(c)(1). Under such a reading, a potential amicus curiae's ability to participate in an appeal would depend on action by the respondent.

Another possible reading of the rules could be that when a respondent does not file a brief, the deadline for amicus curiae applications is based on the date the respondent's brief *could have* been filed. Under this reading, a court would take the latest date the respondent could have filed its brief (including the 15-day default notice window provided by rule 8.220(a)) and add 20 days to that date. This date would be the latest possible date the reply brief "could have been filed" had the respondent filed its brief. Any amicus curiae application would then be due 14 days later. This reading, which ensures that potential amici curiae are allowed to file their applications, would involve inserting language into rules 8.200 and 8.212.

To resolve this ambiguity and ensure that potential amici curiae have sufficient time to draft and file applications to participate in appeals, the committee proposes amending rule 8.200(c)(1) to add the following line: "If no respondent's brief is filed, the application is due within 34 days after the respondent's brief could have been filed." The committee also proposes amending rule 8.200(c)(7), which governs amicus curiae briefs filed by the Attorney General, to provide the same deadline in cases where the respondent fails to file a brief, to keep the deadlines of potential amici curiae consistent. In addition, the committee proposes amending the advisory committee comment to state that date the respondent's brief "could have" been filed includes the 15-day default notice period contained in rule 8.220(a). The proposed deadline ensures that amici curiae will have the same amount of time to draft their applications that they would have had if the respondent had filed the respondent's brief on the last possible day.

The committee notes that under the proposed rule, when no respondent's brief is filed, amici curiae will be required to calculate the latest date the respondent's brief could have been filed, and then add 34 days. An alternative approach would be to require the applications to be filed 79 days after the appellant's opening brief was actually filed. This alternate approach would not change the ultimate deadline in most cases³ but would potentially make it easier on amici curiae to calculate the date their applications would be due. The committee seeks specific comment on whether this alternate approach would be preferable.

The committee also recognizes that when there is no respondent's brief, the proposed amici curiae will not have to consider or address arguments made in either the respondent's brief or

³ The exception to this would be cases where the respondent was granted an extension of time to file the respondent's brief but still ultimately failed to file the brief. In such situations, the deadline for amici curiae applications would be different based on whether the deadline was tied to the date the appellant's brief was filed or the date the respondent's brief could have been filed.

reply brief. The committee seeks specific comment on whether, in light of this fact, the deadline in the proposed rule should be shorter to allow more expeditious resolution of appeals.

Alternatives Considered

The committee considered the alternative of taking no action but concluded that the proposal was needed to clarify an ambiguity in rule 8.200. As detailed above, the committee seeks specific comments on whether the deadline for amici curiae applications in situations where no respondent brief has been filed should be (1) based on the date of the filing of the appellant’s opening brief as opposed to the date the respondent’s brief could have been filed and (2) shorter than the 34 days currently proposed.

Fiscal and Operational Impacts

The committee does not anticipate any fiscal or operational impacts on the courts as a result of the proposed rule amendments. Implementation requirements for courts would involve making judicial officers and staff aware of the changes.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should the deadline for amicus curiae applications in situations where no respondent brief has been filed be based on the date the appellant’s opening brief has been filed, as opposed to the date the respondent’s brief could have been filed?
- Should the deadline for amicus curiae applications be shorter than the proposed 34 days after the date the respondent’s brief could have been filed?

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. Cal. Rules of Court, rule 8.200, at page 4

Rule 8.200 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 8.200. Briefs by parties and amici curiae**

2

3 **(a)–(b) * * ***

4

5 **(c) Amicus curiae briefs**

6

7 (1) Within 14 days after the last appellant’s reply brief is filed or could have been filed
8 under rule 8.212, whichever is earlier, any person or entity may serve and file an
9 application for permission of the presiding justice to file an amicus curiae brief. If no
10 respondent’s brief is filed, the application is due within 34 days after the
11 respondent’s brief could have been filed. For good cause, the presiding justice may
12 allow later filing.

13

14 **(2)–(6) * * ***

15

16 (7) The Attorney General may file an amicus curiae brief without the presiding justice’s
17 permission, unless the brief is submitted on behalf of another state officer or agency.
18 The Attorney General must serve and file the brief within 14 days after the last
19 appellant’s reply brief is filed or could have been filed under rule 8.212, whichever is
20 earlier, ~~and~~. If no respondent’s brief is filed, the Attorney General must serve and file
21 the amicus curiae brief within 34 days after the respondent’s brief could have been
22 filed. The brief must provide the information required by (2) and comply with (5).
23 Any party may serve and file an answer within 14 days after the brief is filed.

24

25 **Advisory Committee Comment**

26

27 **Subdivision (a)(2). * * ***

28

29 **Subdivision (b). * * ***

30

31 **Subdivision (c)(1).** The time within which a respondent’s brief or reply brief “could have been filed
32 under rule 8.212” includes any authorized extension of the deadline specified in rule 8.212 or the 15-day
33 default notice period specified in rule 8.220(a).

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (July 1 cycle)

Title of proposal: Appellate Procedure: Form Briefs for Use in Limited Civil Appeals

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend Cal. Rules of Court, rule 3.886; approve forms APP-200, APP-200-INFO, APP-201, and APP-202; revise APP-101-INFO

Committee or other entity submitting the proposal:

Appellate Advisory Committee

Staff contact (name, phone and e-mail): Kendall W. Hannon, (415) 865-7653, kendall.hannon@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Consider the development of fillable form appellate briefs for use in the Court of Appeal and the appellate division. Form briefs that are formatted and organized appropriately and contain required content may assist litigants in filing briefs, and may assist the courts to the extent that they receive briefs that are more helpful in evaluating the merits of an appeal. It is likely that fewer briefs would be rejected for not meeting filing requirements. This project was proposed by the California Lawyer Association, Litigation Section, Committee on Appellate Courts

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-05

Title

Appellate Procedure: Form Briefs for Use in Limited Civil Appeals

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 8.883; approve forms APP-200, APP-200-INFO, APP-201, and APP-202; revise form APP-101-INFO

Proposed Effective Date

January 1, 2025

Contact

Kendall W. Hannon, 415-865-7653
kendall.hannon@jud.ca.gov

Proposed by

Appellate Advisory Committee
Hon. Louis Mauro, Chair

Executive Summary and Origin

The Appellate Advisory Committee proposes the approval of three optional forms that parties in limited civil appeals can use to draft their appellate briefs and an information sheet that explains the use of these form briefs. Additionally, the committee proposes amending one rule of court and revising one form to address these new form briefs. The new form briefs are intended to assist self-represented litigants and attorneys unfamiliar with appellate practice in drafting effective briefs in limited civil appeals before the appellate division. The proposal originated with a suggestion from the California Lawyers Association.

Background

Appeals in limited civil cases—those cases where the amount in controversy is \$35,000 or less—are heard by the appellate division of the superior court.¹ An appellant in a limited civil appeal is required to file an opening brief, which among other things must (1) state the nature of the action, the relief sought in the trial court, and the judgment or order from which the appellant is appealing; (2) provide a summary of the significant facts in the record; and (3) make the

¹ Code Civ. Proc., §§ 86(a), 904.2.

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appellant's arguments under separate headings and include citations to authority.² A respondent may then choose to file a respondent's brief.³ If a respondent files a respondent's brief, the appellant has the option to file a reply brief.⁴

California Rules of Court, rule 8.883(c) provides the formatting requirements for the parties' briefs.⁵

The Proposal

This proposal would approve for optional use three forms that parties in limited civil cases could use for their appellate briefs and one information sheet explaining how to use these forms:

- *Appellant's Opening Brief—Limited Civil Appeal* (form APP-200)
- *Respondent's Brief—Limited Civil Appeal* (form APP-201)
- *Appellant's Reply Brief—Limited Civil Appeal* (form APP-202)
- *Information on Using Form Appellate Briefs* (APP-200-INFO)

In addition, this proposal would amend rule 8.883 and revise *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to refer to these new forms.

This proposal is intended to improve appellate efficiency in limited civil appeals in three ways. First, the proposed form briefs will aid self-represented litigants, or attorneys who are not familiar with appellate practice, in drafting briefs to contain all necessary information in an organized, effective manner. Second, use of these form briefs will reduce the likelihood that a party's brief is rejected for noncompliance with the applicable rules of court. Third, use of the form briefs will aid in review of parties' arguments by ensuring those arguments are provided in a consistent format.

Proposed form *Appellant's Opening Brief—Limited Civil Case* (form APP-200)

The proposed appellant's opening brief begins with instructions that (1) explain that the form may be used for limited civil cases only; (2) direct the party to read the proposed information sheet before filling out the form; (3) contain information about the maximum length of the brief; and (4) instruct on how to serve and file the brief. These instructions also explain that the form should not be used if a cross-appeal has been filed.

In item 1, the appellant (or the appellant's attorney) will provide their contact information. In items 2 and 3, the appellant will provide information about the judgment or order being appealed. In item 2, a list of appealable judgments or orders is provided, and the appellant is directed to identify the type of judgment or order they are appealing. Item 3 directs the appellant to provide information about the timeliness of the appeal. The committee believes that the

² Cal. Rules of Court, rules 8.882(a)(1), 8.883(a).

³ *Id.*, rule 8.882(a)(2).

⁴ *Id.*, rule 8.882(a)(3).

⁵ *Id.*, rule 8.883(c).

information in item 3 may be useful for appellate division judges to confirm that appellate jurisdiction exists. Item 4 asks whether there were any prior appeals in the case.

In item 5, the appellant will provide their statement of facts. Item 5 directs the appellant to discuss only facts that are relevant to the appellate arguments (made in item 8 of the form brief) and that were presented to the trial court. For each factual assertion, item 5 further directs the appellant to cite to the page or pages of the record that show where each discussed fact was presented to the trial court.⁶

Item 6 is the procedural history portion of the brief. In subitems, item 6 directs the appellant to (1) indicate whether the appellant was the plaintiff or the defendant in the trial court; (2) describe the legal claims and relief sought in the complaint; (3) describe the arguments the defendant made in response; (4) indicate whether a cross-complaint was filed and, if so, the legal claims and relief sought in the cross-complaint; and (5) describe the order or judgment being appealed, including what, if anything, the order or judgment required the parties to do.

Item 7 directs the appellant to state what they would like the appellate division to do.

Item 8 represents the argument section of the brief. Item 8 directs the appellant to refer to the facts presented in the record and applicable legal authority that support their arguments. It further directs the appellant to read item 14 on *Information on Using Form Appellate Briefs* (form APP-200-INFO) (discussed below) before making their arguments. Item 14 on the proposed information sheet provides important information about what is, and what is not, an appropriate appellate argument.

Proposed form *Respondent's Brief—Limited Civil Case* (form APP-201)

The proposed respondent's brief begins with a set of instructions that are identical to those provided in the appellant's brief.

In item 1, the respondent (or the respondent's attorney) will provide their contact information.

Item 2 will allow the respondent to provide a statement of facts. Item 2 explains to the respondent that they do not need to fill out this item if they agree with the statement of facts contained in the appellant's opening brief. It further explains that if the respondent chooses to provide a statement of facts, they must cite to the record to show where each fact they discuss was presented to the trial court.

Item 3 is the section of the brief where the respondent will provide their substantive responses to the appellant's arguments. Item 3 directs the respondent to refer to facts presented to the trial court and to legal authorities that support their responses. For each response, item 3 further directs the respondent to begin by briefly describing the argument in the appellant's opening brief to which they are responding.

⁶ See *id.*, rule 8.883(a)(1)(B) (requiring a brief to support "any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears"); rule 8.883(a)(2)(C) (requiring that the appellant's opening brief provide "a summary of the significant facts limited to matters in the record").

In item 4, the respondent may make any additional arguments to the appellate division. For example, item 4 would be where the respondent could argue that appellate jurisdiction is lacking or that the appellant has waived certain arguments.

In item 5, the respondent would state their request of the appellate division.

Proposed form *Appellant’s Reply Brief—Limited Civil Case* (form APP-202)

The proposed appellant’s reply brief begins with a set of instructions that are identical to those contained on the proposed appellant’s opening brief and respondent’s brief.

In item 1, the appellant (or the appellant’s attorney) will provide their contact information.

In item 2, the appellant will provide their replies to the responses and arguments made in the respondent’s brief. Item 2 directs the appellant to provide citations to the law and/or facts that support each reply and to begin each reply by briefly describing the response or argument to which they are replying.

Proposed form *Information on Using Form Appellate Briefs* (form APP-200-INFO)

The proposed information sheet provides detailed instructions and guidance to parties and attorneys about how to fill out the proposed form briefs. Where possible, language and information in this proposed information sheet have been pulled from other forms (such as *Information on Appeal Procedures for Limited Civil Cases* (form APP-101)) or from the California Courts Online Self-Help Center.

After an initial “general information” section, the information sheet is divided into three sections, one for each of the form briefs. For each form brief’s section, the information sheet begins with a discussion of how to attach additional pages to the brief, the formatting requirements with which the brief and any attachments must comply, and the maximum length of the brief. Each section then explains the relevant form brief item by item, describing how to fill out each item.

Other proposed changes

Currently, rule 8.883(b) provides that a brief drafted on a computer must not exceed 6,800 words and one drafted on a typewriter must not exceed 20 pages. To reflect the proposed new form briefs, the committee proposes to amend rule 8.883(b) to include a provision stating: “If a party uses a form brief approved for use by the Judicial Council, the brief, including any attachments, may not exceed 20 pages in length. Attachments must comply with the formatting requirements stated in (c)(1) through (c)(7).” The committee further proposes amending the advisory committee comment to reference the form briefs by name and form number. The committee seeks specific comment on whether 20 pages will provide parties with sufficient space to present their arguments on appeal.

Finally, the committee is proposing revisions to *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to inform parties that they may, but are not required to, use the form briefs for their appellate briefs.⁷

Alternatives Considered

The committee considered including proposed form briefs for use in unlimited civil cases, but ultimately concluded it would be beneficial to first develop form briefs designed for use in limited civil cases. Unlimited civil cases are more likely to involve complex or complicated factual or legal backgrounds for which form briefs may not be well suited. Initial use of form briefs in limited civil appeals will allow the council to assess the degree to which form briefs provide benefits to courts and parties. This information will assist the judicial branch in determining whether to expand the use of form briefs for additional case types in the future.

The committee also considered a set of form briefs submitted by the California Lawyers Association (CLA). Those form appellate briefs were drafted by CLA's Committee on Appellate Courts and were designed for use in appeals before the Courts of Appeal. For the reasons discussed above, the committee believes form briefs should first be developed for use in limited civil appeals before the appellate division. The committee used the CLA's form briefs as a model for the limited civil form briefs in this proposal, with changes made to ensure that the briefs complied with the Judicial Council's guidelines for plain-language forms.

Finally, the committee considered whether additional form briefs should be proposed for use in limited civil cases where a cross-appeal has been filed. The committee concluded that form briefs for use in cross-appeals (and discussion of cross-appeals in the proposed information sheet) would needlessly introduce complexity, given the rarity of cross-appeals in limited civil cases.

Fiscal and Operational Impacts

The committee does not anticipate any fiscal or operational impacts on the courts as a result of the proposal. Implementation requirements for courts would involve making litigants, court staff, and judicial officers aware of the changes.

⁷ The attached proposed form APP-101-INFO also incorporates changes from a separate proposal relating to extension-of-time forms that was circulated for public comment simultaneously with this proposal.

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?
- Does the proposed 20-page limit for the form brief (including any attachments) provide the parties with sufficient space to present their arguments on appeal?

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. Cal. Rules of Court, rule 8.883, at pages 7–9
2. Forms APP-101-INFO, APP-200, APP-200-INFO, APP-201, and APP-202, at pages 10–49

Rule 8.883 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 8.883. Contents and form of briefs**

2
3 **(a) Contents**

4
5 * * *

6
7 **(b) Length**

8
9 (1) Except as provided in (4), a brief produced on a computer must not exceed
10 6,800 words, including footnotes. Such a brief must include a certificate by
11 appellate counsel or an unrepresented party stating the number of words in
12 the brief. The person certifying may rely on the word count of the computer
13 program used to prepare the brief.

14
15 (2) A brief produced on a typewriter must not exceed 20 pages.

16
17 (3) The information listed on the cover, any table of contents or table of
18 authorities, the certificate under (1), and any signature block are excluded
19 from the limits stated in (1) or (2).

20
21 (4) If a party uses a form brief approved for use by the Judicial Council, the
22 brief, including any attachments, may not exceed 20 pages in length.
23 Attachments must comply with the formatting requirements stated in (c)(1)
24 through (c)(7).

25
26 ~~(4)~~(5) On application, the presiding judge may permit a longer brief for good cause.
27 A lengthy record or numerous or complex issues on appeal will ordinarily
28 constitute good cause. If the court grants an application to file a longer brief,
29 it may order that the brief include a table of contents and a table of
30 authorities.

31
32 **(c) Form**

33
34 (1) A brief may be reproduced by any process that produces a clear, black image
35 of letter quality. All documents filed must have a page size of 8 1/2 by 11
36 inches. If filed in paper form, the paper must be white or unbleached and of at
37 least 20-pound weight. Both sides of the paper may be used if the brief is not
38 bound at the top.

39
40 (2) Any conventional font may be used. The font may be either proportionally
41 spaced or monospaced.
42

Rule 8.883 of the California Rules of Court would be amended, effective January 1, 2025, to read:

- 1 (3) The font style must be roman; but for emphasis, italics or boldface may be
2 used or the text may be underscored. Case names must be italicized or
3 underscored. Headings may be in uppercase letters.
4
- 5 (4) Except as provided in (11), the font size, including footnotes, must not be
6 smaller than 13-point.
7
- 8 (5) The lines of text must be at least one-and-a-half-spaced. Headings and
9 footnotes may be single-spaced. Quotations may be block-indented and
10 single-spaced. Single-spaced means six lines to a vertical inch.
11
- 12 (6) The margins must be at least 1½ inches on the left and right and 1 inch on the
13 top and bottom.
14
- 15 (7) The pages must be consecutively numbered.
16
- 17 (8) The cover—or first page if there is no cover—must include the information
18 required by rule 8.816(a)(1).
19
- 20 (9) If filed in paper form, the brief must be bound on the left margin, except that
21 briefs may be bound at the top if required by a local rule of the appellate
22 division. If the brief is stapled, the bound edge and staples must be covered
23 with tape.
24
- 25 (10) The brief need not be signed.
26
- 27 (11) If the brief is produced on a typewriter:
28 (A) A typewritten original and carbon copies may be filed only with the
29 presiding judge’s permission, which will ordinarily be given only to
30 unrepresented parties proceeding in forma pauperis. All other
31 typewritten briefs must be filed as photocopies.
32 (B) Both sides of the paper may be used if a photocopy is filed; only one
33 side may be used if a typewritten original and carbon copies are filed.
34 (C) The type size, including footnotes, must not be smaller than standard
35 pica, 10 characters per inch. Unrepresented incarcerated litigants may
36 use elite type, 12 characters per inch, if they lack access to a typewriter
37 with larger characters.
38 with larger characters.
39
40
41

Rule 8.883 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 *(Subd (c) amended effective January 1, 2016; previously amended effective January 1,*
2 *2011, January 1, 2013, and January 1, 2014.)*

3

4 **(d) Noncomplying briefs**

5

6 * * *

7

8

Advisory Committee Comment

9

10 **Subdivision (b).** Subdivision (b)(1) states the maximum permissible lengths of briefs produced
11 on a computer in terms of word count rather than page count. This provision tracks a provision in
12 rule 8.204(c) governing Court of Appeal briefs and is explained in the comment to that provision.
13 Subdivision (b)(3) specifies certain items that are not counted toward the maximum brief length.
14 Signature blocks, as referenced in this provision, include not only the signatures, but also the
15 printed names, titles, and affiliations of any attorneys filing or joining in the brief, which may
16 accompany the signature.

17

18 Subdivision (b)(4) provides the maximum length of a brief, with attachments, if the party uses a
19 form brief approved for use by the Judicial Council. The Judicial Council has approved the
20 following optional form briefs that parties may use in limited civil appeals where there is no
21 cross-appeal: *Appellant’s Opening Brief—Limited Civil Case* (form APP-200), *Respondent’s*
22 *Brief—Limited Civil Case* (form APP-201), and *Appellant’s Reply Brief—Limited Civil Case*
23 (form APP-202). Information about use of these form briefs is available on *Information on Using*
24 *Form Appellate Briefs* (form APP-200-INFO).

GENERAL INFORMATION

1 What does this information sheet cover?

This information sheet tells you about appeals in limited civil cases. These are civil cases in which the amount of money claimed is \$35,000 or less.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read Information for the Appellant, starting on page 2. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read Information for the Respondent, starting on page 11.

This information sheet does not cover everything you may need to know about appeals in limited civil cases. It is meant only to give you a general idea of the appeal process. To learn more, you should read rules [8.800–8.843](#) and [8.880–8.891](#) of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. **In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made:

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form [APP-001-INFO](#))
- *Information on Appeal Procedures for Infractions* (form [CR-141-INFO](#))
- *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#))

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”).

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the jury's or trial court's conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.



3 Do I need a lawyer to represent me in an appeal?

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

4 Where can I find a lawyer to help me with my appeal?

You have to hire your own attorney if you want one. You can get information about finding an attorney on the Self-Help Guide to the California Courts at selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help.

INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 11 of this information sheet.

5 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person’s guardian or conservator).

6 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. Code of Civil Procedure section 904.2 lists a few types of orders in a limited civil case that can be appealed right away. These include orders that:

- Change or refuse to change the place of trial (venue)
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum
- Grant a new trial or deny a motion for judgment notwithstanding the verdict
- Discharge or refuse to discharge an attachment or grant a right to attach
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction
- Appoint a receiver
- Are made after final judgment in the case

(You can get a copy of Code of Civil Procedure section 904.2 at leginfo.legislature.ca.gov/faces/codes.xhtml.)

7 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal—Limited Civil Case* (form APP-102) to prepare a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or online at www.courts.ca.gov/forms.

8 How do I “serve and file” the notice of appeal?

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.



- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or mail the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

9 Is there a deadline to file my notice of appeal?

Yes. In a limited civil case, except in the very limited circumstances listed in rule [8.823](#), you must file your notice of appeal within **30 days** after the trial court clerk or a party serves either a document called a “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within 90 days after entry of the judgment, whichever is earlier.

This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.

10 Do I have to pay to file an appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in a limited civil case in the current Statewide Civil Fee Schedule linked at www.courts.ca.gov/7646.htm (note that the “Appeal and Writ Related Fees” section is near the end of this schedule and that there are different fees for limited civil cases depending on the amount demanded in the case). If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

11 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money or to deliver property to another party (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at www.leginfo.legislature.ca.gov/faces/codes.xhtml). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. In most cases, other than unlawful detainer cases in which the trial court's judgment gives a party possession of the property, if the trial court denies your request for a stay, you can apply to the appellate division for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

12 What do I need to do after I file my notice of appeal?

You must ask the clerk of the trial court to prepare and send the official record of what happened in the trial court in your case to the appellate division.



Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the appellate division for its review. You can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form [APP-103](#)) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. "Serving and filing" this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or mail the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

13 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of what was said in the trial court (this is called the "oral proceedings")
- A record of the documents filed in the trial court (other than exhibits)
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

Read below for more information about these parts of the record.

a. Record of what was said in the trial court (the "oral proceedings")

The first part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the "oral proceedings"). You do not *have* to send the appellate division a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of those oral proceedings. For example, if you are claiming that there was not evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what was said in the trial court and it may dismiss your appeal.**

In a limited civil case, you can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form [APP-103](#)) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get



form [APP-103](#) at any courthouse or county law library or online at www.courts.ca.gov/forms.

There are four ways in which a record of the oral proceedings can be prepared for the appellate division:

- If you or the other party arranged to have a court reporter there during the trial court proceedings, the reporter can prepare a record, called a “reporter’s transcript.”
- If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the court has a local rule permitting this and you and the other party agree (“stipulate”) to this, you can use the *official electronic recording* itself instead of a transcript.
- You can use an agreed statement.
- You can use a statement on appeal.

Read below for more information about these options.

(1) Reporter's transcript

Description: A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule [8.834](#) of the California Rules of Court establishes the requirements relating to reporter’s transcripts.

When available: If a court reporter was there in the trial court and made a record of the oral proceedings, you can choose (“elect”) to have the court reporter prepare a reporter’s transcript for the appellate division. In most limited civil cases, however, a court reporter will not have been there unless you or another party in your case made specific arrangements to have a court reporter there. Check with the court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—

Appellant’s Notice Designating Record on Appeal (Limited Civil Case) (form [APP-103](#))—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed without a reporter’s transcript, however, the respondent may not designate a reporter’s transcript without first getting an order from the appellate division.

Cost: The appellant is responsible for paying for preparing a reporter’s transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter’s transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule [8.834](#) with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk’s transcript, the court cannot waive the fee for preparing a reporter’s transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#rtf. If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a statement on appeal, which are described below.

Completion and delivery: After the cost of preparing the reporter’s transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter’s transcript will also be mailed to the respondent.



(2) Official electronic recording or transcript

When available: In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. If your case was officially recorded, you can choose (“elect”) to have a transcript prepared from the recording. Check with the trial court to see if the oral proceedings in your case were officially electronically recorded before you choose this option. If the court has a local rule permitting this and all the parties agree (“stipulate”), a copy of an official electronic recording itself can be used as the record, instead of preparing a transcript. If you choose this option, you must attach a copy of this agreement (“stipulation”) to your notice designating the record on appeal.

Contents: If you elect to use a transcript of an official electronic recording, you must identify by date (this is called “designating”) what proceedings you want included in the transcript. You can use the same form you used to tell the court you wanted to use a transcript of an official electronic recording—*Appellant’s Notice Designating Record on Appeal* (form [APP-103](#)—to do this.

Cost: The appellant is responsible for paying the court for the cost of either (a) preparing a transcript *or* (b) making a copy of the official electronic recording.

(a) If you elect to use a transcript of an official electronic recording, you will need to deposit the estimated cost of preparing the transcript with the trial court clerk and pay the trial court a \$50 fee. There are two ways to determine the estimated cost of the transcript:

- You can use the amounts listed in rule 8.130 (b)(1)(B) for each full or half day of court proceedings to estimate the cost of making a transcript of the proceeding you have designated in your notice designating the record on appeal. Deposit this estimated amount and the \$50 fee with the trial court clerk when you file your notice designating the record on appeal.

- You can ask the trial court clerk for an estimate of the cost of preparing a transcript of the proceedings you have designated in your notice designating the record on appeal. You must deposit this amount and the \$50 fee with the trial court within 10 days of receiving the estimate from the clerk.

(b) If the court has a local rule permitting the use of a copy of the electronic recording itself, rather than a transcript, and you have attached your agreement with the other parties to do this (“stipulation”) to the notice designating the record on appeal that you filed with the court, the trial court clerk will provide you with an estimate of the costs for this copy of the recording. You must pay this amount to the trial court.

If you cannot afford to pay the cost of preparing the transcript, the \$50 fee, or the fee for the copy of the official electronic recording, you can ask the court to waive these costs. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.

Completion and delivery: After the estimated cost of the transcript or official electronic recording has been paid or waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared and the rest of the record is complete, the clerk will send it to the appellate division.

(3) Agreed statement

Description: An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. (See rule 8.836 of the California Rules of Court.)

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose (“elect”) to use an agreed statement as the record of the oral proceedings (please note that it



may take more of your time to prepare an agreed statement than to use either a reporter's transcript or official electronic recording, if they are available).

Contents: An agreed statement must explain what the trial court case was about, describe why the appellate division is the right court to consider an appeal in this case (why the appellate division has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file the agreed statement with your notice designating the record on appeal or, if you and the other parties need more time to work on the statement, you can file a written agreement with the other parties (called a "stipulation") stating that you are trying to agree on a statement. If you file this stipulation, within the next 30 days you must either file the agreed statement or tell the court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

(4) Statement on appeal

Description: A statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners and temporary judges).

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose ("elect") to use a statement on appeal as the record of the oral proceedings (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter's transcript or official electronic recording, if they are available).

Contents: A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;

- A summary of the trial court's rulings and judgment; and
- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule [8.837](#) of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Preparing a proposed statement: If you elect to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Limited Civil Case)* (form [APP-104](#)) to prepare your proposed statement. You can get form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file the proposed statement with the trial court within 20 days after you file your notice designating the record. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed statement has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records



before you file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

Review and modifications: The respondent has 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the respondent. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Completion and certification: If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review. If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes or orders you to make any additional corrections to the statement, and certifies the statement as an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Sending statement to the appellate division: Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with any record of the documents filed in the trial court.

b. Record of the documents filed in the trial court

The second part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the appellate division:

- A clerk’s transcript or an appendix
- The original *trial court file* or
- An *agreed statement*

Read below for more information about these options.

(1) Clerk’s transcript or appendix

Description: A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court. An appendix is a record of these documents prepared by a party. (See rule 8.845 of the California Rules of Court.)

Contents: Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in rule [8.832\(a\)](#) and rule [8.845\(b\)](#) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form [APP-103](#)).

Clerk’s transcript: If you want any documents other than those listed in rule [8.832\(a\)](#) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form [APP-103](#) to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you—the appellant—request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk’s transcript.



Cost: The appellant is responsible for paying for preparing a clerk's transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk's transcript. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the clerk's transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk's transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.

Appendix: If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by rule [8.845](#) of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the appellate division has ordered otherwise) and file the appendix in the appellate division. The appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief. See [\(15\)](#) for information about the brief.

(2) Trial court file

When available: If the court has a local rule allowing this, the clerk can send the appellate division the original trial court file instead of a clerk's transcript (see rule [8.833](#) of the California Rules of Court).

Cost: As with a clerk's transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.



(3) Agreed statement

When available: If you and the respondent have already agreed to use an agreed statement as the record of the oral proceedings (see a(3) above) and agree to this, you can use an agreed statement instead of a clerk’s transcript. To do this, you must attach to your agreed statement all of the documents that are required to be included in a clerk’s transcript.

c. Exhibits

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form [APP-103](#)), includes a space for you to make this request. You also can ask the trial court to send original exhibits to the appellate division at the time briefs are filed (see rule [8.843](#) for more information about this procedure and see below for information about briefs).

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk’s transcript or sent to the appellate division, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

(14) What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send you a notice telling you when you must file your brief in the appellate division.

(15) What is a brief?

Description: A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

Contents: If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

You may, but are not required to, fill out *Appellant’s Opening Brief—Limited Civil Case* (form [APP-200](#)) and use it as your opening brief. You can get more information about using this form as your opening brief from *Information on Using Form Appellate Briefs* (form [APP-200-INFO](#)).

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division or 60 days from the date the appellant chooses to proceed with no reporter’s transcript under rule [8.845](#). “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof



of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk's transcript, the appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule [8.882\(b\)](#) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule [8.811\(b\)](#) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You **must** use *Application for Extension of Time to File Brief—Limited Civil Case* (form [APP-106](#)) to ask the court for an extension.

If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.

16 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent may, but is not required to, respond by serving and filing a respondent's brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent files a brief, within 20 days after the respondent's brief was filed, you may, but are not required to, file another brief replying to the respondent's brief. This is called a "reply brief."

17 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the appellate division will notify you of the date for oral argument in your case.

18 What is "oral argument"?

"Oral argument" is the parties' chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to "waive" oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

19 What happens after oral argument?

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

20 What should I do if I want to give up my appeal?

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called "abandoning") your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form [APP-107](#)) to file this notice in a limited civil case. You can get form APP-107 at any courthouse or county law library or online at www.courts.ca.gov/forms.



INFORMATION FOR THE RESPONDENT

This section of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

21 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help.

22 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal—Limited Civil Case* (form [APP-102](#)) to file this notice in a limited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 2 of this information sheet, if you are considering filing a cross-appeal.

23 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 30 days after mailing or service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 10 days after the clerk of the trial court mails notice of the first appeal, whichever is later.

24 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the appellate division. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record
- Participate in preparing the record *or*
- Ask for a copy of the record

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question **13** above. Then read below for what your options are when the appellant has chosen that form of the record.

a. Reporter's transcript

If the appellant is using a reporter’s transcript, you have the option of asking for additional proceedings to be included in the reporter’s transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter’s transcript.

Whether or not you ask for additional proceedings to be included in the reporter’s transcript, you must generally pay a fee if you want a copy of the reporter’s transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter’s transcript. If you want a copy of the reporter’s transcript, you must deposit this amount (and a fee for the trial court) or one of the substitutes allowed by rule [8.834](#) with the



trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk’s transcript, the court cannot waive the fee for preparing a reporter’s transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at www.courtreportersboard.ca.gov/consumers/index.shtml#trf. The reporter will not prepare a copy of the reporter’s transcript for you unless you deposit the cost of the transcript, or one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

If the appellant elects not to use a reporter’s transcript, you may not designate a reporter’s transcript without first getting an order from the appellate division.

b. Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files its notice designating the record.

c. Statement on appeal

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed statement to review. You will have 10 days from the date the appellant sent you this proposed statement to serve and file suggested changes (called “amendments”) that you think are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues the appellant indicated the appellant is raising on appeal. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

d. Clerk’s transcript or appendix

Clerk’s transcript: If the appellant is using a clerk’s transcript, you have the option of asking the clerk to include additional documents in the clerk’s transcript.

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk’s transcript. You may use *Respondent’s Notice Designating Record on Appeal—Limited Civil Case* (form [APP-110](#)) for this purpose.



Whether or not you ask for additional documents to be included in the clerk’s transcript, you must pay a fee if you want a copy of the clerk’s transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk’s transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk’s notice was sent.

If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk’s transcript for you unless you deposit payment for the cost or obtain a fee waiver.

Appendix: If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent’s appendix. See pages 8–9 for more information about preparing an appendix.

If the appellant chooses a clerk’s transcript but does not have a waiver of the fee for a clerk’s transcript, you can choose an appendix instead of a clerk’s transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent’s Notice Designating Record on Appeal—Limited Civil Case* (form [APP-110](#)) within 10 days after the appellant’s notice designating the record on appeal is filed.

25 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to

prepare your brief yourself. You should read rules [8.882–8.884](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

The appellant serves and files the first brief, called an “appellant’s opening brief.” You may, but are not required to, respond by serving and filing a respondent’s brief within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form [APP-109](#)) or *Proof of Electronic Service (Appellate Division)* (form [APP-109E](#)) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed. You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm.

You may, but are not required to, fill out *Respondent’s Brief—Limited Civil Case* (form [APP-201](#)) and use it as your answering brief. You can get more information about using this form as your answering brief from *Information on Using Form Appellate Briefs* (form [APP-200-INFO](#)).



You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule [8.882\(b\)](#) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule [8.811\(b\)](#) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You **must** use *Application for Extension of Time to File Brief—Limited Civil Case* (form [APP-106](#)) to ask the court for an extension.

If you do not file a respondent’s brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

If you file a respondent’s brief, the appellant then has an opportunity to serve and file another brief within 20 days replying to your brief.

26 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date for oral argument in your case.

“Oral argument” is the parties’ chance to explain their arguments to appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide the appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

After oral argument is held (or the scheduled date passes if all parties waive argument), the judges of the appellate division will make a decision about the appeal. The appellate division has 90 days after oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division’s decision.

Clerk stamps date here when form is filed.

**DRAFT
02.20.2024
Not approved
by Judicial
Council**

Appellate Division Case Number:

Trial Court Case Number:

Trial Court Judicial Officer:

Appellant*(fill in the name of each party appealing)*

v.

Respondent*(fill in the name of each party against whom the appeal is brought)***Instructions**

- This form is for use as the appellant's opening brief in a **limited civil case** appeal only. Do not use this form, however, if this is a criminal case, an unlimited civil case, or if there is a cross appeal in this case.
- Before you fill in this form, read *Information on Using Form Appellate Briefs* (form [APP-200-INFO](#)). You can get this form at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You may attach additional pages as needed when answering an item by checking the box that indicates there is not enough space. Your brief cannot be longer than 20 pages, including this form and any attached pages. Your attachments must comply with the formatting requirements of California Rules of Court, rule [8.883\(c\)](#).
- Fill out this brief and make a copy for each of the other parties and the trial court. Serve a copy of the completed form on each of the other parties and the trial court and keep proof of this service. *Proof of Service* (form [APP-109](#)) or *Proof of Electronic Service* (form [APP-109E](#)) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

1 Information About the Appellant

- a. Appellant (*name*): _____
 Your Lawyer (*if you have one for this case*):
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address (*If you are a lawyer filling this form out on behalf of your client, provide your contact information and not your client's.*)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____



2 The Order Being Appealed as Stated in the Notice of Appeal

I am/My client is appealing (*check all that apply*):

- a. The final judgment in the trial court case.
- b. An order made after the final judgment in the case.
- c. An order changing or refusing to change the place of trial (venue).
- d. An order granting a motion to quash service of summons.
- e. An order granting a motion to stay or dismiss the action on the ground of inconvenient forum.
- f. An order granting a new trial.
- g. An order denying a motion for judgment notwithstanding the verdict.
- h. An order granting or dissolving an injunction or refusing to grant or dissolve an injunction.
- i. An order appointing a receiver.
- j. Other action (*please describe, indicate the date the trial court took the action you are appealing, and explain why it is appealable*):

3 Timeliness of Appeal

- a. Date of entry of judgment or order appealed from:
- b. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.822:
- c. Was a notice of intention to move for new trial, a motion for judgment notwithstanding the verdict, a motion for reconsideration, or a motion to vacate the judgment made and denied? Yes No
 - (1) If yes, please specify the type of motion:
 - (2) Date motion filed:
Date motion denied:
Date denial served:
- d. Date you filed the notice of appeal:

4 Other Appeals

Has there been another appeal in this same case? Yes No

If yes, list the case number for each appeal and the date of the decision in that prior appeal. Include all appeals in the case, whether or not all appeals have concluded.



5 What Are the Facts of This Case?

What are the facts about what happened between the parties that caused this lawsuit? Discuss only the facts that are important to your arguments made in item 8 and that were presented to the trial court. For each fact you mention, cite the page or pages of the record where it shows that the fact was presented to the trial court. Read item 11 on Information on Using Form Appellate Briefs (form APP-200-INFO) before filing out this section.

☐ Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 5" at the top.

Lined writing area for the answer.



6 What Happened in the Trial Court?

Describe the proceedings before the trial court. When referring to a specific document (such as the complaint, a motion, or an order), cite to the page of the record where that document can be found.

a. In the trial court, you or your client was the (check one):

- plaintiff (the party who filed the complaint in the case).
defendant (the party against whom the complaint was filed).

b. What legal claims did the plaintiff make in the complaint? (For example, a claim for negligence, breach of contract, violation of civil rights, or employment discrimination):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6b" at the top.

Horizontal lines for writing the answer to question b.

c. What did the complaint ask the court to do? (For example, order the defendant to pay damages):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6c" at the top.

Horizontal lines for writing the answer to question c.

d. What legal arguments did the defendant make in response? These arguments can be found either in the answer to the complaint or in motions filed by the defendant. (For example, the claims in the complaint were barred by the statute of limitations, there was no enforceable contract, or the facts do not support the legal claims in the complaint):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6d" at the top.

Horizontal lines for writing the answer to question d.



6 e. Did the defendant file a cross-complaint? Yes No
If yes, describe the legal claims the defendant made in the cross-complaint and what the defendant asked the trial court to do:

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6e" at the top.

f. What did the trial court do? Describe what the order or judgment being appealed said and what, if anything, the order or judgment required the parties to do.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6f" at the top.

7 Your Request of the Appellate Division of the Superior Court

What would you like the appellate division to do? (For example, reverse the judgment or order on appeal, or send the case back to the court for more proceedings):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 7" at the top.

GENERAL INFORMATION**1 What does this information sheet cover?**

This information sheet tells you about how to use these forms to prepare a brief for an appeal in a limited civil case:

- *Appellant’s Opening Brief—Limited Civil Case* (form [APP-200](#))
- *Respondent’s Brief—Limited Civil Case* (form [APP-201](#))
- *Appellant’s Reply Brief—Limited Civil Case* (form [APP-202](#))

A “limited civil case” is a civil case that involves an amount of \$35,000 or less. If your case involves more than \$35,000, your case is an “unlimited civil case” and you cannot use these forms. Also, do not use these forms in a criminal case.

Do not use these forms if a cross-appeal has been filed in your case. A cross-appeal is when both parties have filed notices of appeal asking to have the trial court’s decision reviewed. For more information about briefs where a cross-appeal has been filed, see California Rules of Court, rule [8.884](#).

For information about the appeal process in limited civil cases in general, you should read *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#)). To learn even more, you should read rules [8.800–8.845](#) and [8.880–8.891](#) of the California Rules of Court, which sets out the procedures for appeals in limited civil cases. You can get this form and these rules at any courthouse or county law library or online at www.courts.ca.gov/rules and www.courts.ca.gov/forms.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet and in the form briefs—is the superior court.

If you are the party appealing (asking for the trial court’s decision to be reviewed), you are called the appellant. If you received notice that another party in the case is appealing, you are called the respondent.

3 What is a brief?

A “brief” is a written document that tells the appellate division (the court reviewing your case):

- The facts in the case
- The law that applies
- The party’s arguments about the issues being appealed

If you are the appellant, you will file the first brief, called an “opening brief.” If you are the respondent, after the appellant files the opening brief, you will have the chance to file the “respondent’s brief” to respond to the appellant’s arguments in the opening brief. Finally, if the respondent files a respondent’s brief, the appellant will then have the chance to file a “reply brief” to reply to the respondent’s arguments. The reply brief is the final brief unless the appellate division orders further briefing.

4 Preparing a brief

If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself.

For appellants, there are two forms you may use to prepare your briefs, one for the opening brief and one for the reply brief. For respondents, there is one form you may use to prepare your respondent’s brief. For information in filling out these forms, appellants should read the sections below called “Information About Filling Out *Appellant’s Opening Brief—Limited Civil Case* (form [APP-200](#)),” starting on page 2, and “Information About Filling Out *Appellant’s Reply Brief—Limited Civil Case* (form [APP-202](#)),” starting on page 9. Respondents should read the section below called “Information About Filling Out *Respondent’s Brief—Limited Civil Case* (form [APP-201](#)),” starting on page 6.

You or your lawyer do not need to use these forms for your briefs. If you choose to draft your own brief, read California Rules of Court, rule [8.882–8.884](#) to learn about what your brief must contain, how it must be formatted, and how and when it must be served and filed.



**INFORMATION ABOUT FILLING OUT
APPELLANT'S OPENING BRIEF—
LIMITED CIVIL CASE (FORM APP-200)**

If you are the appellant, you must prepare and file the first brief, called an “appellant’s opening brief.” This brief must clearly explain what you believe are the legal errors made in the trial court. You or your lawyer may use *Appellant’s Opening Brief—Limited Civil Case* (form [APP-200](#)) to prepare this opening brief. This section describes how to fill out this form.

5 Attachments, format, and length

Form APP-200 has spaces for you to provide information or answer questions. If any of these spaces are not big enough and you need more space for your response to an item, you may check the box in that item indicating that you need more space. After you check the box, you may continue your answer on a separate sheet of paper labeled “Attachment” followed by the item number you are filling out. For example, an attachment continuing your response to item 4 would be labeled “Attachment 4” at the top of the page.

You should format your brief and attachments as follows:

- The attachments must be on white paper, 8.5 inches by 11 inches in size, with 1.5-inch margins on the left and right and 1-inch margins on the top and bottom.
- In typing the brief and attachments, you may use any conventional font, but the font must not be smaller than 13 point.
- You should use normal typeface, however italics, boldface type, or underscores can be used for emphasis. Case names must also be in italics or underscored.
- If you file the brief in paper form, you should bind the brief on the left margin, unless the appellate division has a local rule requiring the brief to be bound on the top.
- All attachments need to be included at the end of form APP-200 in the order of the attachment number. For example, you would put Attachment 4 after Attachment 3. You then need to number the pages of all of the attachments in order, starting with page 8 (because the actual form is 7 pages long).

Your opening brief, including the form and any attachments, may not be longer than 20 pages.

6 Completing the caption (the top part of the form)

Name of the parties on appeal. At the top left of the form, fill out the name of each party appealing the trial court’s decision and the name of each party who is a respondent in the appeal.

Appellate division case number. When you filed the notice of appeal in your case, the clerk gave the appeal a case number. You can find this number on the notice of briefing schedule or another document about your case sent to you by the clerk of the appellate division. Write that number in the box entitled “Appellate Division Case Number.”

Trial court case number and trial court judicial officer. Write the case number your case had in the trial court here. You can find this number on any court order from the trial court. Also write the name of the trial court judge or other judicial officer who made the decision you are appealing.

7 Completing item 1, "Information About the Appellant"

In item 1a, type your name. If you are a lawyer filling this out for your client, type your name, State Bar number, and the name of your law firm.

In item 1b, type your address and contact information if you do not have a lawyer. If you are a lawyer filling out this form for your client, write your office address, telephone number, fax number (if applicable), and email address.

8 Completing item 2, "The Order Being Appealed as Stated in the Notice of Appeal"

In this item, you are telling the appellate division about the judgment or order you are appealing. Check the box or boxes that describe the judgment or orders you are appealing. You may check multiple boxes. For example, if you are appealing from the final judgment after a jury trial *and* the trial court’s denial of your motion for new trial, you would check the box at item 2a and item 2b.

9 Completing item 3, "Timeliness of Appeal"

In item 3, you are providing the court with information about when the trial court entered the order or judgment you are appealing, when notice of that order or judgment was served, and when your notice of appeal was filed.



This information will help the appellate division determine whether you filed your notice of appeal in time. Except in very limited circumstances listed in California Rules of Court, rule [8.823](#), you must have filed your notice of appeal within **30 days** after the trial court clerk or a party served either a document called “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within **90 days** after entry of the judgment, whichever is earlier.

In item 3a, write the date the trial court entered the judgment or order you are appealing.

In item 3b, write the date that you were served by the clerk or another party with a notice of entry of judgment or a copy of the judgment under California Rules of Court, rule [8.822](#).

The time to file a notice of appeal may be longer if certain types of motions were filed after the trial court made its decision and the motion was denied by the trial court. These motions are listed in item 3c (notice of intention to move for a new trial, motion for judgment notwithstanding the verdict, motion for reconsideration, or a motion to vacate judgment).

In item 3c, check “yes” if a party filed one of the listed motions which was then denied by the trial court. If you check “yes,” write the type of motion that was filed, the date the motion was filed, the date the trial court denied the motion, and the date you were served with a copy of the trial court’s denial.

Finally, in item 3d, indicate the date you filed your notice of appeal.

10 Completing item 4, “Other Appeals”

In Item 4, indicate whether there have been any other appeals in this case. If yes, provide the case numbers for those other appeals.

11 Completing item 5, “What Are the Facts of This Case?”

In item 5, discuss what happened between the parties to cause this lawsuit to be filed. You must only include facts that:

- Are important to what you think the district court got wrong, and

- Were presented to the trial court. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not discuss any facts that were not presented to the trial court.

For each fact you discuss in item 5, you must tell the appellate division where in the record on appeal it shows that the fact was presented to the trial court. (For more information about the record on appeal, read item 13 on form [APP-101-INFO](#).) To do this, when you discuss a fact, you must **cite** the page in the record where it shows that fact was presented to the trial court. To *cite* means to provide: (1) the volume number of the part of the record where the fact can be found, (2) the name of the part of the record you are citing, and (3) the page number in the record where the fact can be found. Here are examples of how to cite to different forms of the record:

- If the fact you are discussing appears at page 10 of volume 2 of the Clerk’s Transcript, you would cite the Clerk’s Transcript as “2 CT 10.”
- If the fact you are discussing appears at page 15 of volume 1 of the Reporter’s Transcript, you would cite the Reporter’s Transcript as “1 RT 15.”
- If the parties used an appendix on appeal instead of a clerk’s transcript, and the fact you are discussing appears at page 33 of volume 1 of the appendix, you would cite the appendix as “1 App’x 33.”

12 Completing item 6, “What Happened in the Trial Court?”

In item 6, you will provide the appellate division with the facts about what happened in the trial court. Just like in item 5, you must cite to where in the record on appeal a fact you provide appears. For example, when you are talking about a specific document filed in the trial court (such as a complaint, a motion, or a court order), cite to where in the record that document can be found.

In item 6a, indicate whether you were the plaintiff or the defendant in the trial court. The plaintiff is the party who filed the complaint in the case. The defendant is the party against whom the complaint was filed.

In item 6b, describe the legal claims the plaintiff made in the complaint. The plaintiff started this lawsuit by filing a complaint. The complaint explains how the plaintiff believes they have been harmed. The “legal claims” in the complaint describe why the plaintiff believes the defendant is legally responsible for that harm. The following are examples of legal claims:



- The defendant drove through a red light and crashed into the plaintiff. The legal claim would be for “negligence.”
- The defendant failed to pay the plaintiff for work the plaintiff did under a contract. The legal claim would be for “breach of contract.”

In item 6c, describe what the plaintiff asked the trial court to do in the complaint to fix the harm they suffered. For example, the plaintiff may have asked the trial court to order the defendant to pay damages (money) to the plaintiff or to issue an injunction (an order requiring the defendant either to do something or not to do something).

In item 6d, describe the arguments the defendant made to the trial court against the complaint. These arguments are the reasons why the defendant believed the plaintiff should lose the lawsuit. These arguments can be found either in the defendant’s answer or in motions filed by the defendant (such as a demurrer or a motion for summary judgment). Examples of such arguments could include:

- The plaintiff waited too long to bring this lawsuit and the claims are now barred by the statute of limitations.
- The facts alleged in the complaint do not support the legal claims.
- The plaintiff failed to provide evidence supporting their legal claims.

In item 6e, indicate whether the defendant filed a cross-complaint against the plaintiff or another party. When a plaintiff sues a defendant, the defendant can sue the plaintiff back or, if the defendant thinks someone else is responsible for plaintiff’s harm, the defendant can sue that other person and bring them into the lawsuit. This is called filing a cross-complaint. If the defendant in this case filed a cross-complaint, briefly describe the legal claims made in the cross-complaint and what relief the defendant asked the trial court to order.

In item 6f, describe the decision of the trial court that you are appealing. You should state what the trial court’s decision was (for example, an order sustaining defendant’s demurrer, an order granting a motion for summary judgment, or a judgment after a jury verdict) and describe any reasons the trial court gave for its decision. Finally, describe what, if anything, the trial court’s decision requires the parties to do.

13 Completing item 7, "Your Request of the Appellate Division of the Superior Court"

In item 7, tell the appellate division what you would like it to do to fix the mistakes you believe the trial court made. For example, if the trial court sustained the defendant’s demurrer and dismissed your case, you could ask the appellate division to reverse the judgment and send the case back to the trial court to allow the case to continue.

14 Completing item 8, "What Do You Think the Trial Court Did Wrong?"

In item 8, you must clearly explain what you believe the trial court did wrong in deciding your case. You must include all your arguments in this opening brief. The appellate division will only consider arguments raised in the opening brief.

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. Instead, the appellate division will review the appellate record (the record of what happened in the trial court that the parties have provided) and the trial court’s decision to see if certain kind of legal errors were made. The appellate division can only review a case for whether one of the two types of mistakes occurred:

- A **prejudicial error** occurred in the case before the trial court. A *prejudicial error* is an error that was made about either the law or court procedures in the case and that caused harm to the appellant.

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. As the appellant, you have the responsibility of showing that an error was made and that you were harmed by the error in some way.



- That there was **no substantial evidence** to support the judgment, order, or other decision being appealed. *Substantial evidence* is evidence that is reasonable and believable. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the trial court’s judgment, order, or other decision. The appellate division generally will not reconsider the jury’s or trial court’s conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.
- The law that supports your argument. This can take the form of statutes, court opinions, court rules, constitutional provisions, or other legal authority. You may find law that supports your appeal mentioned in the documents filed by the parties in the trial court or in the trial court’s decisions.

The appellate division generally will not reverse the judgment, order, or other decision being appealed unless the record clearly shows that one of these mistakes was made. (*Reverse* means to change the trial court’s decision.)

Item 8 is your opportunity to explain to the appellate division how the trial court made one of these mistakes and how the mistake harmed your case.

For each argument, you should clearly identify the following:

- The mistake you believe the trial court made in its judgment, order, or other decision you are appealing
- The **standard of review** that the reviewing court should apply in reviewing the argument. The *standard of review* is the rule or guidelines the appellate division will apply to determine whether a mistake was made in the trial court. Common standards of review include “de novo” if you are claiming the trial court misapplied the law; “abuse of discretion” if you are claiming the trial court exercised their discretion in an absurd or arbitrary way; or “substantial evidence” if you are challenging the factual findings of the judge or jury. You can get information about the possible standards of review that may apply on the Self-Help Guide to the California Courts website at selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review.
- The places in the record on appeal where the facts which support your argument can be found. (Please see the discussion of cites to the record on appeal in item 11 of this information sheet.)

Form [APP-200](#) provides items for making two arguments. If you have more than two arguments to make, check the box at item 8c and make those additional arguments on a separate piece of paper and write “Attachment 8c” at the top.

15 Serving and Filing Your Brief

After you have completed your brief, make copies of the brief (with all attachments) for your records, each of the other parties in the case, and the trial court.

Serve a copy of the completed form (with all attachments) on each of the other parties and the trial court and keep proof of this service. There are two forms you may use to show proof of service:

- *Proof of Service* (form [APP-109](#)); or
- *Proof of Electronic Service* (form [APP-109E](#)).

You can get more information about how to serve court papers and proof of service from *What is Proof of Service* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at www.courts.ca.gov/selfhelp-serving.htm.

After you have served copies of the brief on the other parties and the trial court, file the original brief and all attachments, along with the proof of service, with the appellate division.



INFORMATION ABOUT FILLING OUT RESPONDENT'S BRIEF—LIMITED CIVIL CASE (FORM APP-201)

This part of the information sheet is written for the respondent—the party who is responding to an appeal filed by another party. If you are the respondent, your brief, called a “respondent’s brief,” responds to the arguments raised in the appellant’s opening brief and explains why the decision of the trial court that is being appealed is correct. You or your lawyer may use *Respondent’s Brief—Limited Civil Case* (form [APP-201](#)) for this purpose. This section describes how to fill out this form.

You do not need to submit a respondent’s brief. However, if you do not submit a brief, you will lose the chance to present your argument to the appellate division, either in writing or by making an oral argument before the appellate division. (For more information about oral argument, read item 26 on form [APP-101-INFO](#).) If you do not submit a brief, the appellant does not automatically win the appeal. Instead, the appellate division will decide the appeal on the trial court record, the appellant’s opening brief, and any oral argument by the appellant.

16 Attachments, format, and length

Form [APP-201](#) has spaces for you to provide information or answer questions. If any of these spaces are not big enough and you need more space for your response to an item, you may check the box in that item indicating that you need more space. After you check the box, you may continue your answer on a separate sheet of paper labeled “Attachment” followed by the item number you are filling out. For example, an attachment continuing your response to item 4 would be labeled “Attachment 4” at the top of the page.

You should format your brief and attachments as follows:

- The attachments must be on white paper, 8.5 inches by 11 inches in size, with 1.5 inch margins on the left and right and 1-inch margins on the top and bottom.
- In typing the brief and attachments, you may use any conventional font, but the font must not be smaller than 13 point.

- You should use normal typeface, but italics, boldface type, or underscores can be used for emphasis. Case names must also be in italics or underscored.
- If you file the brief in paper form, you should bind the brief on the left margin, unless the appellate division has a local rule requiring the brief to be bound on the top.
- All attachments need to be included at the end of form APP-201 in the order of the attachment number. For example, you would put Attachment 4 after Attachment 3. You then need to number the pages of all of the attachments in order, starting with page 6 (because the actual form is 5 pages long).

Your respondent’s brief, including the form and any attachments, may not be longer than 20 pages.

17 Completing the caption (the top part of the form)

Name of the parties on appeal. At the top left of the form, fill out the name of each party appealing the trial court’s decision and the name of each party who is a respondent in the appeal.

Appellate division case number. When the appellant filed the notice of appeal in this case, the clerk gave the appeal a case number. You can find this number on the appellant’s opening brief or on the notice of briefing schedule sent to you by the clerk of the appellate division. Write that number in the box entitled “Appellate Division Case Number.”

Trial court case number and trial court judicial officer. Write the case number your case had in the trial court here. You can find this number on any court order from the trial court. Also write the name of the trial court judge or other judicial officer who made the decision the appellant is appealing.

18 Completing item 1, "Information About the Respondent"

In item 1a, type your name. If you are a lawyer filling this out for your client, type your name, State Bar number, and the name of your law firm.

In item 1b, type your address and contact information if you do not have a lawyer. If you are a lawyer filling out this form for your client, write your office address, telephone number, fax number (if applicable), and e-mail address.



19 Completing item 2, "What Are the Facts of This Case?"

You do not need to fill out item 2 if you agree with the facts stated by the appellant in the appellant's opening brief. If you do not agree with those facts, then, in item 2, discuss what happened between the parties to cause this lawsuit to be filed.

If you provide a discussion of the facts, you must only include facts that:

- Are important to the arguments raised in the appellant's opening brief, your responses to those arguments you make in item 3, or other arguments you make in item 4 about why the superior court was correct in the decision the appellant is challenging on appeal or why the appellant should not be permitted to appeal.
- Were presented to the trial court. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not discuss any facts that were not presented to the trial court.

For each fact you discuss in item 2, you must tell the appellate division where in the record on appeal it shows that the fact was presented to the trial court. (For more information about the record on appeal, read item 13 on form [APP-101-INFO](#).) To do this, when you discuss a fact, you must **cite** the page in the record where it shows that fact was presented to the trial court. To *cite* means to provide: (1) the volume number of the part of the record where the fact can be found, (2) the name of the part of the record you are citing, and (3) the page number in the record where the fact can be found. Here are examples of how to cite to different forms of the record:

- If the fact you are discussing appears at page 10 of volume 2 of the Clerk's Transcript, you would cite the Clerk's Transcript as "2 CT 10."
- If the fact you are discussing appears at page 15 of volume 1 of the Reporter's Transcript, you would cite the Reporter's Transcript as "1 RT 15."
- If the parties used an appendix on appeal instead of a clerk's transcript, and the fact you are discussing appears at page 33 of volume 1 of the appendix, you would cite the appendix as "1 App'x 33."

20 Completing item 3, "What Are Your Responses to Appellant's Arguments?"

Item 3 is your opportunity to explain why the arguments made by the appellant in appellant's opening brief are wrong and the trial court's decision is right. You should respond to every legal argument raised by the appellant in the opening brief and should respond to the arguments in the same order that appellant made them.

Form [APP-201](#) provides items for responding to the appellant's first two arguments. If the appellant made more than two arguments, check the box at item 3c, and respond to appellant's other arguments on a separate piece of paper labeled "Attachment 3c" at the top of the page.

For each response, begin by briefly describing the appellant's argument to which you are responding. Then, explain why you believe the appellant's argument is wrong and the trial court's decision is correct. Even if the appellant has identified a legal mistake made by the trial court, you can argue that the mistake did not cause enough harm (or *prejudice*) to appellant's case to require the trial court's decision to be changed (or *reversed*).

In each of your responses, you must clearly identify the following:

- The places in the record on appeal where the facts that support your argument can be found. (Please see the discussion of cites to the record on appeal in item 19 of this information sheet.)
- The law that supports your argument. This can take the form of statutes, court opinions, court rules, constitutional provisions, or other legal authority. You may find law that supports your appeal mentioned in the documents filed by the parties in the trial court or in the trial court's decisions.

In reviewing the arguments raised by the appellant in the opening brief and your responses to those arguments, the appellate division will apply a **standard of review**. The *standard of review* is the rule or guidelines the appellate division will apply to determine whether a mistake was made in the trial court. If the appellant's opening brief failed to discuss the applicable standard of review, or if you disagree with the appellant about which standard of review applies, you should include in your response a discussion of what standard of review you believe applies.



You can get information about the possible standards of review that may apply on the Self-Help Guide to the California Courts website at selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review.

21 Completing item 4, "Other Arguments"

In item 3, you responded to the arguments the appellant raised in the appellant's opening brief. Item 4 is your opportunity to raise any additional arguments you may have for why the trial court's decision is correct.

For example, if the trial court's decision provided two reasons why the appellant lost, but the appellant only discussed one of these reasons in the appellant's opening brief, you could argue that the appellant has lost the ability to challenge the other reason.

Additionally, if the appellant did not follow the court rules about appeals, you can argue in item 4 that the appellate division should dismiss the appeal. For example, if the appellant failed to file the notice of appeal in time or if the trial court's decision is not an appealable order, you could raise these arguments in item 4. For more information about the deadlines for filing a notice of appeal and what orders or trial court decisions can be appealed, see the Self-Help Guide to the California Courts website at selfhelp.courts.ca.gov/civil-appeals/can-you-appeal.

You may raise as many additional arguments as you want. Each argument should be listed separately with a title that summarizes the argument in a single sentence, followed by the argument. If you require additional space, check the box indicating you need additional space, and continue your answer on an attached sheet of paper labeled "Attachment 4" at the top of the page.

22 Completing item 5, "Your Request of the Appellate Division"

In item 5, tell the appellate division what you would like it to do. For example, if you believe the trial court's decision is correct, you could ask the appellate division to **affirm** the trial court's decision (to *affirm* means to uphold the trial court's decision). Or, if you believe the appellant has not followed the rules about appeals and the appellate division should reject the appeal, you could ask the appellate division to dismiss the appellant's appeal, leaving the trial court's decision in place.

23 Serving and Filing Your Brief

After you have completed your brief, make copies of the brief (with all attachments) for your records, each of the other parties in the case, and the trial court.

Serve a copy of the completed form (with all attachments) on each of the other parties and the trial court and keep proof of this service. There are two forms you may use to show proof of service:

- *Proof of Service* (form [APP-109](#)); or
- *Proof of Electronic Service* (form [APP-109E](#))

You can get more information about how to serve court papers and proof of service from *What is Proof of Service* (form [APP-109-INFO](#)) and on the California Courts Online Self-Help Center site at www.courts.ca.gov/selfhelp-serving.htm.

After you have served copies of the brief on the other parties and the trial court, file the original brief and all attachments, along with the proof of service, with the appellate division.



**INFORMATION ABOUT FILLING OUT
APPELLANT'S REPLY BRIEF—
LIMITED CIVIL CASE (FORM APP-202)**

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. If the respondent filed a respondent’s brief, that brief contained arguments that responded to your opening brief. You now have the opportunity to file an “appellant’s reply brief” which replies to those arguments made in the respondent’s brief. You or your lawyer may use *Appellant’s Reply Brief—Limited Civil Case* (form [APP-202](#)) for this purpose. This section describes how to fill out this form.

You do not need to file a reply brief unless you want to. If you choose to file a reply brief, it will be the final brief filed in the case, unless the appellate division chooses to order additional briefing.

24 Attachments, format, and length

Form APP-202 has spaces for you to provide information or answer questions. If any of these spaces are not big enough and you need more space for your response to an item, you may check the box in that item indicating that you need more space. After you check the box, you may continue your answer on a separate sheet of paper labeled “Attachment” followed by the item number you are filling out. For example, an attachment continuing your response to item 4 would be labeled “Attachment 4” at the top of the page.

You should format your brief and attachments as follows:

- The attachments must be on white paper, 8.5 inches by 11 inches in size, with 1.5-inch margins on the left and right and 1-inch margins on the top and bottom.
- In typing the brief and attachments, you may use any conventional font, but the font must not be smaller than 13 points.
- You should use normal typeface, but italics, boldface type, or underscores can be used for emphasis. Case names must also be in italics or underscored.
- If you file the brief in paper form, you should bind the brief on the left margin, unless the appellate division has a local rule requiring the brief to be bound on the top.

- All attachments need to be included at the end of form APP-202 in the order of the attachment number. For example, you would put Attachment 4 after Attachment 3. You then need to number the pages of all of the attachments in order, starting with page 4 (because the actual form is 3 pages long).

Your reply brief, including the form and any attachments, may be no longer than 20 pages.

25 Completing the caption (the top part of the form)

Name of the parties on appeal. At the top left of the form, fill out the name of each party appealing the trial court’s decision and the name of each party who is a respondent in the appeal.

Appellate division case number. When you filed the notice of appeal in your case, the clerk gave the appeal a case number. You can find this number on the notice of briefing schedule or another document about your case sent to you by the clerk of the appellate division. Write that number in the box entitled “Appellate Division Case Number.”

Trial court case number and trial court judicial officer. Write the case number your case had in the trial court here. You can find this number on any court order from the trial court. Also write the name of the trial court judge or other judicial officer who made the decision you are appealing.

26 Completing item 1, "Information About the Appellant"

In item 1a, type your name. If you are a lawyer filling this out for your client, type your name, State Bar number, and the name of your law firm.

In item 1b, type your address and contact information if you do not have a lawyer. If you are a lawyer filling out this form for your client, write your office address, telephone number, fax number (if applicable), and e-mail address.



27 Completing item 2, "Replying to Respondent's Arguments"

Item 2 is your opportunity to reply to the arguments made by the respondent in the respondent's brief.

Form APP-202 provides items for replying to the respondent's first two arguments. If the respondent's brief contained more than two arguments, check the box at item 2c, and reply to the other arguments on a separate piece of paper labeled "Attachment 2c" at the top of the page.

For each reply, begin by briefly describing the respondent's argument to which you are replying. Then, provide your reply explaining why the respondent's arguments are incorrect. Your reply brief should not simply repeat the arguments you made in the opening brief. Instead, your reply arguments can do the following:

- Address legal issues and arguments raised in the respondent's brief.
- Show the appellate division how the respondent did not successfully address the legal issues raised in the appellant's opening brief.
- Address new legal authorities (cases, statutes, or constitutional provisions) included in the respondent's brief.

For each of your reply arguments, you must clearly identify the following:

- The places in the record on appeal where the facts that support your argument can be found. (Please see the discussion of cites to the record on appeal in item 11 of this information sheet.)
- The law that supports your argument. This can take the form of statutes, court opinions, court rules, constitutional provisions, or other legal authority. You may find law that supports your appeal mentioned in the documents filed by the parties in the trial court or in the trial court's decisions.

28 Serving and Filing Your Brief

After you have completed your brief, make copies of the brief (with all attachments) for your records, each of the other parties in the case, and the trial court.

Serve a copy of the completed form (with all attachments) on each of the other parties and the trial court and keep proof of this service. There are two forms you may use to show proof of service:

- *Proof of Service* (form [APP-109](#)); or
- *Proof of Electronic Service* (form [APP-109E](#))

You can get more information about how to serve court papers and proof of service from *What is Proof of Service* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at www.courts.ca.gov/selfhelp-serving.htm.

After you have served copies of the brief on the other parties and the trial court, file the original brief and all attachments, along with the proof of service, with the appellate division.

Clerk stamps date here when form is filed.

**DRAFT
02.20.2024
Not approved
by Judicial
Council**

Appellate Division Case Number:

Trial Court Case Number:

Trial Court Judicial Officer:

Appellant*(fill in the name of each party appealing)*

v.

Respondent*(fill in the name of each party against whom the appeal is brought)***Instructions**

- This form is for use as the respondent's brief in a **limited civil case** appeal only. Do not use this form, however, if this is a criminal case, if this is an unlimited civil case, or if there is a cross-appeal in this case.
- Before you fill in this form, read *Information on Using Form Appellate Briefs* (form [APP-200-INFO](#)). You can get this form at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You may attach additional pages as needed when answering an item by checking the box that indicates there is not enough space. Your brief cannot be longer than 20 pages, including this form and any attached pages. Your attachments must comply with the formatting requirements of California Rules of Court, rule [8.883\(c\)](#).
- Fill out this brief and make a copy for each of the other parties and the trial court. Serve a copy of the completed form on each of the other parties and the trial court and keep proof of this service. *Proof of Service* (form [APP-109](#)) or *Proof of Electronic Service* (form [APP-109E](#)) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

1 Information About the Respondenta. Respondent (*name*): _____Your Lawyer (*if you have one for this case*):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (*If you are a lawyer filling this form out on behalf of your client, provide your contact information and not your client's.*)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____



3 What Are Your Responses to Appellant's Arguments?

In responding to the arguments made in the Appellant's Opening Brief, you should try to explain why the trial court was correct in the decision the appellant is challenging on appeal. Refer to facts presented to the trial court as well as the statutes, cases, court rules, constitutions, or other legal authorities that support your responses.

a. Response 1.

(1) What is the first argument in the Appellant's Opening Brief to which you are responding? Briefly describe the argument.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 3a(1)" at the top.

(2) What is your response to that argument? Include the law and/or facts that support your response.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 3a(2)" at the top.

3 b. **Response 2.**

(1) What is the second argument in the appellant’s opening brief to which you are responding? Briefly describe the argument.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 3b(1)” at the top.

(2) What is your response to that argument? Include the law and/or facts that support your response.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 3b(2)” at the top.

c. Check here to respond to additional arguments. Include these additional responses on an attached sheet of paper, and write “Attachment 3c” at the top. For each response, begin first by briefly describing the argument in the Appellant’s Opening Brief to which you are responding, and then provide your response.

4 Other Arguments

Are there any other arguments you would like to raise to explain why the superior court was correct in the decision that the appellant is challenging on appeal or why the appellant should not be permitted to appeal?

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 4" at the top.

5 Your Request of the Appellate Division

What would you like the appellate division to do? *(For example, affirm the trial court’s decision or dismiss appellant’s appeal):*

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 5" at the top.

Date: _____

Type or print your name



Sign your name

Clerk stamps date here when form is filed.

**DRAFT
02.20.2024
Not approved
by Judicial
Council**

Appellate Division Case Number:

Trial Court Case Number:

Trial Court Judicial Officer:

Appellant*(fill in the name of each party appealing)*

v.

Respondent*(fill in the name of each party against whom the appeal is brought)***Instructions**

- This form is for use as the appellant's reply brief in a **limited civil case** appeal only. Do not use this form, however, if this is a criminal case, if this is an unlimited civil case, or if there is a cross-appeal in this case.
- Before you fill in this form, read *Information on Using Form Appellate Briefs* (form [APP-200-INFO](#)). You can get this form at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You may attach additional pages as needed when answering an item by checking the box that indicates there is not enough space. Your brief cannot be longer than 20 pages, including this form and any attached pages. Your attachments must comply with the formatting requirements of California Rules of Court, rule [8.883\(c\)](#).
- Fill out this brief and make a copy for each of the other parties and the trial court. Serve a copy of the completed form on each of the other parties and the trial court and keep proof of this service. *Proof of Service* (form [APP-109](#)) or *Proof of Electronic Service* (form [APP-109E](#)) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

1 Information About the Appellant

- a. Appellant (*name*): _____
 Your Lawyer (*if you have one for this case*):
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address (*If you are a lawyer filling this form out on behalf of your client, provide your contact information and not your client's*):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____



2 Replying to Respondent's Arguments

List each argument raised in the respondent's brief to which you are replying, and then explain your reply to that argument. Do not repeat arguments from your opening brief or raise new arguments. Refer to facts presented to the trial court as well as the statutes, cases, court rules, constitutions, and other legal authorities that support your arguments.

a. Reply 1.

(1) What is the first response or argument in the Respondent's Brief to which you are replying?

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 2a(1)" at the top.

Blank lines for writing the first response or argument.

(2) What is your reply to that response or argument? Include the law and/or facts that support your reply.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 2a(2)" at the top.

Blank lines for writing the reply to the response or argument.



2 b. **Reply 2.**

(1) What is the second response or argument in the respondent’s brief to which you are replying?

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 2b(1)” at the top.


(2) What is your reply to that response or argument? Include the law and/or facts that support your reply.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 2b(2)” at the top.

c. Check here to reply to additional responses or arguments made in the respondent’s brief. Include the additional replies on an attached sheet of paper, and write “Attachment 2c” at the top.

Date: _____

Type or print your name

 _____
Sign your name

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Order on Unlawful Use of Personal Identifying Information

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Revise form CIV-165

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Eric Long, 415-865-7691, eric.long@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 25, 2023

Project description from annual agenda: Develop form recommendations as appropriate. An employee at the Secretary of State's Office suggested that Order on Unlawful Use of Personal Identifying Information (form CIV-165) is unworkable in its present form because it does not provide enough information for the Secretary of State's office to take action. At the very least the form should include the name of the business entity that fraudulently used the petitioner's personally identifying information.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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INVITATION TO COMMENT

SPR24-06

Title

Civil Practice and Procedure: Order on Unlawful Use of Personal Identifying Information

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Proposed Rules, Forms, Standards, or Statutes

Revise form CIV-165

Contact

Eric Long, 415-865-7691

eric.long@jud.ca.gov

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes revisions to form CIV-165, *Order on Unlawful Use of Personal Identifying Information*, effective January 1, 2025, to include information about the business entity at issue in the petition underlying an order. The proposed revisions respond to a request from the Secretary of State's office for more information to allow it to act on a court's determination that a petitioner's personal identifying information was used unlawfully. The revisions are intended to assist the Secretary of State in (1) redacting the victim's name and personal identifying information from the business entity filing or label the data to show that it is impersonated and (2) removing the data from publicly accessible electronic indexes and databases.

Background

The Judicial Council adopted form CIV-165, effective September 1, 2019, in response to legislation (Sen. Bill 1196; Stats. 2018, ch. 696) that prohibited the unlawful use of personal identifying information in documents filed with the Secretary of State (business entity filings). The bill required the council to develop a form for issuing an order on this type of unlawful use of personal identifying information. Form CIV-165 has not been revised since its adoption.

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.

The Proposal

The committee proposes adding two items to form CIV-165 (new items 2 and 3) for the court to complete based on a successful petition for relief under Civil Code section 1798.201. Item 2 would allow the court to enter the business entity's name identified in the petition. Item 3 would allow the court either to note that the petition does not identify the business entity's file number with the Secretary of State or to note that the petition does and enter the file number. Finally, the committee recommends extending the blank for the petitioner's name in item 1.

In its present state, form CIV-165 asks the court to identify the petitioner, the hearing date and time, and the department in which the successful petition was heard. The form states the findings required under Civil Code section 1798.202 for a court order and instructs the petitioner to file a certified copy of this order with the Secretary of State for the order to be carried out. The order's language makes the necessary findings without naming the business entity filing in which the victim's personal identifying information has been used unlawfully. The problem with the current version of the form, according to the Secretary of State's office, is that the Secretary of State cannot easily act on a court's order with only a victim's name and contact information because the Secretary of State's business records are organized by entity name or the entity's file number with the Secretary of State. To identify the business entity filing that is the subject of a meritorious petition, the Secretary of State's office would need to request additional information from the petitioner (or their counsel) after a certified copy of an order is filed with the Secretary of State. The Secretary of State's office would like to avoid those extra steps through form revisions that add an option for the court order to identify the business entity's name and, if known, its assigned file number.

Because an increase in the number of petitions filed is anticipated as more individuals learn of fraudulent business filings in their name, the committee believes that a court's order will be easier to carry out if form CIV-165 allows a court to identify the business entity name and file number that is the subject of a meritorious petition. These business entity filings are typically registrations of new corporations, limited liability companies, and limited partnerships. For some recent period of time, filing fees for forming new entities were waived, reportedly leading to an uptick in bogus entity formations—at least some of which likely contain personal identifying information. Petitioners may become aware of these filings when they receive mail addressed to the business entity at their residence or other mailing address.

The committee is uncertain about how often petitioners learn of a business entity's file number when they discover or suspect that their personal identifying information has been used unlawfully in a business entity filing or whether they regularly include a file number in a petition. (Section 1798.201 does not require a victim to identify the business entity's file number in a petition.) For those reasons, the committee proposes including an option in item 3 that permits a court to indicate that the petition does not identify the file number for the business entity at issue.

The committee seeks specific comment on whether it would be helpful for form CIV-165 to allow a court to supply information about more than one business entity. It is possible a petition could concern business entity filings for more than one business entity. The committee would like input on whether petitions under Civil Code section 1798.201 involve more than one business entity, and if so, whether lengthy blanks on the order form are sufficient for handling that situation.

Alternatives Considered

The committee discussed taking no action because form CIV-165 presently contains all the information necessary for a court order under the relevant statutes. The committee concluded that facilitating the Secretary of State's statutory obligations, such as removing or redacting a petitioner's personal identifying information that has been used unlawfully, could be accomplished without overburdening courts. Adding two new items to the form would allow a court to provide information that is helpful to the Secretary of State in carrying out the order and ultimately to petitioners' ability to achieve the relief granted by the court.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly revised form. Courts will also incur costs to incorporate the revised form into any paper or electronic processes.

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 form's proposed new items each ask for one piece of information. Do petitions under Civil Code section 1798.202 sometimes involve the use of personal identifying information in more than one business entity filing such that an option to identify more than one business entity name and more than one file number would be helpful? If so, are longer blanks sufficient to address this situation?

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. Form CIV-165, at page 5
2. Link A: Sen. Bill 1196 (Stats. 2018, ch. 696),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1196

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	FOR COURT USE ONLY DRAFT 02/20/2024 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITION OF (<i>name</i>):	
ORDER ON UNLAWFUL USE OF PERSONAL IDENTIFYING INFORMATION	CASE NUMBER:

1. The petition of (*name*):
 under Civil Code section 1798.201 came on for hearing on (*date*): at (*time*):
 in (*department*):

2. The petition concerns a business entity filing for (*name of business entity*):

3. The petition

- a. does not identify the business entity's Secretary of State file number.
- b. identifies the business entity as having the Secretary of State file number (*entity's file number*):

4. THE COURT FINDS, based on declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be made part of the record by the court, that the petition is meritorious and there is no reasonable cause to believe that the petitioner's personal identifying information has been used lawfully in the business entity filing. The court finds that the victim's personal identifying information has been used unlawfully in the business entity filing.

5. THE COURT ORDERS that the name and associated personal identifying information in the business entity filing is to be redacted or labeled to show that the data is impersonated and does not reflect the victim's identity and the name and personal identifying information is to be removed from publicly accessible electronic indexes and databases.

6. For this order to be carried out, the petitioner must file a certified copy of this order with the Secretary of State.

Date: _____

JUDICIAL OFFICER

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Memorandum of Costs

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise forms MC-010 and MC-011

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Eric Long, 415-865-7691, eric.long@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Develop form recommendations as appropriate. An unpublished opinion from the Fifth District raises concerns about the trial court memorandum of costs (form MC-010) because it doesn't contain a verification under penalty of perjury. The corresponding appellate form (form APP-013) contains such verification. The committee should review the form and the applicable law and determine if form or rule revisions are appropriate

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-07

Title

Civil Practice and Procedure: Memorandum
of Costs

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise forms MC-010 and MC-011

Proposed Effective Date

January 1, 2025

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Contact

Eric Long, 415-865-7691
eric.long@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes revising the optional form for claiming prejudgment costs under Code of Civil Procedure sections 1032 and 1033.5 (form MC-010), effective January 1, 2025, to add a certification under penalty of perjury for the costs submitted. The committee also proposes (1) removing item 15 from both form MC-010 and form MC-011 (the companion worksheet) because fees for hosting electronic documents have sunsetted as an expressly allowable cost under section 1033.5 and (2) relocating “Models, enlargements, and photocopies of exhibits” on both forms to follow more closely the sequence of costs in section 1033.5. The changes are recommended based on a litigant’s challenge to form MC-010’s verification language, a sunset provision in the statute, and a suggestion from a paralegal.

The Proposal

This proposal is responsive to three issues identified since the last revisions to forms MC-010 and MC-011.

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.

Adding a sworn verification to form MC-010

At least one party has argued unsuccessfully that form MC-010 does not comply with applicable verification requirements because it is not signed under penalty of perjury.¹ A Court of Appeal in an unpublished case rejected the argument, holding that form MC-010's verification complies with the requirements of California Rules of Court, rule 3.1700 because it provides for a signed statement from the party, attorney, or agent that "to the best of [their] knowledge the items of cost are correct and were necessarily incurred in the case."² Without a published decision resolving the issue, parties who choose to use form MC-010 remain open to similar challenges.

To conform the existing verification of costs on form MC-010 to other council forms, the committee proposes adding a penalty-of-perjury recital to form MC-010. The committee observes that the council's mandatory form for seeking costs on appeal (form APP-013, *Memorandum of Costs on Appeal*) and its mandatory form for requesting entry of default or default judgment, CIV-100, *Request for Entry of Default (Application to Enter Default)*, which also includes a memorandum of costs as item 7, both contain penalty-of-perjury recitals after the verification language from rule 3.1700 that to the best of the party's, counsel's, or the agent's knowledge the costs are correct and were necessarily incurred in the case. Based on those two forms, the committee proposes adding a penalty-of-perjury recital to form MC-010. This should reduce the incidence of litigants having to defend challenges to the legal sufficiency of the verification.

Removing references to fees for the hosting of electronic documents

The committee also proposes deleting item 15 on form MC-010, "Fees for hosting electronic documents," and item 15 on form MC-011, "Fees for hosting electronic documents through an electronic filing service provider." Removing these items is necessary because subdivision (a)(15) of section 1033.5—the subdivision that expressly authorized electronic document hosting costs—became inoperative as of January 1, 2022. (Code Civ. Proc., § 1033.5(a)(15); Assem. Bill 2244 (Stats. 2016, ch. 461).)

Other changes to forms MC-010 and MC-011

A paralegal pointed out that the items of allowable costs on forms MC-010 and MC-011 are not in the same sequence. These companion forms are used by litigants claiming prejudgment costs. The sequence of the items of costs set out in both forms should be the same. With the purpose of more closely following the statutory list of costs in section 1033.5, the committee is proposing a minor technical change of relocating "Models, enlargements, and photocopies of exhibits," which is presently out of order in the two forms (listed as item 12 in form MC-010 but item 11 in form MC-011), to item 13 in both forms.

¹ See *Srabian v. Triangle Truck Ctr.* (Aug. 12, 2022, F080066) 2022 Cal.App.Unpub. LEXIS 4963, at *11.

² See *id.* at pp. *12–13; see also form MC-010 (Rev. Sept. 1, 2017), www.courts.ca.gov/documents/mc010.pdf.

Alternatives Considered

The alternative not to make changes to the forms was not considered because one of the changes removes references to costs for the hosting of electronic documents that are no longer expressly awardable due to a sunset provision in section 1033.5. The committee considered making no other changes because form MC-010 already includes a signed verification of the costs claimed and the items listed in the two forms are the same. However, the committee concluded that adding a penalty-of-perjury recital would be consistent with other council forms involving costs. The committee also believes that resequencing the items of allowable costs to harmonize the two forms would be helpful to parties and courts.

Fiscal and Operational Impacts

The committee anticipates that this proposal may result in costs incurred by courts to incorporate the revised form into their paper or electronic processes and to train court staff. However, given that the proposal only makes minor modifications to existing forms, any such costs or impacts are likely to be minor.

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 MC-010 and MC-011, at pages 4–9
2. Link A: Form APP-013 (Rev. Jan. 1, 2020), www.courts.ca.gov/documents/app013.pdf
3. Link B: Form CIV-100 (Rev. Jan. 1, 2023), www.courts.ca.gov/documents/civ100.pdf

ATTORNEY OR PARTY WITHOUT ATTORNEY

STATE BAR NUMBER:

FOR COURT USE ONLY

NAME:

FIRM NAME:

STREET ADDRESS:

CITY:

STATE:

ZIP CODE:

TELEPHONE NO.:

FAX NO.:

EMAIL ADDRESS:

ATTORNEY FOR (name):

DRAFT

02/13/2024

Not approved by the Judicial Council

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PLAINTIFF:

DEFENDANT:

CASE NUMBER:

MEMORANDUM OF COSTS (SUMMARY)

The following costs are requested:

	TOTALS
1. Filing and motion fees	\$
2. Jury fees	\$
3. Jury food and lodging	\$
4. Deposition costs	\$
5. Service of process	\$
6. Attachment expenses	\$
7. Surety bond premiums	\$
8. Witness fees	\$
9. Court-ordered transcripts	\$
10. Attorney fees (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required)	\$
11. Court reporter fees as established by statute	\$
12. Interpreter fees	\$
13. Models, enlargements, and photocopies of exhibits	\$
14. Fees for electronic filing or service	\$
15. Other	\$

TOTAL COSTS	\$
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I am the party counsel for the party agent for the party who claims the costs listed above. To the best of my knowledge, the items of costs are correct and were necessarily incurred in this case.

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

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

(Proof of service on reverse)

SHORT TITLE	CASE NUMBER:
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PROOF OF MAILING PERSONAL DELIVERY

1. At the time of mailing or personal delivery, I was at least 18 years of age and **not a party** to this legal action.
2. My residence or business address is (*specify*):

3. I mailed or personally delivered a copy of the *Memorandum of Costs (Summary)* as follows (*complete either a or b*):
 - a. **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope AND
 - (a) **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:

 - (c) Date of mailing: _____
 - (d) Place of mailing (*city and state*):
 - b. **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:

 - (3) Date delivered:
 - (4) Time delivered:

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

Date:

(TYPE OR PRINT NAME)

 _____

(SIGNATURE OF DECLARANT)

SHORT TITLE	CASE NUMBER:
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MEMORANDUM OF COSTS (WORKSHEET)

1. Filing and motion fees

DRAFT

02/13/2024

**Not approved by
the Judicial Council**

	<u>Paper filed</u>		<u>Filing fee</u>
a.	_____	\$	_____
b.	_____	\$	_____
c.	_____	\$	_____
d.	_____	\$	_____
e.	_____	\$	_____
f.	_____	\$	_____

g. Information about additional filing and motion fees is contained in Attachment 1g.

TOTAL 1. \$

2. Jury fees

	<u>Date</u>		<u>Fee & mileage</u>
a.	_____	\$	_____
b.	_____	\$	_____
c.	_____	\$	_____
d.	_____	\$	_____

e. Information about additional jury fees is contained in Attachment 2e.

TOTAL 2. \$

3. Juror food: \$ _____ and lodging: \$ _____

TOTAL 3. \$

4. Deposition costs

	<u>Name of deponent</u>		<u>Taking</u>		<u>Transcribing</u>		<u>Travel</u>		<u>Videotaping</u>		<u>Subtotals</u>
a.	_____	\$	_____	\$	_____	\$	_____	\$	_____	\$	_____
b.	_____	\$	_____	\$	_____	\$	_____	\$	_____	\$	_____
c.	_____	\$	_____	\$	_____	\$	_____	\$	_____	\$	_____
d.	_____	\$	_____	\$	_____	\$	_____	\$	_____	\$	_____

e. Information about additional deposition costs is contained in Attachment 4e.

TOTAL 4. \$

(Continued on reverse)

Page ___ of ___

SHORT TITLE	CASE NUMBER:
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5. **Service of process**

	<u>Name of person served</u>	<u>Public officer</u>	<u>Registered process</u>	<u>Publication</u>	<u>Other (specify)</u>
a.	_____	\$ _____	\$ _____	\$ _____	\$ _____
b.	_____	\$ _____	\$ _____	\$ _____	\$ _____
c.	_____	\$ _____	\$ _____	\$ _____	\$ _____
d.	<input type="checkbox"/> Information about additional costs for service of process is contained in Attachment 5d.				

TOTAL 5. \$

6. Attachment expenses (*specify*):

6. \$

7. Surety bond premiums (*itemize bonds and amounts*):

7. \$

8. a. **Ordinary witness fees**

	<u>Name of witness</u>	<u>Daily fee</u>	<u>Mileage</u>		<u>Total</u>
(1)	_____	days at _____ \$/day	_____ miles at _____ ¢/mile:		\$ <input style="width: 100px;" type="text"/>
(2)	_____	days at _____ \$/day	_____ miles at _____ ¢/mile:		\$ <input style="width: 100px;" type="text"/>
(3)	_____	days at _____ \$/day	_____ miles at _____ ¢/mile:		\$ <input style="width: 100px;" type="text"/>
(4)	_____	days at _____ \$/day	_____ miles at _____ ¢/mile:		\$ <input style="width: 100px;" type="text"/>
(5)	_____	days at _____ \$/day	_____ miles at _____ ¢/mile:		\$ <input style="width: 100px;" type="text"/>

(6) Information about additional ordinary witness fees is contained in Attachment 8a(6).

SUBTOTAL 8a. \$

(Continued on next page)

SHORT TITLE	CASE NUMBER:
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8. b. **Expert fees** (per Code of Civil Procedure section 998)

	Name of witness	Fee	
(1)	_____	_____ hours at \$ _____ /hr	\$ _____
(2)	_____	_____ hours at \$ _____ /hr	\$ _____
(3)	_____	_____ hours at \$ _____ /hr	\$ _____
(4)	_____	_____ hours at \$ _____ /hr	\$ _____
(5)	<input type="checkbox"/> Information about additional expert fees is contained in Attachment 8b(5).		

SUBTOTAL 8b. \$ _____

c. **Court-ordered expert fees**

	Name of witness	Fee	
(1)	_____	_____ hours at \$ _____ /hr	\$ _____
(2)	_____	_____ hours at \$ _____ /hr	\$ _____
(3)	<input type="checkbox"/> Information about additional court-ordered expert fees is contained in Attachment 8c(3).		

SUBTOTAL 8c. \$ _____

TOTAL (8a, 8b, & 8c) 8. \$ _____

9. **Court-ordered transcripts** (specify):

9. \$ _____

10. **Attorney fees** (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required):

10. \$ _____

11. **Court reporter fees** (as established by statute)

- a. (Name of reporter): _____ Fees: \$ _____
- b. (Name of reporter): _____ Fees: \$ _____
- c. Information about additional court-reporter fees is contained in Attachment 11c.

TOTAL 11. \$ _____

12. **Interpreter fees**

- a. Fees of a certified or registered interpreter for the deposition of a party or witness
 (Name of interpreter): _____ Fees: \$ _____
 (Name of interpreter): _____ Fees: \$ _____
- b. Fees for a qualified court interpreter authorized by the court for an indigent person represented by a qualified legal services project or a pro bono attorney
 (Name of interpreter): _____ Fees: \$ _____
 (Name of interpreter): _____ Fees: \$ _____
- c. Information about additional court-reporter fees is contained in Attachment 12c.

TOTAL 12. \$ _____

13. **Models, enlargements, and photocopies of exhibits** (specify):

13. \$ _____

14. **Fees for electronic filing or service of documents through an electronic filing service provider** (enter here if required or ordered by the court):

14. \$ _____

15. **Other** (specify): _____

15. \$ _____

TOTAL COSTS	\$ _____
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(Additional information may be supplied on the reverse)

SHORT TITLE	CASE NUMBER:
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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Implementation of Assembly Bill 1119

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt Cal. Rules of Court, rule 3.1905; adopt forms EJ-126, EJ-127-INFO, EJ 140, EJ-141, EJ-143, and EJ-144; revise form AT-138/EJ-125

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Jenny Grantz, (415) 865-4394, jenny.grantz@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Item 3: Develop form recommendations as appropriate. AB 1119, which goes into effect January 1, 2025, creates a separate set of requirements and a new procedure for judgment creditors to examine judgment debtors with consumer debt. This new procedure includes different notices than what currently appears on the council forms and requires that the Judicial Council create an additional financial affidavit form for the judgment debtor to serve on the judgment creditor in lieu of appearing for an examination.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-08

Title

Civil Practice and Procedure:
Implementation of Assembly Bill 1119

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 3.1905;
approve forms EJ-126, EJ-127-INFO,
EJ-140, EJ-141, EJ-143, and EJ-144;
revise form AT-138/EJ-125

Proposed Effective Date

January 1, 2025

Contact

Jenny Grantz, 415-865-4394
jenny.grantz@jud.ca.gov

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes adopting one rule and six mandatory forms and revising one form to implement Assembly Bill 1119 (Stats. 2023, ch. 562), enacted October 8, 2023. AB 1119 creates special procedures for debtor's examinations for judgments concerning consumer debts awarded on or after January 1, 2025, and requires the Judicial Council to adopt new forms to implement these procedures.

Background

Existing law allows a court to order someone who has not paid a civil judgment entered against them (a judgment debtor) to come to court and answer questions about their income, assets, and expenses. The person or persons owed money under the judgment (judgment creditor) can then use this financial information to collect what is owed to them. This procedure is called a debtor's examination. An existing Judicial Council form, *Application and Order for Appearance and Examination* (form AT-138/EJ-125), can be used to ask the court to order a debtor's examination.

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 1119¹ creates new procedures for a judgment creditor seeking a debtor’s examination when the judgment concerns a consumer debt awarded on or after January 1, 2025.²

For purposes of the new law, “consumer debt” means:

any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes. Consumer debt does not include debts incurred due to, or obtained by tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee. Consumer debt does not include rental debt, which means unpaid rent or other unpaid financial obligation of a tenant under the tenancy that has come due.³

For ease of reference, proceedings to enforce judgments concerning a consumer debt awarded on or after January 1, 2025, will be referred to as “consumer debt cases” in this invitation to comment.

New examination procedure

In response to an order for examination, a judgment debtor in a consumer debt case can submit a financial affidavit, signed under penalty of perjury, providing information about their assets, expenses, and debts. The judgment debtor can submit the financial affidavit instead of appearing at the examination. However, if the financial affidavit states that all of the judgment debtor’s assets are exempt from enforcement of judgment, the court must cancel the examination.⁴

If the examination is canceled because the judgment debtor has claimed complete exemption, the judgment creditor can file a notice of motion and motion for an order requiring the judgment debtor to appear for examination notwithstanding the filing of the financial affidavit.⁵ The

¹ See Link A.

² Code Civ. Proc., § 708.111(a). AB 1119 also changes the deadline for judgment creditors in all cases to serve the order to appear for examination, from 10 days to 30 days. Code Civ. Proc., § 708.110(d). This portion of AB 1119 became effective on January 1, 2024, [and the Judicial Council revised the affected portion of *Application and Order to Appear for Examination* (form AT-138/EJ-125) effective April 1, 2024, to reflect the new service deadline]. [Insert link to Judicial Council report (March meeting) when available.]

³ Code Civ. Proc., § 708.111(b). The definition of “consumer debt” in this section is similar but not identical to the definition of “personal debt” in Senate Bill 1200, which became effective on January 1, 2023, and changed the law relating to the renewal of, and postjudgment interest rates applicable to, certain monetary judgments involving personal debt. (Code Civ. Proc., § 683.110(d).) In particular, the definition of “consumer debt” in AB 1119 excludes rental debt, whereas the definition of “personal debt” in SB 1200 does not exclude rental debt. AB 1119’s definition of “consumer debt” is also different from the definition in Code of Civil Procedure section 699.730, which exempts a judgment debtor’s principal place of residence from sale under execution of a judgment lien in certain circumstances, and from the definition in the Fair Debt Collection Practices Act, Civil Code section 1788.2.

⁴ Code Civ. Proc., § 708.111(d).

⁵ *Id.*, § 708.111(d)(1). Although the examination procedure created by AB 1119 allows the judgment debtor to submit a financial affidavit in lieu of appearance even if the judgment debtor does not claim complete (or any) exemption from enforcement of judgment (*id.*, § 708.111(c)), AB 1119 does not create a procedure for the judgment

motion must include a declaration executed under oath and a statement of facts showing good cause why a debtor's examination is necessary notwithstanding the debtor's financial affidavit.⁶ AB 1119 does not define "good cause" except for consumer debts secured by real property or personal property, where good cause is established when the plaintiff demonstrates that the debtor has not provided the plaintiff with accurate information regarding the location or condition of the security, the status of insurance on the security, or the status of the taxes due on the security.⁷

After the judgment creditor submits a motion for examination, the court must hold a hearing to determine whether the judgment debtor must appear for examination.⁸ If the court rules that an examination must occur, the judgment creditor must file a new application for an order for examination.⁹

If the examination is canceled because the judgment creditor does not object to the financial affidavit or for another reason, the judgment creditor cannot file another application and order for appearance and examination until one year from the date of the prior filed application and order.¹⁰

Different penalties for failure to appear

AB 1119 imposes less severe penalties on judgment debtors who fail to appear for a debtor's examination in a consumer debt case. Usually, the potential penalties for failure to appear for a debtor's examination are arrest, punishment for contempt of court, or an order requiring payment of reasonable attorney's fees incurred by the judgment creditor.¹¹ Under AB 1119, when the judgment concerns consumer debt, the potential penalty for failure to appear for a debtor's examination or to file and serve the judgment debtor's financial affidavit is an order to show cause to determine whether to issue a warrant to compel the attendance of the judgment debtor.¹² If the judgment debtor is ordered to appear under the order to show cause, the court must give the judgment debtor a reasonable opportunity to file a judgment debtor's financial affidavit, and either appearing or filing and serving the affidavit will satisfy the warrant to compel attendance.

creditor to object to the financial affidavit unless the judgment debtor has claimed complete exemption (*id.*, § 708.111(d)).

⁶ Code Civ. Proc., § 708.111(d)(2).

⁷ *Ibid.*

⁸ *Id.*, § 708.111(d)(5).

⁹ *Id.*, § 708.111(d)(6).

¹⁰ *Id.*, § 708.111(d)(7).

¹¹ *Id.*, § 708.110(e).

¹² *Id.*, § 708.111(i).

The Proposal

To implement the provisions of AB 1119 that take effect January 1, 2025, the Civil and Small Claims Advisory Committee proposes revising one existing form, adopting six new mandatory forms, and adopting one new rule.

Application and Order for Appearance and Examination (form AT-138/EJ-125)

Existing form AT-138/EJ-125 is used to apply for and order the examination of a judgment debtor or third party to aid in enforcement of judgment and attachment. The committee proposes several revisions to this form to implement AB 1119:

- Adding instructions at the top of the form directing users to new form EJ-126 if they seek to enforce a judgment subject to AB 1119.
- Adding item 8 to the application section of the form, which asks the judgment creditor to confirm that the judgment is not subject to AB 1119, and which will help courts and litigants confirm that the correct form has been used;
- Reorganizing the form by moving part of the application section to page 2, to create space for the added items; and
- Revising the wording of items 2 and 4 to make them easier to understand.

Application and Order to Appear for Examination—Consumer Debt (form EJ-126)

The committee proposes adoption of a new form to apply for and order the examination of a judgment debtor in a consumer debt case. The committee considered proposing revisions to form AT-138/EJ-125 so that it could be used for consumer debt judgments, but concluded that having separate forms will be less confusing for courts and litigants.

Proposed new form *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126) is based on form AT-138/EJ-125, but with items related to attachment and examination of third parties removed. The Application for Order to Appear for Examination section includes statements confirming that the judgment is subject to AB 1119. The application and order have been placed on separate pages of the form, rather than having the application start on page 1, to make the form less confusing for judgment debtors receiving it.

Form EJ-126 also includes, on page 3, the statutorily mandated notice to judgment debtors in consumer debt cases.¹³

The committee asks for specific comments on whether form EJ-126 should be split into two separate forms, one for the application for examination and one for the order for examination. The application and order are currently combined in one form to match form AT-138/EJ-125, but

¹³ *Id.*, § 708.111(c).

splitting the form into two would be consistent with the Judicial Council's current practice of separating forms that are filed with the court and forms that are issued by the court.

Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO)

The committee proposes a new information sheet, *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-127-INFO), to explain to judgment creditors and judgment debtors how to use the other new forms described in this proposal. Those new forms, in turn, would direct users to the information sheet for instructions.

The committee asks for specific comments on whether form EJ-127-INFO should be split into two separate information sheets, one for judgment creditors and one for judgment debtors. The information sheet is quite long, and separating it might be less confusing for users. However, the procedure created by AB 1119 is complicated, and it may be beneficial for judgment creditors to be able to read the instructions for judgment debtors, and vice versa, without having to find a separate form.

Notice of Financial Statement (form EJ-140)

AB 1119 requires the Judicial Council to create a notice of financial statement form.¹⁴ The committee proposes *Notice of Financial Statement* (form EJ-140) to satisfy this requirement.

The proposed new form would inform the judgment creditor that the judgment debtor has chosen to provide a *Financial Statement—Consumer Debt* (form EJ-141) instead of appearing for examination and would indicate whether the judgment debtor has claimed on form EJ-141 that all of their income and assets are exempt from enforcement of judgment.

Page 2 of form EJ-140 contains instructions to the judgment creditor if they wish to object to the financial statement by filing a *Notice of Motion and Motion to Require Examination* (form EJ-143). These instructions are substantively identical to those in items 4–6 of *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-127-INFO) and explain how to complete form EJ-143. The committee considered removing the instructions from page 2 of form EJ-140 but concluded that having instructions on the form itself and in a separate information sheet would be more helpful for judgment creditors because of the complexity of the procedure they must follow. Additionally, keeping the instructions on form EJ-140 will help judgment debtors to understand the next steps in the process.

The committee asks for specific comments on whether the instructions for form EJ-140 should be included on both the form itself and *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-127-INFO), or only on form EJ-127-INFO.

¹⁴ *Id.*, § 708.111(h).

Financial Statement—Consumer Debt (form EJ-141)

AB 1119 requires the Judicial Council to create a financial statement form.¹⁵ The committee proposes *Financial Statement—Consumer Debt* (form EJ-141) to satisfy this requirement. AB 1119 refers to this form as a “financial affidavit,” but the committee proposes the title “Financial Statement” because it will be less confusing for self-represented litigants who are likely to use this form.

AB 1119 requires the financial statement form to include the following information:

- The number of people relying on the judgment debtor for support, including spouse, dependents, and other household members;
- Gross monthly income from employment, including withholdings and take-home pay;
- Total monthly income from all sources other than employment;
- Property owned, including cash, bank accounts, real estate equity, vehicles (e.g., cars, motorcycles, and boats), jewelry, securities, certificates of deposit, entity ownership, life insurance policies, and tax refunds;
- Itemized monthly expenses;
- Any outstanding debts, including balance owed and to whom; and
- Any other facts which support the judgment debtor’s claim that their income or assets are exempt from enforcement of judgment.¹⁶

The form must be signed by the judgment debtor under penalty of perjury.

Additionally, if the judgment debtor claims that any of their income or assets are exempt from enforcement of judgment because they are necessary to support the judgment debtor, their spouse, and their dependents, the financial statement must also include:

- The name of the spouse of the judgment debtor;
- The age and relationship of all persons dependent upon the judgment debtor or the spouse of the judgment debtor for support;
- All sources and the amounts of earnings and other income of the spouse and dependents of the judgment debtor;
- A list of the assets of the spouse and dependents of the judgment debtor and the value of such assets; and
- All outstanding debts of the spouse and dependents of the judgment debtor.¹⁷

This form must be signed by the spouse under penalty of perjury, unless the spouses are living separately and apart.

¹⁵ *Ibid.*

¹⁶ *Id.*, § 708.111(e).

¹⁷ *Id.*, § 708.111(f).

Proposed new form EJ-141 contains all of this required information. It is based on current *Financial Statement* (form EJ-165), which is used to support claims of exemption from enforcement of judgment. Form EJ-141 also includes questions 1–3 about whether the judgment debtor claims that some or all of their income and assets are exempt from enforcement of judgment and, if so, under which statutory provisions. These questions are intended to help the judgment debtor determine whether to indicate on *Notice of Financial Statement* (form EJ-140) that they are claiming complete exemption, and to help the judgment creditor determine whether and on what grounds to object to the financial statement.

The committee considered whether these questions should be moved to *Notice of Financial Statement* (form EJ-140). The primary reason to move those items to form EJ-140 would be to divide questions of law from questions of fact. However, the committee determined that moving items 1–3 off of form EJ-141 would make form EJ-141 more difficult to complete because the response to other items on form EJ-141 depends on whether the judgment debtor has claimed that some of their income or assets are exempt because they are necessary for the support of the judgment debtor, their spouse, or their dependents. The judgment debtor will therefore need to determine whether they have any exemptions before they complete the rest of form EJ-141.

The committee also considered proposing that this form be confidential because it contains detailed information about the judgment debtor’s income and assets but concluded that doing so would be a legislative policy decision that cannot be made by the Judicial Council.

Notice of Motion and Motion to Require Examination (form EJ-143)

The committee proposes new *Notice of Motion and Motion to Require Examination* (form EJ-143), to be used by judgment creditors who object to the cancellation of the judgment debtor’s examination after the judgment debtor files a financial statement claiming complete exemption from enforcement of judgment. As noted above, AB 1119 allows judgment creditors to object to the judgment debtor’s financial statement by filing a notice of motion for an order that the judgment debtor must appear for a debtor’s examination even though a financial statement has been filed. The notice of motion must include a declaration executed under oath and a statement of facts showing good cause why a debtor’s examination is necessary notwithstanding the debtor’s financial affidavit.¹⁸ Proposed new form EJ-143 requires the judgment creditor to provide all of this information, along with details about the examination that was previously ordered and cancelled by the court.

The committee considered including additional items asking whether the judgment creditor believes the judgment debtor has incorrectly claimed exemption, similar to items 5 and 6 on *Notice of Opposition to Claim of Exemption* (form EJ-170). However, AB 1119 does not require the judgment creditor to explain their objections to the judgment debtor’s claims of exemption in order to show good cause to require an examination. The committee therefore concluded that form EJ-143 should not contain mandatory questions about objections to the claim of exemption.

¹⁸ *Id.*, § 708.111(d)(2). The statute does not define “good cause,” except where the consumer debt is secured by real property or personal property.

If the judgment creditor has such objections, they can be explained in item 7, which asks for “facts supporting good cause for an examination.”

Application and Order for Post-Hearing Examination (form EJ-144)

As noted above, if the court hears the judgment creditor’s motion for examination and rules that an examination must occur, the judgment creditor must file a new application for an order for examination.¹⁹ The committee proposes *Application and Order for Post-Hearing Examination* (form EJ-144) for this purpose. Form EJ-144 parallels *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126).

The committee considered proposing that form EJ-126 be used for this purpose but decided that separate forms will be less confusing for courts and users. Judgment debtors who receive form EJ-126 twice (once when the examination is originally scheduled and once when it’s rescheduled after the hearing on the motion for examination) might believe the second form was a duplicate of the first. They might also see the notice to judgment debtors on page 3 of form EJ-126 and believe they could submit a second financial statement rather than appearing for the rescheduled examination, even if the notice on form EJ-126 explains that doing so is not permitted. If only one form is used for both purposes, it might also be more difficult for courts to determine whether the prerequisites for an order to appear for examination have been met. Creating a separate application and order for examinations that occur after a motion for examination will clarify the basis for both the application and the order.

As with form EJ-126, the committee asks for specific comments on whether form EJ-144 should be split into two separate forms, one for the application for examination and one for the order for examination.

Rule 3.1905

The committee proposes adoption of new rule 3.1905 to require judgment creditors to attach a copy of the judgment debtor’s *Financial Statement—Consumer Debt* (form EJ-141) when filing a *Notice of Motion and Motion to Require Examination* (form EJ-143).

If the judgment debtor chooses to submit *Financial Statement—Consumer Debt* (form EJ-141) instead of appearing for examination, the financial statement is served on the judgment creditor but not filed with the court.²⁰ Instead, AB 1119 requires the judgment debtor to file a *Notice of Financial Statement* (form EJ-140) stating that the financial statement has been served on the judgment creditor.

However, if the judgment creditor files a *Notice of Motion and Motion to Require Examination* (form EJ-143), the financial statement is to be considered part of the pleadings for purposes of

¹⁹ *Id.*, § 708.111(d)(6).

²⁰ *Id.*, § 708.111(d), (g).

the court's determination of whether an examination is needed.²¹ The financial statement therefore needs to be filed with the court before the hearing on the judgment creditor's motion.

The committee believes that requiring the judgment creditor to attach a copy of the financial statement to their motion is the most efficient way to address this issue. Doing so will ensure that the financial statement, which contains detailed information about the judgment debtor's income and assets, becomes part of the record only if the judgment creditor objects to the financial statement. This procedure is also consistent with the statute, which does not require the judgment debtor to file the financial statement.

Additionally, this procedure is consistent with the procedure for claiming exemption from enforcement of judgment after levy, which was likely the basis for the procedure created in AB 1119.²² There, the claim of exemption is filed with the levying officer, and it is the levying officer who files the claim of exemption with the court if the judgment creditor files a notice of opposition to the claim.²³ Certain claims of exemption require a financial statement similar to the one required by AB 1119, which is not filed with the court unless the judgment creditor objects to the claim of exemption.

The committee asks for specific comments on whether rule 3.1905 should be revised to include a provision requiring the judgment creditor to include blank copies of *Information on Debtor's Examinations Regarding Consumer Debt* (form EJ-127-INFO) and *Current Dollar Amounts of Exemptions from Enforcement of Judgments* (form EJ-156) when serving *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126) on the judgment debtor. AB 1119 requires the judgment debtor to include copies of *Notice of Financial Statement* (form EJ-140), *Financial Statement—Consumer Debt* (form EJ-141), and *Exemptions from the Enforcement of Judgments* (form EJ-155) when serving EJ-126. However, it would be helpful to the judgment creditor to have copies of EJ-127-INFO and EJ-156 because EJ-127-INFO explains how to use the other forms and EJ-156 provides additional information that may be necessary to use form EJ-155.

Alternatives Considered

The committee did not consider taking no action because the council is required by law to adopt two forms and revise other forms to the extent necessary to implement AB 1119. As discussed in the explanation of the proposal, the committee considered several alternatives when drafting the proposed rule and forms and concluded that the current proposal best satisfies the statutory mandate. To the extent the proposed revisions to existing form AT-138/EJ-125 were not required by the terms of AB 1119, the committee considered taking no action but ultimately determined that revision was warranted in light of the benefits the revisions would provide to the parties.

²¹ *Id.*, §§ 708.111(d)(4)–(5).

²² *Id.*, §§ 703.520–703.550.

²³ *Id.*, § 703.550(a).

Fiscal and Operational Impacts

The statutory changes will require education of court staff and judicial officers. The new forms are intended to facilitate courts' and parties' implementation of the changes in statute and will require education and possibly some changes to computerized case management systems as well.

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?
- Should forms EJ-126 and EJ-144 each be split into separate application and order forms?
- Should form EJ-127-INFO be split into two separate information sheets, one for judgment creditors and one for judgment debtors?
- Are there more questions that should be addressed on form EJ-127-INFO?
- Should the instructions to the judgment creditor on page 2 of form EJ-140 remain on that form, or should form EJ-127-INFO be the only source of instructions for form EJ-140?
- Should a second subdivision be added to rule 3.1905 requiring the judgment creditor to include blank copies of forms EJ-127-INFO and EJ-156 when serving form EJ-126 on the judgment debtor?

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. Cal. Rules of Court, rule 3.1905, at page 11
2. Forms AT-138/EJ-125, EJ-126, EJ-127-INFO, EJ-140, EJ-141, EJ-143, and EJ-144, at pages 12–36
3. Link A: Assem. Bill 1119,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1119

Rule 3.1905 of the California Rules of Court would be adopted, effective January 1, 2025, to read:

Title 3. Civil Rules

Division 19. Postjudgment and Enforcement of Judgment

Rule 3.1905. Notice of Motion and Motion to Require Examination

A judgment creditor who files a *Notice of Motion and Motion to Require Examination* (form EJ-143) to move the court to require the judgment debtor to appear for examination, as provided in Code of Civil Procedure section 708.111(d), must physically or electronically attach a copy of the judgment debtor’s *Financial Statement—Consumer Debt* (form EJ-141) to the motion.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 03/13/2024 NOT APPROVED BY COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION <input type="checkbox"/> ENFORCEMENT OF JUDGMENT <input type="checkbox"/> ATTACHMENT (Third Person) <input type="checkbox"/> Judgment Debtor or <input type="checkbox"/> Third Person	CASE NUMBER: _____
<i>Instructions: Do not use this form to enforce a judgment for consumer debt as defined in Code of Civil Procedure section 708.111 and awarded after January 1, 2025. For those judgments, use Application and Order to Appear for Examination—Consumer Debt (form EJ-126).</i>	

ORDER TO APPEAR FOR EXAMINATION

1. TO (name): _____
2. YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
 - a. provide information to help enforce a money judgment against you.
 - b. provide information about property of the judgment debtor or the defendant in your possession or control.
 - c. provide information about a debt you owe the judgment debtor or the defendant.

Name and address of court if different from above:



→ Date: _____ Time: _____
 Dept.: _____ Room: _____

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name): _____

Date: _____

 JUDGE

This order must be served no less than 30 days before the date set for the examination.
IMPORTANT NOTICES ON PAGES 2 AND 3

APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

4. Original judgment creditor Assignee of record Plaintiff who has a right to attach order
 applies for an order requiring (name): _____
 to appear in court and give information to help enforce a money judgment or to provide information about property or debt.
5. The person to be examined is
 - a. the judgment debtor.
 - b. a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant more than \$250. An affidavit supporting this application under Code of Civil Procedure section 491.110 or 708.120 is attached.
6. The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
7. This court is **not** the court in which the money judgment is entered or (*attachment only*) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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8. This is not a judgment that concerns consumer debt and it is not subject to Code of Civil Procedure section 708.111.
9. The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

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

Date:

▶

(TYPE OR PRINT NAME)
(SIGNATURE OF DECLARANT)

Information for Judgment Creditor Regarding Service

If you want to be able to ask the court to enforce the order on the judgment debtor or any third party, you must have a copy of the order personally served on the judgment debtor by a sheriff, marshal, registered process server, or the person appointed in item 3 of the order at least 30 calendar days before the date of the hearing, and have a proof of service filed with the court.

IMPORTANT NOTICES ABOUT THE ORDER

APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)

NOTICE TO JUDGMENT DEBTOR If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

APPEARANCE OF A THIRD PERSON (ENFORCEMENT OF JUDGMENT)

NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

NOTICE TO JUDGMENT DEBTOR The person in whose favor the judgment was entered in this action claims that the person to be examined under this order has possession or control of property that is yours or owes you a debt. This property or debt is as follows *(describe the property or debt)*:

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

APPEARANCE OF A THIRD PERSON (ATTACHMENT)

NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

APPEARANCE OF A CORPORATION, PARTNERSHIP, ASSOCIATION, TRUST, LIMITED LIABILITY COMPANY, OR OTHER ORGANIZATION

If the order to appear for the examination on page 1 does not require the appearance of a specified individual:

- The organization has a duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with the organization's property and debts.
- Failure to designate such a person familiar with the organization's property and debts to appear for examination will result in the order to appear for the examination to be deemed to have been made to, and require the appearance of, the following:
 - If the organization is a corporation registered with the Secretary of State, a natural person named as the chief financial officer in the corporation's most recent filing with the Secretary of State. If no one is so named, a natural person named as the chief executive officer in the corporation's most recent filing with the Secretary of State. If no one is so named, a natural person named as the secretary in the corporation's most recent filing with the Secretary of State.
 - If the organization is a limited liability company registered with the Secretary of State, the first natural person named as a manager or member in the limited liability company's most recent filing with the Secretary of State.
 - If the organization is a limited partnership registered with the Secretary of State, the first natural person named as a general partner in the limited partnership's most recent filing with the Secretary of State.
 - If the organization is not registered with the Secretary of State or the organization's filings with the Secretary of State do not identify a natural person as described above, a natural person identified by the judgment creditor as being familiar with the property and debts of the organization, together with an affidavit or declaration signed by the judgment creditor that sets forth the factual basis for the identification of the individual. The affidavit or declaration shall be served on the organization together with the order.
- Service of an order to appear for an examination upon an organization by any method permitted under the Code of Civil Procedure or the Corporations Code, including service on the agent of the organization for service of process, shall be deemed effective service of the order to appear upon the individuals identified above.



Request for Accommodations. Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code, § 54.8.)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 03/13/2024 NOT APPROVED BY COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
APPLICATION AND ORDER TO APPEAR FOR EXAMINATION—CONSUMER DEBT (Enforcement of Judgment)	CASE NUMBER: _____
<i>Instructions: Use this form if you are a judgment creditor and you want to enforce a judgment (final order) for consumer debt that was awarded on or after January 1, 2025. (Code Civ. Proc., § 708.111.) If you are asking for an order to appear for examination for any other judgment, use Application and Order for Appearance and Examination (form AT-138/EJ-125). Complete items 1 and 2 on page 1 and all of page 2. Read Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO) for more instructions on using this form.</i>	

ORDER TO APPEAR FOR EXAMINATION

1. TO (name): _____
2. YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to provide information to help enforce a judgment against you.

Name and address of court if different from above:

Hearing Date	→ Date: _____	Time: _____
	Dept.: _____	Room: _____

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name): _____

Date: _____

JUDGE

This order must be served no less than 30 days before the date set for the examination.

IMPORTANT NOTICES ON PAGE 3


PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

- 4. Original judgment creditor Assignee of record
 asks the court for an order requiring (*name of judgment debtor*):
 to appear in court and give information to help enforce a judgment (final order) for consumer debt.
- 5. The judgment was awarded on or after January 1, 2025.
- 6. The judgment concerns consumer debt, meaning any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of the transaction are primarily for personal, family, or household purposes. The judgment does not include rental debt or debts incurred due to, or obtained by, tortious or fraudulent conduct or judgments for unpaid wages, damages, or penalties owed to an employee. (Code Civ. Proc., § 708.111.)
- 7. The person to be examined is the judgment debtor.
- 8. The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
- 9. This court is **not** the court in which the judgment is entered. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.
- 10. Within the past year, an examination of the judgment debtor has not been canceled after the judgment debtor filed a financial statement in response to an order to appear for examination.
- 11. The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

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

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF DECLARANT)
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IMPORTANT NOTICES ON PAGE 3

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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Information for Judgment Creditor Regarding Service

If you want to be able to ask the court to enforce the order on the judgment debtor, you must have a copy of the order personally served on the judgment debtor by a sheriff, marshal, registered process server, or the person appointed in item 3 of the order at least 30 calendar days before the date of the hearing, and have a proof of service filed with the court.

When serving the order on the judgment debtor, you must include blank copies of the following forms:

- *Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO)*
- *Financial Statement—Consumer Debt (form EJ-141)*
- *Notice of Financial Statement (form EJ-140)*
- *Exemptions From the Enforcement of Judgments (form EJ-155)*
- *Current Dollar Amounts of Exemptions From Enforcement of Judgments (form EJ-156)*

NOTICE TO JUDGMENT DEBTOR

If you fail to appear at the time and place specified in this order, the court may make an order requiring you to pay the reasonable attorney's fees and costs incurred by the judgment creditor in this proceeding. Instead of appearing at the examination, you may file a notice of judgment debtor's financial affidavit in a form prescribed by the court (form EJ-140) and signed under penalty of perjury and serve copies of all filed documents and the financial affidavit (form EJ-141) on the judgment creditor no later than 15 days prior to the date set for the examination.



Request for Accommodations. Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Disability Accommodation Request* (form MC-410). (Civil Code, § 54.8.)

GENERAL INFORMATION

1 What is a debtor's examination?

When the final court order at the end of a lawsuit (judgment) orders one party to pay money to another party, sometimes the party who is owed money (the judgment creditor, generally the plaintiff in the case) wants information to help them collect it (enforce the judgment). The judgment creditor can ask the court to order the party who owes the money (the judgment debtor, generally the defendant in the case) to come to court and give information about their finances under oath. This is called a “debtor’s examination.” At the debtor’s examination, the judgment creditor or their attorney asks the judgment debtor questions about what they earn (income) or own (assets).

2 What does this information sheet cover?

There are special procedures set by law for holding a debtor’s examination in a case where the judgment is for consumer debt. ([Code Civ. Proc., § 708.111.](#)) This information sheet tells the judgment debtor how to ask the court to order a debtor’s examination and tells the judgment creditor how they can respond to that request by providing written information rather than going to court. There are forms that can be used by each party.

The forms described here may be used only if the judgment is for consumer debt. Consumer debt means debt for money, property, insurance, or services that are primarily for personal, family, or household purposes. Consumer debt **does not include** rental debt; judgments for unpaid wages, damages, or penalties owed to an employee; or debts incurred due to, or obtained by, tortious or fraudulent conduct.

If the judgment is not for consumer debt, do not use the procedure or forms that are described in this information sheet.

- If you are the **judgment creditor**, read the Information for the Judgment Creditor section, starting on page 1.
- If you are the **judgment debtor**, read the Information for the Judgment Debtor section, starting on page 3.

INFORMATION FOR
THE JUDGMENT CREDITOR**3 How do I serve *Application and Order for Appearance and Examination—Consumer Debt* (form EJ-126)?**

If you want to ask the court to order the judgment debtor to go to a debtor’s examination, fill out *Application and Order to Appear for Examination—Consumer Debt* (form [EJ-126](#)). The order cannot be enforced unless you have a copy of the form personally served on (given to) the judgment debtor by a sheriff, marshal, registered process server, or the person appointed in item 3 of form EJ-126 at least **30 days** before the date of the examination, and have a proof of service filed with the court no later than the time of the hearing. You can get more information about serving and proof of service at <https://selfhelp.courts.ca.gov/>.

When serving the order on the judgment debtor, you must include blank copies of all of the following forms:

- *Information on Debtor’s Examinations Regarding Consumer Debt* (form [EJ-127-INFO](#)),
- *Financial Statement—Consumer Debt* (form [EJ-141](#)),
- *Notice of Financial Statement* (form [EJ-140](#)),
- *Exemptions From the Enforcement of Judgments* (form [EJ-155](#)), and
- *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form [EJ-156](#)).

If you want to ask for a debtor’s examination to enforce a judgment that is **not** for consumer debt, use *Application and Order for Appearance and Examination* (form AT-138/EJ-125). Do not use form EJ-126.

To learn how a judgment debtor may respond to an order for examination, please read item **9** below.



4 What do I do if I receive *Notice of Financial Statement—Consumer Debt* (form EJ-140)?

If the judgment debtor responds to your request by filing a *Notice of Financial Statement* (form EJ-140) with the court, and serving you with a copy of that form and a completed *Financial Statement—Consumer Debt* (form EJ-141), the judgment debtor does not have to appear at the scheduled debtor's examination.

If the judgment debtor checked item 2 on the *Notice of Financial Statement* (claiming that all of their money and property are exempt from enforcement of judgment), the court will cancel the scheduled debtor's examination. If after reading the *Financial Statement*, you still want to hold a debtor's examination, you can complete, serve, and file a *Notice of Motion and Motion for Examination* (form [EJ-143](#)).

5 How do I complete *Notice of Motion and Motion to Require Examination* (form EJ-143)?

Notice of Motion and Motion to Require Examination (form EJ-143) asks the court to order the judgment debtor to come to court for an examination even though they provided a *Financial Statement—Consumer Debt* (form EJ-141).

You will need to complete your *Notice of Motion and Motion to Require Examination* in time to file it with the court no more than **15 days** after the judgment debtor files the *Notice of Financial Statement* (form EJ-140).

To complete the *Notice of Motion and Motion to Require Examination*, follow these steps:

- Contact the clerk of the court about setting a hearing date, time, and place. The date of the hearing must be no more than **30 days** after the date you file your notice with the court.
- Complete items 1–7 on the *Notice of Motion and Motion to Require Examination*. In item 7, explain why you think an examination of the judgment debtor is needed even though they provided a financial statement.
- If the judgment you are trying to enforce concerns debt secured by real property or personal property, complete items 8 and 9.
- If you do not wish to appear at the hearing on your motion, check the box in item 10. If you do not appear, the court will decide based on your *Notice of Motion and Motion to Require Examination*, the judgment debtor's *Financial Statement*, and the arguments the judgment debtor makes at the hearing.
- Sign and date the form. If you have an attorney, they must also sign and date the form.
- Make a copy of the completed form to serve on the judgment debtor.
- Make at least one copy of the completed form for your records. You will need to bring a copy of the completed form with you to the hearing.

6 How do I serve and file form EJ-143?

After you complete form EJ-143, serve (give) a copy of the completed form on the judgment debtor by following these steps:

- Someone who is not a party to the action must serve the papers on the judgment debtor.
- The *Notice of Motion and Motion to Require Examination* must be served at least **16 days** before the hearing if it is personally served. If the notice is sent by fax, express mail, or other method of overnight delivery, it must be served at least **18 days** before the hearing. If the notice is served by mail from and to an address within California, it must be mailed at least **21 days** before the hearing. For more information on the time to serve the notice, read Code of Civil Procedure sections 708.111(d)(3) and 1005. (You can get a copy of these Code of Civil Procedure sections at leginfo.legislature.ca.gov.)
- Have the server fill out and sign the Proof of Service on page 3 of the *Notice of Motion and Motion to Require Examination*.



After you serve the *Notice of Motion and Motion to Require Examination* (form EJ-143), file the completed original form with the court by following these steps:

- You must file the completed original *Notice of Motion and Motion to Require Examination* with your original signature.
- Make sure the Proof of Service on page 3 has been completed and that the signature on the Proof of Service is original.
- Include a copy of the judgment debtor's completed *Financial Statement—Consumer Debt* (form EJ-141) with your filing.
- The *Notice of Motion and Motion to Require Examination* and the copy of the judgment debtor's *Financial Statement* must be filed with the court no more than **15 days** after the judgment debtor files the *Notice of Financial Statement* (form EJ-140).

Bring a completed copy of form EJ-143 and a copy of the judgment debtor's *Financial Statement—Consumer Debt* (form EJ-141) with you to the hearing on your motion for examination. You should also bring a copy of *Application and Order for Post-Hearing Examination* (form EJ-144) with you. Complete all of form EJ-144 except for the hearing date and time on page 1. If the judge grants your motion for an examination, the judge may want to sign form EJ-144 at the hearing to schedule the examination.

7 What do I do after the hearing on my motion for examination?

If the court has heard your motion for examination and ruled that the judgment debtor must appear for an examination, you must complete and file *Application and Order for Post-Hearing Examination* (form EJ-144) to schedule the examination ordered by the court.

You must serve form EJ-144 on the judgment debtor at least **30 days** before the date of the hearing. You can serve form EJ-144 by mail or electronic service. Personal service is not required.

INFORMATION FOR THE JUDGMENT DEBTOR

8 What do I do if I receive *Application and Order to Appear for Examination* (form EJ-126)?

If you receive an *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126), you must appear at the time and place listed in item 2 on that form, **or** provide your financial information in writing (see steps below). If you provide your financial information in writing, you do not have to appear at the time and place listed in item 2.

If you do not appear at the time and place listed in item 2 or provide your financial information in writing, the judge may make you pay the judgment creditor's reasonable attorney's fees and costs.

9 How do I provide my financial information in writing?

To provide your financial information in writing, follow these steps:

- Complete and serve a *Financial Statement—Consumer Debt* (form [EJ-141](#)) as explained in **10** and **11**. A copy of this form should be included with the form EJ-126 you received from the judgment creditor.
- Complete, serve, and file a *Notice of Financial Statement* (form [EJ-140](#)) as explained in **12**. A copy of this form should be included with the form EJ-126 you received from the judgment creditor.

10 How do I complete *Financial Statement—Consumer Debt* (form EJ-141)?

To complete the *Financial Statement—Consumer Debt* (form EJ-141), follow these steps:

- Read the entire form to see the information it asks for.
- Do not include bank account numbers or other account numbers on the form.
- To fill out items 1–3, decide if any of your income or assets are exempt (cannot be collected by a judgment creditor). (See “How do I figure out if my income or assets are exempt?” in 11.)
- Fill out the other items on the form. If you checked the box in item 2 (indicating that some or all of your money or property is exempt because it is needed to support you, your spouse, or persons who depend on you and your spouse for support), you will need to provide information about your spouse or dependents in some items on the form. The instructions for each item will tell you if you need to do so.
- Sign and date the form.
- If you checked the box in item 2, your spouse must also sign and date the form, unless you and your spouse live separate and apart.
- Make at least one copy of the completed form to keep for your records. You will need to bring a completed copy of the form with you if you are ordered to appear in court. (See “What happens after I provide my financial information in writing?” in 13 below.)

After you complete form EJ-141, you must serve the original signed form EJ-141 on the judgment creditor no later than **15 days** before the date and time listed in item 2 on the *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126). Someone who is not a party to the action must serve the judgment debtor. Have the server fill out and sign the Proof of Service on page 5 of form EJ-141.

Do *not* file form EJ-141 with the court.

11 How do I figure out if my income or assets are exempt?

Some types of money you earn (income) and money and property you own (assets) are exempt, meaning they cannot be collected by a judgment creditor.

To figure out if any of your income or assets are exempt, read *Exemptions From the Enforcement of Judgments* (form [EJ-155](#)). A copy of this form should be included with the form EJ-126 you received from the judgment creditor.

Form EJ-155 lists different kinds of money and property that are exempt. You will need to look for each type of money and property you have in the list. Not all types of money and property are exempt, so some of the money or property you have might not be listed on form EJ-155.

If any of your money or property is listed on form EJ-155, you will need to figure out how much of it is exempt. For some types of money and property, only a specific dollar amount is exempt. For other types, the entire amount or value is exempt. And for other types, the exempt amount depends on your situation.

To figure out the exempt amount of each type of money and property you have, read *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). A copy of this form should be included with the form EJ-126 you received from the judgment creditor.

Form EJ-156 lists the exempt amounts for some types of money and property. If the money or property you have is not listed on form EJ-156, then you will need to read the specific law (the code and section number) listed for that type of money or property on form EJ-155. For example, form EJ-155 lists Code of Civil Procedure (CCP) section 704.070 as the code and section number for “cash.”

You can get a copy of the California laws listed on form EJ-155 at leginfo.legislature.ca.gov. The sections of the United States Code that provides exemptions (shown as “USC” on form EJ-155) can be found at uscode.house.gov/.



Some types of money and property are exempt if they are needed to support the basic needs of you and your family. The law for these types will say they are “exempt to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor.” Under those laws, the exempt amount is the amount needed to support your basic needs and the basic needs of your spouse or anyone who depends on you or your spouse for support.

After you have figured out if any of your money or property is exempt, complete items 1 and 2 on the *Financial Statement—Consumer Debt* (form EJ-141):

- If some, but not all, of your income or assets are exempt, check box 1c.
- If all of your income or assets are exempt, check box 1b.
- If you checked 1b or 1c, you will need to write in item 3 the specific laws (the codes and sections) that make each type of money or property exempt. You will also need to explain in item 4 why the money or property is exempt.
- If any of your money or property is exempt because it is needed to support the basic needs of you and your family, check the box in item 2.

12 How do I complete *Notice of Financial Statement* (form EJ-140)?

Do not fill out the *Notice of Financial Statement* (form EJ-140) until after you complete the *Financial Statement—Consumer Debt* (form EJ-141).

To complete the *Notice of Financial Statement*, follow these steps:

- Enter the name and address of the judgment creditor.
- In item 1, enter the date, time, and location of the examination scheduled by the court. You can find this information on the *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126) that you received from the judgment creditor.

- Check the box in item 2 if you also checked box 1c on your *Financial Statement—Consumer Debt* (form EJ-141), which says that all of your income and assets are exempt.
- Make a copy of the completed form to serve on (give to) the judgment debtor.
- Make at least one copy of the completed form for your records. You will need to bring a completed copy of the form with you if you are ordered to appear in court. (See “What happens after I provide my financial information in writing?” below.)
- Serve (give) a copy of the completed *Notice of Financial Statement* (form EJ-140) on the judgment creditor. Someone who is not a party to the action must serve the papers on the judgment creditor. Have the server fill out and sign the Proof of Service on page 2 of form EJ-140.
- File the completed form EJ-140 including the completed Proof of Service, with the court. You must file the completed original form EJ-140 with your original signature.

You must file form EJ-140 and serve (give) a copy on the judgment creditor no later than **15 days** before the date of the examination. If you do not serve and file form EJ-140 by this deadline, you must attend the examination at the time and place listed in item 2 on the *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126).

13 What happens after I provide my financial information in writing?

If you served and filed a *Notice of Financial Statement* (form EJ-140) before the deadline, you do not have to appear for the examination at the time and place listed in item 2 on the *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126).

If you checked item 2 on form EJ-140, the court will cancel the examination. If the court cancels the examination, the judgment creditor can object by filing a *Notice of Motion and Motion to Require Examination* (form EJ-143).



14 **What do I do if I receive a *Notice of Motion and Motion to Require Examination* (form EJ-143)?**

The *Notice of Motion and Motion to Require Examination* (form EJ-143) asks the court to order you to come to court for an examination even though you have provided your financial information in writing. On that form, the judgment creditor will explain why they think an examination is needed.

The court will hold a hearing at the date and time listed in item 2 on form EJ-143 to decide if an examination is needed. You must appear at the hearing.

The hearing is your opportunity to explain why you think the information on your *Financial Statement—Consumer Debt* (form EJ-141) is enough and why the judgment creditor does not need to ask you questions at an examination. Take a copy of your *Notice of Financial Statement* (form EJ-140) and your *Financial Statement—Consumer Debt* (form EJ-141) with you to the hearing.

15 **What do I do if I receive an *Application and Order for Post-Hearing Examination* (form EJ-144)?**

If the court hears the judgment creditor's request and decides that an examination is needed, you will receive an *Application and Order for Post-Hearing Examination* (form EJ-144) from the judgment creditor. Form EJ-144 schedules your examination, which is when you appear in court to provide information about your money and property. You must appear on the date and time listed in item 2 on form EJ-144.

At court on the day of the examination, the court will call the case. You will be administered an oath as if you were testifying in court. Then, typically, the court will tell you and the judgment creditor to go to the hall or another room. The judgment creditor will ask you questions about your money and property.

If you do not appear at the time and place listed in item 2 on form EJ-144, the judge may make you pay the judgment creditor's attorney's fees and costs.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 03/13/2024 NOT APPROVED BY COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
NOTICE OF FINANCIAL STATEMENT (Enforcement of Judgment—Consumer Debt)	CASE NUMBER: _____

*Instructions: Use this form if the court has ordered you to appear for examination regarding a judgment that concerns consumer debt and if you want to submit a financial statement to the judgment creditor instead of appearing for examination. You **must** file this notice with the court **and** you must also serve a copy of this form and Financial Statement—Consumer Debt (form EJ-141) on the judgment creditor **no later than 15 days** before the date of the examination. (Code Civ. Proc., §§ 708.111(d), (g).)*
 Read Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO) for more instructions on using this form.

TO THE JUDGMENT CREDITOR (name):
 Address of judgment creditor: _____

1. The judgment debtor has chosen to provide *Financial Statement—Consumer Debt* (form EJ-141) instead of appearing for the examination scheduled on (copy the information provided on Application and Order to Appear for Examination (form EJ-126)): _____
 Name and address of court, if different from above: _____

Hearing Date	→ Date: _____	Time: _____
	Dept.: _____	Room: _____

2. The judgment debtor claims in item 1 on form EJ-141 that all of their income and assets are exempt from enforcement of judgment.

_____ (TYPE OR PRINT NAME)	 (SIGNATURE OF ATTORNEY OR NON-REPRESENTED PARTY)
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After receiving this form, read the instructions on page 2.

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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—INSTRUCTIONS TO JUDGMENT CREDITOR—

If the judgment debtor claims on the *Financial Statement—Consumer Debt* (form EJ-141) that all of their income and assets are exempt from enforcement of judgment (see item 2 on page 1 of this form), the examination ordered in the *Application and Order to Appear for Examination—Consumer Debt* (form EJ-126) will be canceled. If the examination is canceled, you can ask the court to require the judgment debtor to appear for examination by scheduling a court hearing and filing a *Notice of Motion and Motion to Require Examination* (form EJ-143) **within 15 days** of the filing of this *Notice of Financial Statement*.

Form EJ-143 asks the court to order the judgment debtor to come to court for an examination even though they provided form EJ-141.

To complete the *Notice of Motion and Motion to Require Examination*, follow these steps:

- Contact the clerk of the court about setting a hearing date, time, and place. You must file your *Notice of Motion and Motion to Require Examination* with the court no more than **15 days** after the judgment debtor files the *Notice of Financial Statement* (form EJ-140). The date of the hearing must be no more than **30 days** after the date you file your notice with the court.
- Complete items 1–7 on the *Notice of Motion and Motion to Require Examination*. In item 7, explain why you think an examination of the judgment debtor is needed even though they provided a financial statement.
- If the judgment you are trying to enforce concerns debt secured by real property or personal property, complete items 8 and 9.
- If you do not wish to appear at the hearing on your motion, check the box in item 10. If you do not appear, the court will decide based on your *Notice of Motion and Motion to Require Examination*, the judgment debtor's *Financial Statement—Consumer Debt* (form EJ-141), and the arguments the judgment debtor makes at the hearing.
- Sign and date the form. If you have an attorney, they must also sign and date the form.
- Make a copy of the completed form to serve on the judgment debtor.
- Make at least one copy of the completed form for your records. You will need to bring a copy of the completed form with you to the hearing.

To serve the *Notice of Motion and Motion to Require Examination* on the judgment debtor, follow these steps:

- Someone who is not a party to the action must serve the papers to the judgment debtor.
- The *Notice of Motion and Motion to Require Examination* must be served at least **16 days** before the hearing if it is personally served. If the notice is sent by fax, express mail, or other method of overnight delivery, it must be served at least **18 days** before the hearing. If the notice is served by mail from and to an address within California, it must be mailed at least **21 days** before the hearing. For more information on the time to serve the notice, you should read Code of Civil Procedure sections 708.111(d)(3) and 1005. (You can get a copy of these Code of Civil Procedure sections at <http://leginfo.legislature.ca.gov>.)
- Have the server fill out and sign the Proof of Service on page 3 of the *Notice of Motion and Motion to Require Examination*.

To file the *Notice of Motion and Motion to Require Examination* with the court, follow these steps:

- You must file the completed original *Notice of Motion and Motion to Require Examination* with your original signature.
- Make sure the Proof of Service on page 3 has been completed and that the signature on the Proof of Service is original.
- Include a copy of the judgment debtor's completed *Financial Statement—Consumer Debt* (form EJ-141) with your filing.
- The *Notice of Motion and Motion to Require Examination* and the copy of the judgment debtor's *Financial Statement—Consumer Debt* must be filed with the court no more than **15 days** after the judgment debtor files the *Notice of Financial Statement* (form EJ-140).

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (*specify*):

I served the attached *Notice of Financial Statement* by enclosing a true copy in a sealed envelope addressed to each person whose name and address is given below and depositing the envelope in the U.S. mail with the postage fully prepaid.

- 1. Date of deposit:
- 2. Place of deposit (city and state):

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

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

Date:

(TYPE OR PRINT NAME)		(SIGNATURE OF DECLARANT)
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PROOF OF SERVICE—PERSONAL DELIVERY

I am over the age of 18 and not a party to this cause. My residence or business address is (*specify*):

I served the attached *Notice of Financial Statement* by personally delivering a copy to the person served as shown below.

PERSONS SERVED

Name:	Delivery at	Date:	Time:	Address:
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)		(SIGNATURE OF DECLARANT)
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For your protection and privacy, please press the Clear This Form button after you have printed the form.

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ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT 03/13/2024 NOT APPROVED BY COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
FINANCIAL STATEMENT—CONSUMER DEBT (Enforcement of Judgment)		CASE NUMBER:

Instructions: Read Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO) for instructions on using this form.

1. I have read *Exemptions From the Enforcement of Judgments* (form EJ-155) and *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156) and (check one)
 - a. none of the money I earn (income) or money or property I own (assets) is exempt (cannot be collected by a judgment creditor).
 - b. all of my money and property is exempt.
 - c. some of my money and property is exempt. The exempt money or property is (*describe the money or property; you do not need to include the dollar amount or value*):

2. Some or all of my money or property is exempt because it is needed to support me, my spouse, or persons who depend on me and my spouse for support.

3. The money or property claimed to be exempt in items 1 and 2 is exempt under the following codes and sections (*List each code and section. Use forms EJ-155 and EJ-156 to help you identify each of the correct codes and sections. If you checked the box in item 2, you must include at least one code and section that exempts property needed to support the judgment debtor, their spouse, or their dependents.*):

4. The facts supporting the claim of exemption made in item 1 are (*describe; if more space is needed, check here and create and attach a page labeled Attachment 4*):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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5. **My monthly income** (if more space is needed to complete any of the lettered subdivisions below, check here and create and attach a page labeled Attachment 5, and label the information on the attachment with the relevant subdivision letter)

a. My gross monthly income from employment is 5a. \$ _____

b. My payroll deductions are (specify **purpose** and amount)

- (1) Federal and state withholding, FICA, and SDI \$ _____
- (2) _____ \$ _____
- (3) _____ \$ _____
- (4) _____ \$ _____
- (5) _____ \$ _____
- (6) _____ \$ _____

My TOTAL payroll deduction amount is (add (1) through (6)): b. \$ _____

c. My monthly take-home pay is (a minus b): c. \$ _____

d. My monthly income from all sources other than employment is (List the source and amount of **any** income you get each month from sources other than employment, including spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.):

- (1) _____ \$ _____
- (2) _____ \$ _____
- (3) _____ \$ _____
- (4) _____ \$ _____
- (5) _____ \$ _____
- (6) _____ \$ _____

My TOTAL other income is (add (1) through (6)): d. \$ _____

e. **TOTAL MONTHLY INCOME** (c plus d) e. \$ _____

6. If you claimed in item 2 that some or all of your money or property is exempt because it is needed to support you, your spouse, or persons who depend on you or your spouse for support, list your spouse and all persons other than you who depend, in whole or in part, on you or your spouse for support. Also list their total monthly take-home income and the sources of that income. (If more space is needed, check here and attach a page labeled Attachment 6.)

	<u>Name</u>	<u>Age</u>	<u>Relationship to Me</u>	<u>Monthly Take-Home Income and Source</u>
a.	_____	_____	Spouse	_____
b.	_____	_____	_____	_____
c.	_____	_____	_____	_____
d.	_____	_____	_____	_____
e.	_____	_____	_____	_____
f.	_____	_____	_____	_____
g.	_____	_____	_____	_____

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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7. **My money and property** (If you claimed in item 2 that some or all of your money or property is exempt because it is needed to support you, your spouse, or persons who depend on you or your spouse for support, include both your money and the money and property of your spouse and dependents. If more space is needed to complete any of the lettered subdivisions below, check here and create and attach a page labeled Attachment 7, and label the information on the attachment with the relevant subdivision letter.)

a. Cash 7a. \$ _____

b. Checking, savings, and credit union accounts (list bank name and amount):

(1)		\$	
(2)		\$	
(3)		\$	

TOTAL value of financial accounts is (add (1) through (3)): b. \$ _____

c. Cars, boats, and other vehicles:

	Fair Market Value	Amount Still Owed
(1) <u>Make/Year</u>	\$	\$
(2)	\$	\$
(3)	\$	\$

d. Real estate:

	Fair Market Value	Amount Still Owed
(1) <u>Address</u>	\$	\$
(2)	\$	\$

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

	Fair Market Value	Amount Still Owed
(1) <u>Describe</u>	\$	\$
(2)	\$	\$
(3)	\$	\$

8. **My monthly expenses** (If you claimed in item 2 that some or all of your money or property is exempt because it is needed to support you, your spouse, or persons who depend on you or your spouse for support, include both your expenses and the expenses of your spouse and dependents. If more space is needed to complete any of the lettered subdivisions below, check here and create and attach a page labeled Attachment 8, and label the information on the attachment with the relevant subdivision letter.)

a. Rent or house payment and maintenance	8a. \$ _____
b. Food and household supplies	b. \$ _____
c. Utilities and telephone	c. \$ _____
d. Clothing	d. \$ _____
e. Medical and dental payments	e. \$ _____
f. Insurance (life, health, accident, etc.)	f. \$ _____
g. School, child care	g. \$ _____
h. Child, spousal support (another marriage)	h. \$ _____
i. Transportation, gas, auto repair, and insurance (list car payments in item 9)	i. \$ _____
j. Installment payments (insert total and itemize below in item 9)	j. \$ _____
k. Laundry and cleaning	k. \$ _____
l. Any other monthly expenses (list each below)	
(1)	l(1) \$ _____
(2)	l(2) \$ _____
(3)	l(3) \$ _____

m. TOTAL MONTHLY EXPENSES (add a through l):	m. \$ _____
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PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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9. **My debts** (If you claimed in item 2 that some or all of your money or property is exempt because it is needed to support you, your spouse, or persons who depend on you or your spouse for support, include both your debts and the debts owed by your spouse and dependents. If more space is needed, check here and create and attach a page labeled Attachment 9.)

	<u>Creditor's Name</u>	<u>For</u>	<u>Monthly Payments</u>	<u>Balance Owed</u>	<u>Owed By</u> (State person's name)
a.	_____	_____	_____	_____	_____
b.	_____	_____	_____	_____	_____
c.	_____	_____	_____	_____	_____
d.	_____	_____	_____	_____	_____
e.	_____	_____	_____	_____	_____
f.	_____	_____	_____	_____	_____

10. Other relevant facts about your financial situation (for example, unusual medical needs, school tuition, expenses for recent family emergencies, or other unusual expenses to help your creditor and the judge understand your budget) (describe; if more space is needed, check here and create and attach a page labeled Attachment 10):

11. If you claimed in item 2 that some or all of your money or property is exempt from enforcement of judgment because it is needed to support you, your spouse, or any persons who depend on you or your spouse for support, your spouse must also sign this form, unless you and your spouse live separate and apart.

- My spouse has signed below.
- My spouse and I are living separate and apart.
- I have no spouse.

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

Date:

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME OF SPOUSE)

(SIGNATURE)

SIGNATURE OF SPOUSE)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (*specify*):

I served the attached *Financial Statement—Consumer Debt* by enclosing a true copy in a sealed envelope addressed to each person whose name and address is given below and depositing the envelope in the U.S. mail with the postage fully prepaid.

- 1. Date of deposit:
- 2. Place of deposit (city and state):

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

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

Date: _____

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF DECLARANT)

PROOF OF SERVICE—PERSONAL DELIVERY

I am over the age of 18 and not a party to this cause. My residence or business address is (*specify*):

I served the attached *Financial Statement—Consumer Debt* by personally delivering a copy to the person served as shown below.

PERSONS SERVED

Name: _____ Delivery at _____ Date: _____ Time: _____ Address: _____

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

Date: _____

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF DECLARANT)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

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ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 03/13/2024 NOT APPROVED BY COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
NOTICE OF MOTION AND MOTION TO REQUIRE EXAMINATION (Enforcement of Judgment—Consumer Debt)	CASE NUMBER: _____

Instructions: The original of this form must be filed with the court within 15 days of the filing of Notice of Financial Statement (form EJ-140). A copy of the judgment debtor's Financial Statement—Consumer Debt (form EJ-141) must be attached when filing this form. A copy of this form must be served on the judgment debtor at least 16 days before the hearing if it is personally served, and 21 days before the hearing if it is served by mail. (Code Civ. Proc., §§ 708.111(d), 1005.)

Read Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO) for more instructions on using this form.

TO THE JUDGMENT DEBTOR (name):

1. Please take notice that (name of judgment creditor):
 is asking the court for an order requiring you (the judgment debtor) to come to court to provide information to help enforce a judgment against you. (Code Civ. Proc., § 708.111(d).)
2. A hearing on this motion will be held as follows:

Name and address of court if different from above:

Hearing Date	→	Date: _____	Time: _____
		Dept.: _____	Room: _____

3. The judgment debtor was ordered to appear for examination on (date):
4. The judgment debtor filed a notice of financial statement on (date):
5. The judgment debtor's financial statement claimed that all of the judgment debtor's income and assets are exempt from enforcement of judgment.
6. The court canceled the debtor's examination because of the judgment debtor's claim of exemption.
7. Even though the judgment debtor has filed a financial statement, an examination of the judgment debtor is still necessary. The facts supporting good cause for an examination are (be specific):

If more space is needed, check here and create and attach a page labeled Attachment 7.

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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8. The judgment concerns debt that is secured by real property or personal property, and the judgment debtor has not provided accurate information regarding *(check all that apply)*
- a. the location or condition of the security.
 - b. the status of insurance on the security.
 - c. the status of taxes due on the security.

9. The facts necessary to support item 8 are *(describe)*

If more space is needed, check here and create and attach a page labeled Attachment 9.

10. The judgment creditor will not appear at the hearing and submits the issue on the papers filed with the court.

(If the judgment debtor is represented by an attorney, the attorney's signature follows):

Date:

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF ATTORNEY)

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

Date:

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF JUDGMENT CREDITOR)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (*specify*):

I served the attached *Notice of Motion and Motion to Require Examination* by enclosing a true copy in a sealed envelope addressed to each person whose name and address is given below and depositing the envelope in the U.S. mail with the postage fully prepaid.

- 1. Date of deposit:
- 2. Place of deposit (*city and state*):

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

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

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF DECLARANT)

PROOF OF SERVICE—PERSONAL DELIVERY

I am over the age of 18 and not a party to this cause. My residence or business address is (*specify*):

I served the attached *Notice of Motion and Motion to Require Examination* by personally delivering a copy to the person served as shown below.

PERSONS SERVED

Name:	Delivery at Date:	Time:	Address:
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF DECLARANT)

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ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY <p style="text-align: center;">DRAFT 03/13/2024 NOT APPROVED BY COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
APPLICATION AND ORDER FOR POST-HEARING EXAMINATION (Enforcement of Judgment—Consumer Debt)		CASE NUMBER:
<i>Instructions: Use this form if the court has held a hearing on your Notice of Motion and Motion to Require Examination (form EJ-143) and ruled that an examination of the judgment debtor is needed. Complete items 1–3 on page 1 and all of page 2. Read Information on Debtor's Examinations Regarding Consumer Debt (form EJ-127-INFO) for more instructions on using this form.</i>		

ORDER TO APPEAR FOR EXAMINATION

- TO (name):
- YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to provide information to help enforce a judgment against you.

Name and address of court if different from above:



→ Date: Time:
 Dept.: Room:

- The court held a hearing on the judgment creditor's motion for examination on (date):
- The court found that the judgment creditor has shown good cause to require the person listed in item 1 (the judgment debtor) to appear for examination even though the judgment debtor filed a financial statement. The court ruled that the judgment debtor must appear for examination.

Date: _____

 JUDGE


This order must be served no less than 30 days before the date set for the examination.
IMPORTANT NOTICES ON PAGE 2

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

- 5. Original judgment creditor Assignee of record
asks the court for an order requiring (*name of judgment debtor*):
to appear in court and give information to help enforce a judgment (final order) for consumer debt.
- 6. The judgment debtor was ordered to appear for examination on (*date*):
- 7. The judgment debtor filed a notice of financial statement on (*date*):
- 8. The judgment debtor's financial statement claimed that all of the judgment debtor's income and assets are exempt from enforcement of judgment.
- 9. The court canceled the debtor's examination because of the judgment debtor's claim of exemption.
- 10. The judgment creditor filed a motion for examination on (*date*):
- 11. The court held a hearing on the motion for examination on (*date*):
- 12. At the hearing, the court found that the judgment creditor has shown good cause to require the judgment debtor to appear for examination even though the judgment debtor filed a financial statement. The court ruled that the judgment debtor must appear for examination.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date:

_____  _____
 (TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

Information for Judgment Creditor Regarding Service

If you want to be able to ask the court to enforce the order on the judgment debtor, you must have a copy of the order served on the judgment debtor at least 30 calendar days before the date of the hearing and have a proof of service filed with the court. You can serve this order by mail or electronic service. Personal service of the order is not required.

NOTICE TO JUDGMENT DEBTOR

If you fail to appear at the time and place specified in this order, the court may make an order requiring you to pay the reasonable attorney's fees and costs incurred by the judgment creditor in this proceeding.



Request for Accommodations. Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code, § 54.8.)

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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Tentative Rulings

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 3.1308

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@gmail.com

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023; Amended February 9, 2024

Project description from annual agenda: Develop rule recommendations as appropriate. A court administrator alerted Judicial Council staff that California Rule of Court, rule 3.1308 requires courts to make tentative rulings available via telephone. The court administrator further explained that current practice is for most users obtain to tentative rulings through the internet and others to obtain them through posting outside the courtroom. Courts that are complying with the existing rule may be straining court resources, and thus the rule should be updated.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-09

Title

Civil Practice and Procedure: Tentative Rulings

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 3.1308

Proposed Effective Date

January 1, 2025

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends amending California Rules of Court, rule 3.1308 to remove the outdated requirement that courts make tentative rulings available by telephone.

The Proposal

The changes proposed in this invitation to comment are intended to remove an unnecessary burden on trial courts and promote court efficiency.

Existing rule 3.1308 provides, among other things, that if courts offer tentative rulings they must make such rulings available by “telephone and also, at the option of the court, by any other method designated by the court.” (Rule 3.1308(a)(1) & (2).) Additionally, the courts must include in their local rules the procedures they follow regarding tentative rulings and must provide the telephone number for obtaining tentative rulings.

The committee understands that at least some courts are not following the provisions of the rule as they are not making tentative rulings available by telephone, but instead are using some other method to make these rulings available. To the extent courts are following the rule, they are expending court and staff resources to make tentative rulings available in a method that is being underutilized by litigants. The committee further understands that various courts exercise different methods for making tentative rulings available. Such practices include posting tentative

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.

rulings online, posting them on the courtroom door, handing them to parties in person as the parties enter the courtroom, and reading them out loud. Given the variety of different court practices necessitated by individual court circumstances,¹ the committee is proposing amendments to rule 3.1308 that would afford courts maximum flexibility in how they inform litigants of tentative rulings. Specifically, the committee proposes that subdivision (a)(1) and (2) of the rule state that a “court must make its tentative ruling available by a method designated by the court.” To provide notice to parties about the method for obtaining tentative rulings, the committee further recommends that subdivision (c) of the rule mandate that courts specify the method in their local rules.

Alternatives Considered

The committee considered amending rule 3.1308 to require tentative rulings be made available “by internet,” “upon request,” “in a method or methods designated by the court, which must include a method accessible to persons without internet access,” or some combination of those options. However, given the individual circumstances of each court, the committee concluded that the rule should allow courts to determine the best method for providing tentative rulings, but that the courts’ local rules should state the chosen method. The committee considered taking no action but concluded that amending the rule to remove the telephone requirement was appropriate given that this option, where available, is not frequently used by litigants, complying with the requirement places a burden on courts, and there are alternative methods available to inform litigants of tentative rulings.

Fiscal and Operational Impacts

The committees anticipate that this proposal would require courts to train court staff and judicial officers on the amended rule and may require amendments to local rules. To the extent courts are providing tentative rulings by telephone, this proposed rule amendment would have a positive operational impact by better utilizing administrative resources.

¹ For example, only posting tentative rulings online would not be sufficient for a court that serves a large number of incarcerated individuals.

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. Cal. Rules of Court, rule 3.1308, at pages 4–5

Rule 3.1308 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 3.1308. Tentative rulings**

2
3 **(a) Tentative ruling procedures**

4
5 A trial court that offers a tentative ruling procedure in civil law and motion matters
6 must follow one of the following procedures:

7
8 (1) *Notice of intent to appear required*

9
10 The court must make its tentative ruling available by ~~telephone and also, at~~
11 ~~the option of the court, by any other~~ a method designated by the court, by no
12 later than 3:00 p.m. the court day before the scheduled hearing. If the court
13 desires oral argument, the tentative ruling must so direct. The tentative ruling
14 may also note any issues on which the court wishes the parties to provide
15 further argument. If the court has not directed argument, oral argument must
16 be permitted only if a party notifies all other parties and the court by 4:00
17 p.m. on the court day before the hearing of the party's intention to appear. A
18 party must notify all other parties by telephone or in person. The court must
19 accept notice by telephone and, at its discretion, may also designate
20 alternative methods by which a party may notify the court of the party's
21 intention to appear. The tentative ruling will become the ruling of the court if
22 the court has not directed oral argument by its tentative ruling and notice of
23 intent to appear has not been given.

24
25 (2) *No notice of intent to appear required*

26
27 The court must make its tentative ruling available by ~~telephone and also, at~~
28 ~~the option of the court, by any other~~ a method designated by the court, by a
29 specified time before the hearing. The tentative ruling may note any issues on
30 which the court wishes the parties to provide further argument at the hearing.
31 This procedure must not require the parties to give notice of intent to appear,
32 and the tentative ruling will not automatically become the ruling of the court
33 if such notice is not given. The tentative ruling, or such other ruling as the
34 court may render, will not become the final ruling of the court until the
35 hearing.

36
37 **(b) No other procedures permitted**

38
39 Other than following one of the tentative ruling procedures authorized in (a), courts
40 must not issue tentative rulings except:

- 41
42 (1) By posting a calendar note containing tentative rulings on the day of the
43 hearing; or

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(2) By announcing the tentative ruling at the time of oral argument.

(c) Notice of procedure

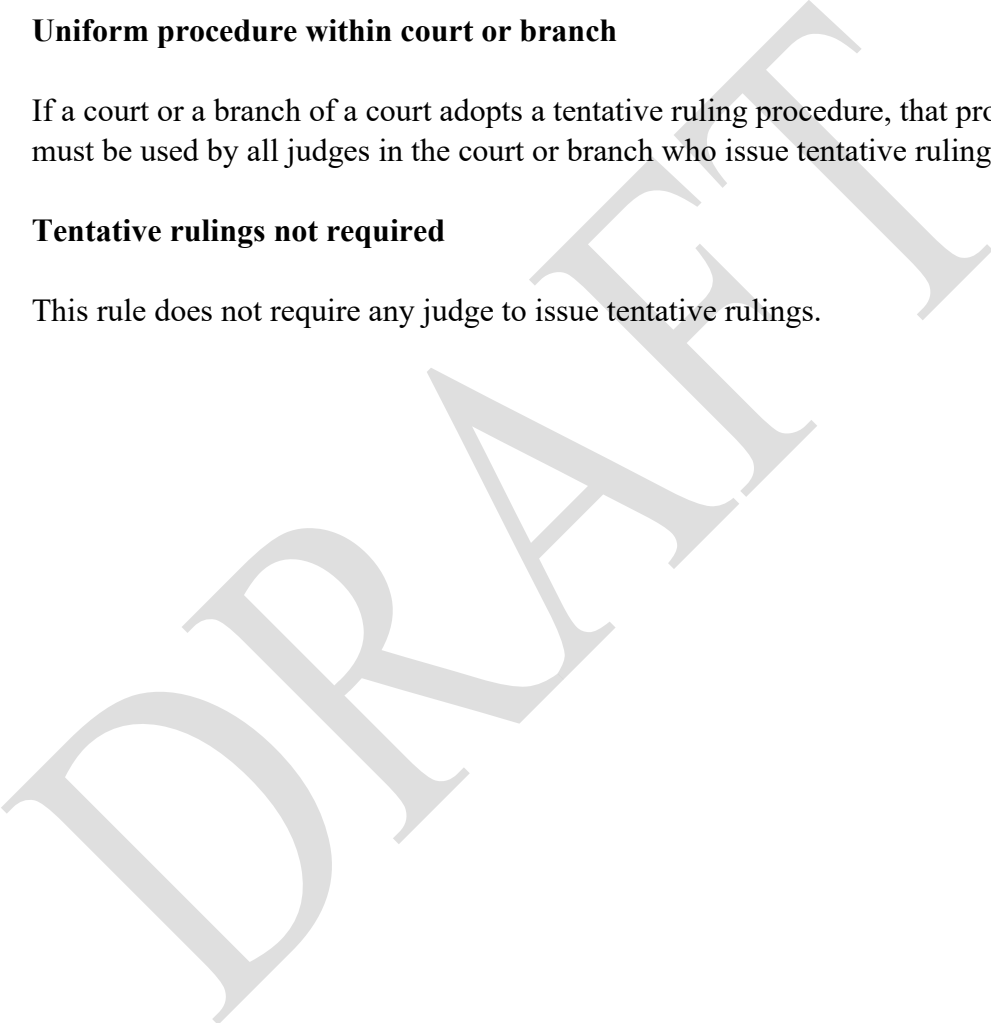
A court that follows one of the procedures described in (a) must so state in its local rules. The local rule must specify the ~~telephone number~~ method for obtaining the tentative rulings and the time by which the rulings will be available.

(d) Uniform procedure within court or branch

If a court or a branch of a court adopts a tentative ruling procedure, that procedure must be used by all judges in the court or branch who issue tentative rulings.

(e) Tentative rulings not required

This rule does not require any judge to issue tentative rulings.



RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Civil Practice and Procedure: Case Dismissal With Retained Jurisdiction

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 3.1385; revise form CIV-110

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@gmail.com

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): October 26, 2023; Amended February 9, 2024
Project description from annual agenda: Develop form recommendations as appropriate. AB 1756, contains amendments to Code of Civil Procedure section 664.6, to extend the circumstances in which courts may retain jurisdiction over a settled case. The legislation requires the Judicial Council to "update or develop new forms or Rules of Court as necessary to implement this section" by January 1, 2025. Accordingly, the Council should update form CIV-110 and possibly others to implement the legislation.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-10

Title

Civil Practice and Procedure: Case Dismissal
With Retained Jurisdiction

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 3.1385;
revise form CIV-110

Proposed Effective Date

January 1, 2025

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending California Rules of Court, rule 3.1385 and revising form CIV-110 to implement amended Code of Civil Procedure section 664.6, which allows courts to dismiss cases without prejudice and retain jurisdiction to enforce settlement terms.

Background

Last year, the Legislature enacted Assembly Bill 1756 (Stats. 2023, ch. 478).¹ The bill, among other things, makes several amendments to Code of Civil Procedure section 664.6.² Before the enactment of AB 1756, section 664.6 authorized courts to enter judgment pursuant to the terms of a settlement agreement stipulated to by the parties. Amended section 664.6 expands the court's authority in such situations by permitting the court to dismiss the case without prejudice and to retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.³ Such a dismissal of the case with retained jurisdiction can be ordered

¹ AB 1756 is available at https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1756. The amendments to Code of Civil Procedure section 664.6 are in section 12 of the bill.

² All further statutory citations are to the Code of Civil Procedure, unless otherwise stated.

³ See § 664.6(a).

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.

upon the stipulation of the parties, either in writing or orally before the court, or upon the court's own motion.⁴

California Rules of Court, rule 3.1385 prescribes certain actions that courts and the plaintiff or other party seeking affirmative relief must take upon the settlement of a case. Subdivision (a) of the rule requires the party seeking affirmative relief to notify the court, other parties, and any neutrals involved in the case of settlement. Subdivision (b) requires the party seeking affirmative relief to dismiss the case (generally by filing form CIV-110) within 45 days of the settlement. Subdivision (c) modifies such requirements in cases with conditional settlement agreements—rather than dismissing the case within 45 days, the party seeking affirmative relief must state the date that dismissal will be filed (when the terms of the settlement agreement will be satisfactorily performed).⁵

The Proposal

The changes proposed in this invitation to comment are needed to clarify dismissal requirements upon the settlement of a case. While both amended section 664.6 and rule 3.1385 govern the dismissal of cases after settlement, the two are not in direct conflict with one another.

Accordingly, the committee does not recommend amendments to the text of rule 3.1385, but rather the addition of advisory committee comments explaining how the rule operates depending on whether dismissal with retained jurisdiction under section 664.6 is sought.

Although amended section 664.6 provides for the oral settlement of cases followed by dismissal, it is still appropriate in such situations for the party seeking affirmative relief to notify the court, other parties, and neutrals of the settlement (as required in rule 3.1385(a)) and to file a request for dismissal (form CIV-110) (as required in rule 3.1385(b)). Thus, the committee proposes an advisory committee comment stating that even if the parties settle the case pursuant to section 664.6, the party seeking affirmative relief must still follow the procedures in rule 3.1385(a) and (b).

Amended section 664.6 supplants the need for rule 3.1385(c) if the parties stipulate to or if the court seeks dismissal under the section because a case may be dismissed immediately with retained jurisdiction rather than dismissing the case only upon the completion of settlement terms. The parties and the courts, however, are not obligated to dismiss the case under section 664.6 upon settlement. Accordingly, the committee proposes an advisory committee comment explaining that rule 3.1385(c) provides an alternative process to dismissal under section 664.6.⁶

⁴ § 664.6(a) & (e).

⁵ The rule also contains subdivision (d) (specific procedures if the case involves a claim of a minor or person with disability) and subdivision (e) (alternative procedure if the case cannot be dismissed within 45 days).

⁶ To the extent dismissal under section 664.6 becomes pervasive for parties with conditional settlement agreements, the committee may consider whether amendments to rule 3.1385(c) are needed at a later date.

Given that amended section 664.6 provides a third type of case dismissal—without prejudice and with the court retaining jurisdiction—the committee also proposes adding such an option to *Request for Dismissal* (form CIV-110) with a citation to section 664.6. The proposed revised form also requires all parties to sign the request for dismissal if the court will retain jurisdiction to ensure that such retention of jurisdiction is agreed to by all parties or ordered by the court as required in section 664.6.

The amended rule and revised form are attached at pages 5–7.

Alternatives Considered

The committee discussed several alternative ways to amend rule 3.1385. One alternative would be to not require the party seeking affirmative relief to perform the actions in rule 3.1385(a) and (b) if the party seeks dismissal under 664.6, but the committee determined that requiring such notices is the best way to ensure that all those involved in the case are aware of the settlement and that the court has a record of dismissal with retained jurisdiction. Another alternative was to eliminate rule 3.1385(c) altogether, but given that the provisions of 664.6 are not mandated on parties and court, retaining the dismissal procedures for conditional settlements is appropriate. The committee did not consider taking no action because leaving rule 3.1385 and form CIV-110 without modification would be confusing to courts and parties.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the amended rule and revised form. Courts will also incur costs to incorporate the revised form into the paper or electronic processes.

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. Cal. Rules of Court, rule 3.1385, at page 5–7
2. Form CIV-110, at pages 8–9
3. Link A: AB 1756,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1756

Rule 3.1385 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 3.1385. Duty to notify court and others of settlement of entire case**

2
3 **(a) Notice of settlement**

4
5 (1) *Court and other persons to be notified*

6
7 If an entire case is settled or otherwise disposed of, each plaintiff or other
8 party seeking affirmative relief must immediately file written notice of the
9 settlement or other disposition with the court and serve the notice on all
10 parties and any arbitrator or other court-connected alternative dispute
11 resolution (ADR) neutral involved in the case. Each plaintiff or other party
12 seeking affirmative relief must also immediately give oral notice to all of the
13 above if a hearing, conference, or trial is scheduled to take place within 10
14 days.

15
16 (2) *Compensation for failure to provide notice*

17
18 If the plaintiff or other party seeking affirmative relief does not notify an
19 arbitrator or other court-connected ADR neutral involved in the case of a
20 settlement at least 2 days before the scheduled hearing or session with that
21 arbitrator or neutral, the court may order the party to compensate the
22 arbitrator or other neutral for the scheduled hearing time. The amount of
23 compensation ordered by the court must not exceed the maximum amount of
24 compensation the arbitrator would be entitled to receive for service as an
25 arbitrator under Code of Civil Procedure section 1141.18(b) or that the
26 neutral would have been entitled to receive for service as a neutral at the
27 scheduled hearing or session.

28
29 **(b) Dismissal of case**

30
31 Except as provided in (c) or (d), each plaintiff or other party seeking affirmative
32 relief must serve and file a request for dismissal of the entire case within 45 days
33 after the date of settlement of the case. If the plaintiff or other party required to
34 serve and file the request for dismissal does not do so, the court must dismiss the
35 entire case 45 days after it receives notice of settlement unless good cause is shown
36 why the case should not be dismissed.

37
38 **(c) Conditional settlement**

39
40 (1) *Notice*

41
42 If the settlement agreement conditions dismissal of the entire case on the
43 satisfactory completion of specified terms that are not to be performed within

1 45 days of the settlement, including payment in installment payments, the
2 notice of conditional settlement served and filed by each plaintiff or other
3 party seeking affirmative relief must specify the date by which the dismissal
4 is to be filed.

5
6 (2) *Dismissal*

7
8 If the plaintiff or other party required to serve and file a request for dismissal
9 within 45 days after the dismissal date specified in the notice does not do so,
10 the court must dismiss the entire case unless good cause is shown why the
11 case should not be dismissed.

12
13 (3) *Hearings vacated*

14
15 (A) Except as provided in (B), on the filing of the notice of conditional
16 settlement, the court must vacate all hearings and other proceedings
17 requiring the appearance of a party and may not set any hearing or
18 other proceeding requiring the appearance of a party earlier than 45
19 days after the dismissal date specified in the notice, unless requested by
20 a party.

21
22 (B) The court need not vacate a hearing on an order to show cause or other
23 proceeding relating to sanctions, or for determination of good faith
24 settlement at the request of a party under Code of Civil Procedure
25 section 877.6.

26
27 (4) *Case disposition time*

28
29 Under standard 2.2(n)(1)(A), the filing of a notice of conditional settlement
30 removes the case from the computation of time used to determine case
31 disposition time.

32
33 (d)–(e) * * *

34
35 **Advisory Committee Comment**

36
37 **Subdivisions (a) and (b).** Amended Code of Civil Procedure section 664.6 allows parties to
38 settle a case and agree to have the case dismissed without prejudice orally before the court. The
39 plaintiff or other party seeking affirmative relief still must follow the procedures outlined in
40 subdivisions (a) and (b) even if the parties settle the case and agree to dismiss under the
41 provisions of Code of Civil Procedure section 664.6.
42

1 **Subdivision (c).** Code of Civil Procedure section 664.6 allows for but does not mandate the
2 dismissal of cases with conditional settlements either upon stipulation of the parties or on the
3 court's own motion. Subdivision (c) provides an alternative process for cases with a conditional
4 settlement where dismissal is not sought under Code of Civil Procedure section 664.6.
5

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 2024-02-22 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
REQUEST FOR DISMISSAL	CASE NUMBER:
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.	
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)	

1. TO THE CLERK: Please **dismiss** this action as follows:
- a. (1) With prejudice (2) Without prejudice (3) Without prejudice and with the court retaining jurisdiction (Code Civ. Proc., § 664.6)**
- b. (1) Complaint (2) Petition
 (3) Cross-complaint filed by (name): on (date):
 (4) Cross-complaint filed by (name): on (date):
 (5) Entire action of all parties and all causes of action
 (6) Other (specify):*
2. (Complete in all cases except family law cases.)
 The court did did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)

Date: _____

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY) (SIGNATURE)

* If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed

Attorney or party without attorney for
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

3. **TO THE CLERK:** Consent to the above dismissal is hereby given.**

Date: _____

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY) (SIGNATURE)

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j). If item 1a(3) is checked, all parties must sign.

Attorney or party without attorney for
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

4. Dismissal entered as requested on (date):
 5. Dismissal entered on (date): as to only (name):
 6. Dismissal **not entered** as requested for the following reasons (specify):
 7. a. Attorney or party without attorney notified on (date):
 b. Attorney or party without attorney not notified. Filing party failed to provide
 a copy to be conformed means to return conformed copy

Date: _____ Clerk, by _____, Deputy
 Page 1 of 2

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

- The court waived court fees and costs in this action for *(name)*:
- The person named in item 1 is *(check one below)*
 - not recovering anything of value by this action.
 - recovering less than \$10,000 in value by this action.
 - recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
- All court fees and court costs that were waived in this action have been paid to the court *(check one)*: Yes No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)

▲ _____
(SIGNATURE)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

9
Print this form

Save this form

Clear this form

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: CEQA Actions: Initial Case Management Conferences

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 3.2226

Committee or other entity submitting the proposal:
Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@gmail.com

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): October 26, 2023; Amended February 9, 2024
Project description from annual agenda: Develop rule recommendations as appropriate. SB 149, which went into effect July 10, 2023, provides that for all CEQA cases, the court must schedule a case management conference within 30 days of filing the complaint. Current California Rules of Court state that such a conference must be held within 30 days for certain types of CEQA cases. While current Rules of Court are not inconsistent with statute, amending the rules would prevent any confusion about which cases are required to have a case management conference within 30 days of filing the complaint. Open

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-11

Title

CEQA Actions: Initial Case Management Conferences

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 3.2226

Proposed Effective Date

January 1, 2025

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending rule 3.2226 of the California Rules of Court to implement the provisions of Senate Bill 149 concerning initial case management conferences for actions brought under the California Environmental Quality Act.

Background

Last year, the Legislature enacted SB 149 (Stats. 2023, ch. 60).¹ SB 149 (see Link A) added newly defined “infrastructure projects” to the list of projects that receive expedited judicial review of legal challenges brought under the California Environmental Quality Act (CEQA). At its November 2023 meeting, the Judicial Council approved several rule amendments to implement the major provisions of SB 149.² This proposal recommends a minor rule amendment to implement a provision of SB 149 that was not previously addressed.

Specifically, SB 149 amended Public Resources Code section 21167.6(b)(1)(B) to provide that in all legal challenges against a project brought under CEQA, the “court shall schedule a case management conference within 30 days of the filing of the complaint or petition” to review “the scope, timing, and cost of the record of proceedings.” Currently, California Rules of Court, rule

¹ SB 149 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB149.

² That report is available at <https://jcc.legistar.com/View.ashx?M=F&ID=12398997&GUID=7F912B56-E0AF-4D15-B801-87FE8D7EF0C2>.

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.

3.2226, which only applies to CEQA actions that receive expedited court review, provides that “the court *should* provide an initial case management conference within 30 days of the filing of the petition or complaint” and lists 15 specific subjects for consideration at the conference. (Emphasis added.)

The Proposal

The rule amendments proposed in this invitation to comment are needed to conform to the law. The committee proposes amending rule 3.2226 to provide that the court “must” hold an initial case management conference within 30 days of the filing of the complaint. In addition, the committee proposes including “the scope, timing, and cost of the record of proceedings” as an additional enumerated topic that the court should consider at the conference.

Alternatives Considered

Given that rule 3.2226 is limited to cases that receive expedited review and that SB 149 now requires an initial case management conference for all CEQA cases—even those that do not receive expedited review—the committee considered broadening the scope of rule 3.2226. The committee chose not to broaden rule 3.2226 because all the rules in division 22 of title 3 only apply to expedited CEQA cases and therefore it would be inappropriate to broaden the scope of rule 3.2226. The committee also concluded that while it is necessary to eliminate the conflict between Public Resources Code section 21167.6(b)(1)(B) and rule 3.2226, it would be unnecessary and contrary to general rule drafting policy to propose a rule that simply duplicates statutory requirements. The committee did not consider taking no action, as leaving rule 3.2226 in conflict with section 21167.6 would be confusing to courts and parties.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the amended rule, but any such training would be minimal.

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. Cal. Rules of Court, rules 3.2226, at pages 4–5
2. Link A: SB 149,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB149

Rule 3.2226 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 3.2226. Initial case management conference**

2
3 **(a) Timing of conference**

4
5 The court ~~should~~ must hold an initial case management conference within 30 days
6 of the filing of the petition or complaint.

7
8 **(b) Notice**

9
10 Petitioner must provide notice of the case management conference to respondent,
11 real party in interest, and any responsible agency or party to the action who has
12 been served before the case management conference, within one court day of
13 receiving notice from the court or at time of service of the petition or complaint,
14 whichever is later.

15
16 **(c) Subjects for consideration**

17
18 At the conference, the court should consider the following subjects:

- 19
20 (1) Whether all parties named in the petition or complaint have been served;
21
22 (2) Whether a list of responsible agencies has been provided, and notice provided
23 to each;
24
25 (3) Whether all responsive pleadings have been filed, and if not, when they must
26 be filed, and whether any hearing is required to address them;
27
28 (4) Whether severance, bifurcation, or consolidation with other actions is
29 desirable, and if so, a relevant briefing schedule;
30
31 (5) Whether to appoint a liaison or lead counsel, and either a briefing schedule
32 on this issue or the actual appointment of counsel;
33
34 (6) Whether the administrative record has been certified and served on all
35 parties, whether there are any issues with it, and whether the court wants to
36 receive a paper copy;
37
38 (7) Whether the parties anticipate any motions before the hearing on the merits
39 concerning discovery, injunctions, or other matters, and if so, a briefing
40 schedule for these motions;
41
42 (8) What issues the parties intend to raise in their briefs on the merits, and
43 whether any limitation of issues to be briefed and argued is appropriate;

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- (9) Whether a schedule for briefs on the merits different from the schedule provided in these rules is appropriate;
- (10) Whether the submission of joint briefs on the merits is appropriate, and the page limitations on all briefs, whether aggregate per side or per brief;
- (11) When the hearing on the merits of the petition will be held, and the amount of time appropriate for it;
- (12) The potential for settlement, and whether a schedule for settlement conferences or alternative dispute resolution should be set;
- (13) Any stipulations between the parties;
- (14) Whether a further case management conference should be set; ~~and~~
- (15) The scope, timing, and cost of the record of proceedings; and
- ~~(15)~~ (16) Any other matters that the court finds appropriate.

(d) Joint case management conference statements

At least three court days before the case management conference, petitioner and all parties that have been served with the petition must serve and file a joint case management conference statement that addresses the issues identified in (c) and any other pertinent issues.

(e) Preparation for the conference

At the conference, lead counsel for each party and each self-represented party must appear in person or remotely, must be familiar with the case, and must be prepared to discuss and commit to the party's position on the issues listed in (c).

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Judicial Branch Education: Fairness and Access Requirements

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt Cal. Rules of Court, rule 10.465; amend rules 10.461, 10.462, and 10.469

Committee or other entity submitting the proposal:
 The Center for Judicial Education and Research (CJER) Advisory Committee

Staff contact (name, phone and e-mail): Karene Alvarado, 415-865-7761, karene.alvarado@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): N/A

Project description from annual agenda: The CJER Advisory Committee's annual agenda is approved by the Executive and Planning Committee. The Executive and Planning Committee is expected to meet and approve this project as part of the CJER Advisory Committee's 2024 annual agenda by March 14, 2024.

Draft Project Summary: Recommend adding California Rules of Court, rule 10.465 and repealing California Rules of Court, rule 10.469(e)(2). Currently, judicial education antibias and antidiscrimination requirements are listed in rule 10.469(e)(2), among the rule's other education recommendations. Adopting a new court rule would place the current antibias and antidiscrimination mandates in their own rule due to those topics' required nature and importance. Creating a new, separate rule aligns with rule 10.463 (family law), rule 10.464 (domestic violence), and rule 10.468 (probate). It may also raise awareness of and facilitate adherence to these judicial education mandates. No substantive change to judicial education requirements would be made.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*
 N/A

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)
 N/A

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-13

Title

Judicial Branch Education: Fairness and Access Requirements

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 10.465; amend rules 10.461, 10.462, and 10.469

Proposed Effective Date

January 1, 2025

Contact

Karene Alvarado, 415-865-7761

karene.alvarado@jud.ca.gov

Proposed by

Center for Judicial Education and Research

Advisory Committee

Hon. Darrell S. Mavis, Chair

Executive Summary and Origin

The Center for Judicial Education and Research Advisory Committee proposes amending rule 10.469 of the California Rules of Court and adopting rule 10.465 to clarify existing fairness and access education requirements for judicial officers.

Background

The Judicial Council adopted a comprehensive set of rules on judicial branch education in two stages in 2006 and 2007, including rule 10.469, which initially contained only nonmandatory education *recommendations* for judicial officers. Effective January 1, 2021, the Judicial Council amended rule 10.469 to include new subdivision (e)(2) mandating new education *requirements* for judicial officers on unconscious bias, as well as on the prevention of discrimination, harassment, retaliation, and other inappropriate workplace conduct, under the umbrella of fairness and access judicial training recommendations.

The Proposal

Since its adoption, rule 10.469(e)(2) of the California Rules of Court has generated confusion by stating two separate mandatory education *requirements* for judicial officers in a subdivision of a rule that had previously contained only education *recommendations*. Additionally, the existence

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.

of two separate requirements in one subdivision generated further misunderstanding of what training is required.

Without altering the requirements for judicial officers, this proposal clarifies existing education regulation on fairness and access issues by moving both requirements and the recommendation to a new, standalone rule—proposed rule 10.465. In the new rule, however, the recommendation is found in a separate subdivision from the requirements. An added benefit of the proposal is that it emphasizes the essential nature of fairness and access education for all judicial officers and places the requirements on par with mandatory education requirements contained in other rules, including rule 10.463 (family law), rule 10.464 (domestic violence), and rule 10.468 (probate, guardianships, and conservatorships) of the California Rules of Court.

In addition, this proposal clarifies that judicial officers are separately required to participate in education on unconscious bias as well as education on the prevention of discrimination, harassment, retaliation, and inappropriate workplace conduct by placing these requirements in separate paragraphs.

The proposal also incorporates references to statutes providing authorization for the Judicial Council's adoption of a rule on this topic and guidance on the content of implicit bias training for the judicial branch. Finally, the proposal also requires an amendment to rule 10.469 to delete subdivision (e), and amendments to rules 10.461 and 10.462 to include references to rule 10.465.

Alternatives Considered

The committee considered two alternatives to the proposal. The committee initially considered taking no action, leaving the fairness and access requirements in rule 10.469(e). The committee rejected this proposal as it did not address the underlying issue: the confusion caused by including an education recommendation with two education *requirements* within a single subdivision of a rule.

The committee also considered a draft version of the new rule that condensed the current requirements and recommendation on fairness and access into one subdivision with additional clarifying language and references. The committee declined this approach given the potential for it to be misinterpreted as adding additional mandates in this area. The alternative language considered also did not resolve the underlying need to clarify that judicial officers are separately required to participate in education on unconscious bias and education on the prevention of discrimination, harassment, retaliation, and inappropriate workplace conduct.

Fiscal and Operational Impacts

Since the proposal is a reorganization and clarification of existing requirements, the committee does not anticipate that the proposal will have significant fiscal or operational impacts on the judicial branch.

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:

- 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 four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 10.461, 10.462, 10.465, and 10.469, at pages 4–6
2. Link A: Cal. Rules of Court, rule 10.461,
www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_461
3. Link B: Cal. Rules of Court, rule 10.462,
www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_462
4. Link C: Cal. Rules of Court, rule 10.469,
www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_469
5. Link D: Gov. Code, § 68088,
leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=68088.&lawCode=GOV

Rule 10.465 of the California Rules of Court is adopted and rules 10.461, 10.462, and 10.469 is amended, effective January 1, 2025, to read:

1 **Rule 10.461. Minimum education requirements for Supreme Court and Court of**
2 **Appeal justices**

3
4 **(a) Applicability**

5
6 All California Court of Appeal justices must complete the minimum judicial
7 education requirements for new justices under (b), and all Supreme Court and
8 Court of Appeal justices must complete minimum continuing education
9 requirements as outlined under (c). All justices must complete education
10 requirements on fairness and access as set forth in rule 10.465(a) and should
11 participate in more judicial education than is required, related to each individual's
12 responsibilities and in accordance with the judicial education recommendations set
13 forth in rule 10.469.

14
15 **(b)–(e) * * ***

16
17
18 **Rule 10.462. Minimum education requirements and expectations for trial court**
19 **judges and subordinate judicial officers**

20
21 **(a) Applicability**

22
23 All California trial court judges must complete the minimum judicial education
24 requirements for new judges under (c)(1) and are expected to participate in
25 continuing education as outlined under (d). All subordinate judicial officers must
26 complete the minimum education requirements for new subordinate judicial
27 officers under (c)(1) and for continuing education as outlined under (d). All trial
28 court judges and subordinate judicial officers who hear family law matters must
29 complete additional education requirements set forth in rule 10.463. All trial court
30 judges and subordinate judicial officers who hear certain types of matters must
31 participate in education on domestic violence issues as provided in rule 10.464. All
32 trial court and subordinate judicial officers must complete education requirements
33 on fairness and access as set forth in rule 10.465(a). All trial court judges and
34 subordinate judicial officers regularly assigned to hear probate proceedings must
35 complete additional education requirements set forth in rule 10.468. All trial court
36 judges and subordinate judicial officers should participate in more judicial
37 education than is required and expected, related to each individual's responsibilities
38 and particular judicial assignment or assignments and in accordance with the
39 judicial education recommendations set forth in rule 10.469.

40
41 **(b)–(g) * * ***
42

1
2 **Rule 10.465. Education requirements and recommendations for justices, judges,**
3 **and subordinate judicial officers on fairness and access**
4

5 **(a) Education on unconscious bias and the prevention of harassment,**
6 **discrimination, retaliation, and inappropriate workplace conduct**
7

- 8 (1) Each justice, judge, and subordinate judicial officer must participate in
9 unconscious bias education.
10
11 (2) Each justice, judge, and subordinate judicial officer must participate in
12 education on the prevention of harassment, discrimination, retaliation, and
13 inappropriate workplace conduct.
14
15 (3) The education in (1) and (2) must be taken at least once every three-year
16 continuing education cycle as determined under rules 10.461(c)(1) and
17 10.462(d).
18

19 **(b) Additional education on fairness and access**
20

21 In order to achieve the objective of assisting judicial officers in preserving the
22 integrity and impartiality of the judicial system through the prevention of bias, each
23 justice, judge, and subordinate judicial officer should regularly participate in
24 education on fairness and access in addition to that required in (a). The education
25 should include the following subjects: race and ethnicity; gender; sexual
26 orientation; persons with disabilities; persons with limited economic means; and
27 persons without stable housing.
28
29

30 **Rule 10.469. Education recommendations for justices, judges, and subordinate**
31 **judicial officers**
32

33 **(a)–(d) * * ***
34

35 **~~(e) Education on fairness and access, unconscious bias, and prevention of~~**
36 **~~harassment, discrimination, retaliation, and inappropriate workplace conduct~~**
37

- 38 ~~(1) In order to achieve the objective of assisting judicial officers in preserving~~
39 ~~the integrity and impartiality of the judicial system through the prevention of~~
40 ~~bias, each justice, judge, and subordinate judicial officer should regularly~~
41 ~~participate in education on fairness and access. The education should include~~
42 ~~the following subjects: race and ethnicity; gender; sexual orientation; persons~~

1 with disabilities; persons with limited economic means; and persons without
2 stable housing.

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~~(2) — Each justice, judge, and subordinate judicial officer must participate in education on unconscious bias, as well as the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct. This education must be taken at least once every three-year continuing education cycle as determined by rules 10.461(c)(1) and 10.462(d).~~

DRAFT

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Court Interpreters: Implementation of AB 1032

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend CRC rule 2.893, revise forms INT-100-INFO, INT-110, INT-120, and INT-140

Committee or other entity submitting the proposal:
Court Interpreters Advisory Panel

Staff contact (name, phone and e-mail): Diana Glick, 916-643-7012, diana.glick@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): TBD
Project description from annual agenda: Implementation of Assembly Bill 1032 (Pacheco) Court interpreters Assembly Bill 1032 (Stats. 2023, ch. 556), amends the Trial Court Interpreter Employment and Labor Relations Act (Government Code sections 71800-71829) with provisions affecting intermittent part-time, independent contractor, relay, and privately appointed interpreters. CIAP will propose revisions to California Rules of Court, rule 2.893, interpreter forms, and other guidance materials to conform with the statute.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*
N/A

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)
This proposal:
 - includes forms that have been translated.
 - includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
 - includes forms that staff will request be translated.
- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).
- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-14

Title

Court Interpreters: Implementation of
Assembly Bill 1032

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 2.893;
revise forms INT-100-INFO, INT-110, INT-
120, and INT-140

Proposed Effective Date

January 1, 2025

Contact

Diana Glick, 916-643-7012
diana.glick@jud.ca.gov

Proposed by

Court Interpreters Advisory Panel
Hon. Brian L. McCabe, Chair
Mr. Hector Gonzalez, Jr., Vice-Chair

Executive Summary and Origin

The Court Interpreters Advisory Panel proposes to amend rule 2.893 of the California Rules of Court and revise four forms to conform with recent statutory changes enacted by Assembly Bill 1032 (Pacheco; Stats. 2023, ch. 556), relating to provisionally qualified court interpreters.

Background

Current statutes and rule of court

California Government Code sections 68560–68566 set forth a statutory scheme for the qualification and appointment of spoken-language interpreters in the California courts. These provisions establish two types of credentialed interpreters (certified¹ and registered²) and authorize the Judicial Council to designate languages and testing requirements for each type.

¹ A “certified interpreter” interprets between English and a language designated by the Judicial Council, and is certified by an entity approved by the Judicial Council (Gov. Code, §§ 68562(b), 68566).

² A “registered interpreter” interprets between English and a language not designated by the Judicial Council and is qualified under the procedures and guidelines adopted by the Judicial Council (Gov. Code, § 68561(d)).

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.

Government Code requires interpreters of court proceedings to be certified or registered for the language required, with an exception for good cause.³ The Legislature requires the Judicial Council to establish guidelines and a process for the good cause qualification and appointment of noncertified and nonregistered interpreters.⁴

In response to these statutory requirements, the Judicial Council adopted rule 2.893 of the California Rules of Court, effective January 1, 1996.⁵ This rule establishes a process for appointing noncertified and nonregistered interpreters on a provisional or a temporary basis. Under the current rule, provisional qualification is granted in six-month periods, with renewal based on specified criteria. The rule allows for a judicially determined good cause exception to the limits on provisional qualification. Temporary appointments are limited to single, brief, and routine matters before the court, when a certified, registered, or provisionally qualified interpreter is waived by the litigant and the appointment will prevent burdensome delay.

Government Code sections 71800-71826, also known as the Trial Court Interpreter Employment and Labor Relations Act, address the employment status of court interpreters and describe the responsibilities of superior courts with respect to issues of hiring and negotiation of employment contracts.

As part of this statutory scheme, Government Code section 71802 requires courts to hire only certified and registered interpreters and places limitations on hiring independent contractors in lieu of employee interpreters. This section provides:

(d) Only registered and certified interpreters may be hired by a trial court as employees to perform spoken language interpretation of trial court proceedings. Interpreters who are not certified or registered may be assigned to provide services as independent contractors only when certified and registered interpreters are unavailable and the good cause and qualification procedures and guidelines adopted by the Judicial Council pursuant to subdivision (c) of Section 68561 have been followed.

Statutory amendments

Assembly Bill 1032 made a number of changes to the Government Code provisions relating to court interpreters. Specifically, the bill added the following limitation to section 71802(d), effective January 1, 2025:

Unless the judicial officer determines there is a necessity, an interpreter who is not certified in Spanish shall not be assigned to provide services as an independent contractor in Spanish for more than 45 court days or parts of court

³ Gov. Code, § 68561.

⁴ Gov. Code, §§ 68561(c), 68564(d)–(e).

⁵ This rule of court was originally adopted as rule 984.2. The rule was renumbered as 2.893 as part of the 2007 reorganization of the California Rules of Court.

days within a calendar year, and, for other languages, no more than 75 court days or parts of court days within a calendar year.

In addition, effective January 1, 2025, section 71801 was amended to include a definition of “relay interpreting” and sections 71802(d) and 71803(c) were amended to permit courts to hire nonregistered interpreters as employees to perform relay interpretation in specified circumstances.

The provisional qualification and appointment process in rule 2.893 and the corresponding forms must be updated to reflect these new statutory provisions.

The Proposal

The panel proposes to amend California Rules of Court, rule 2.893 and revise forms INT-100-INFO, INT-110, INT-120, and INT-140 to conform with statutory changes. This includes the addition of time limits on the appointment of provisionally qualified interpreters and the reorganization of rule 2.893 to more clearly distinguish the qualification and appointment processes and the separate limitations that apply to temporary appointments. The panel further proposes technical and nonsubstantive revisions to the forms to respond to concerns expressed by courts and partners.

California Rules of Court, rule 2.893

The panel proposes to retain the two types of appointments of noncertified and nonregistered interpreters in rule 2.893—provisional and temporary—with the following substantive changes to reflect the requirements of AB 1032 and to further clarify the rule:

- Rule 2.893(a): Remove reference to designated and nondesignated languages and specify that the rule applies to spoken-language interpretation, in accordance with statute.
- Rule 2.893(b): Add a definition of “relay interpreter,” combine the definitions of noncertified and nonregistered interpreters, and delete the definitions of “provisionally qualified” and “temporary interpreter.”
- Rule 2.893(c): No substantive changes.
- Rule 2.893(d): Amend the subdivision heading to remove reference to “use” of noncertified or nonregistered interpreters and reframe the types of appointments available to these interpreters. Retain the existing list of statements that the judicial officer must make on the record for all appointments of noncertified or nonregistered interpreters in this subdivision but amend it to reflect the proposed new form names.
- Rule 2.893(e): Amend this subdivision to be fully dedicated to an explanation of the provisional qualification and appointment process, including when this type of appointment is permissible, how to provisionally qualify an interpreter, the specific statements that the judicial officer must make on the record to appoint a provisionally

qualified interpreter, and the limits on both provisional qualification and provisional appointment. Specific proposed amendments also include:

- Extending the provisional qualification period from six months to one year. This is proposed to better match the qualification period with the limits on appointments, which are set by calendar year.
- Adding the new statutory time limits on provisional appointments in Government Code section 71802(d).
- Requiring a noncertified and nonregistered interpreter seeking a third period of provisional qualification (after having been qualified for two years) to have done the following within the preceding two years:
 - Taken the Judicial Council Court Interpreter Ethics course. An interpreter seeking provisional qualification would be required to declare under penalty of perjury on form INT-110 that they have taken the required ethics course.
 - Taken at least two qualifying exams for their language pair or have attempted a single exam twice, if such exams exist. An interpreter seeking provisional qualification would be required to declare under penalty of perjury on form INT-110 that they have taken or attempted the corresponding exam or exams.

This proposed amendment retains the current overall time period allowed for provisional qualifications (substituting two one-year time periods for four six-month time periods) but attaches demonstrated efforts to obtain certified or registered status to the request for a third qualification period. The panel seeks specific public comment on whether this approach meets the twin goals of encouraging interpreters to obtain a credential and allowing courts the flexibility necessary to ensure the presence of a qualified interpreter for court proceedings, including interpreters for language pairs for which there is no way to obtain certified or registered status.

- Vest the authority to provisionally qualify a noncertified or nonregistered interpreter with any judicial officer of a superior court, rather than the presiding judge of the court or another judicial officer designated by the presiding judge. The panel determined that this approach, including the use of the term “judicial officer” instead of “judge,” will provide the highest level of clarity and flexibility to local courts, enabling them to implement systems for provisional qualification and appointment that best meet local needs.

- Rule 2.893(f): Amend this subdivision to be fully dedicated to an explanation of the temporary appointment process, including when this type of appointment is permissible, the specific statements that the judicial officer is required to make on the record to make a temporary appointment, and limits on this type of appointment.
- Rule 2.893(g): Amend this subdivision to be fully dedicated to an explanation of relay interpreter appointments, including when permissible, the specific statements that the judicial officer is required to make on the record for this type of appointment, and limits on this type of appointment.

Forms

The panel proposes revisions to the following forms to conform with the changes to Government Code provisions regarding the limits on appointment of noncertified and nonregistered interpreters, which go into effect on January 1, 2025. Additionally, the proposed revisions will both clarify and streamline the provisional and temporary qualification and appointment processes.

Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter as Either Provisionally Qualified or Temporary (*form INT-100-INFO*)

This information sheet currently describes processes for the provisional qualification of noncertified and nonregistered interpreters, as well as the steps taken by a court prior to appointment of both provisionally qualified and temporary interpreters. The panel proposes to heavily revise and reorganize the content of this form to reflect the recent statutory changes and mirror the proposed reorganization of rule 2.893.

Specific changes proposed are:

- Change the name of the form to *Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter*.
- Organize the content into three sections: Provisional Qualification and Appointment, Temporary Appointment, and Relay Interpreters. These sections track the proposed revisions to the rule of court.

Qualifications of a Noncertified or Nonregistered Spoken Language Interpreter (*form INT-110*)

This is a mandatory form that solicits information about the qualifications of a noncertified and nonregistered interpreter to facilitate the judicial officer’s decision-making process on the provisional qualification. The panel proposes the following revisions to this form:

- Change the name of the form to *Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter*.
- Change the introductory language to “This form is used to qualify a noncertified or nonregistered spoken language interpreter for provisional appointment under California

Rules of Court, rule 2.893. The qualification on page 4 is valid for one year from the date of signature of the judicial officer.”

- Update the questions about “Language” directly under the caption.
 - Number the section as item 1, “Languages.”
 - Change the question asking for “LANGUAGE (list only one)” to “Language or languages.”
 - Reconfigure the check box options to allow an interpreter who seeks provisional qualification to select only one and to offer categories that track the new statutory limits on appointment of noncertified and nonregistered interpreters.
 - Add a hyperlink to the Judicial Council Court Interpreters Program for more information on designated languages. The current link on the draft form is a placeholder, as this content is currently in the process of being migrated to another location. By the time the form is ready for publication, the panel anticipates having an updated URL to include here.
- Update current item 1, “Previous provisional qualification periods (*since January 1996*)”
 - Renumber as item 2.
 - Change the name of the item to “Previous provisional qualification”
 - Remove subitem b regarding interpretation without provisional qualification since January 1, 1996.
 - Revise the item to ask about provisional qualification periods granted since January 1, 2025, and provide five lines for an interpreter to list prior qualification periods.
- Update current item 2, “Interpreter and translator credentials.”
 - Renumber as item 3.
 - Add subitems 3a and 3b. Subitem 3b is the question about the Judicial Council’s online court interpreter orientation course, which is available only to certified and registered interpreters, so the course would have been taken only by an interpreter who is certified and registered in California in another language pair. This question was previously part of item 10, “Orientation to court interpreting,” which also contained questions about training in legal terminology, so this question was moved to item 3 and the remaining questions in previous item 10 were moved to previous item 9, “Training in legal terminology.”

- Update current item 3, “Interpreter examinations and evaluations (related to credentials you do not currently hold).”
 - Renumber as item 4.
 - Add note explaining that an interpreter seeking a third or subsequent provisional qualification period must demonstrate that, during the last two years, they have taken at least two qualifying exams recognized by the Judicial Council or have attempted a single exam at least twice.
 - Divide the item into exams recognized by the Judicial Council (subitems 4a-4d) and other examinations and evaluations (subitems 4e-4g).
 - Specify the four different exams recognized by the Judicial Council and provide two lines for prospective interpreters to demonstrate their attempts to pass each exam.
 - Rewrite the attachment check box to specify additional information on examinations recognized by the Judicial Council.
 - In subitem g, condense questions into single lines to create necessary space.
- Update current item 4, “Interpreting and translation training.”
 - Renumber as item 5.
 - In subitem 5b, remove the word “please” and condense the text to fit onto a single line.
- Renumber current item 7, “Translation,” as item 6.
- Renumber current item 5, “Teaching experience,” as item 7.
- Update current item 6, “Interpreting experience.”
 - Renumber as item 8.
 - In subitem 8a, change “in the last 6 months” to “in the last 2 years.”
 - Condense the lines in subitem 8b to create space.
 - Add subitem 8d to allow a prospective provisionally qualified interpreter to indicate experience with remote interpretation.

- Add subitem 8e to allow a prospective provisionally qualified interpreter to indicate membership in a language-related professional organization and duration of membership.
- Update current item 8, “Code of professional conduct/ethics (Cal. Rule of Court, rule 2.890).”
 - Renumber as item 9.
 - Remove the abbreviation of the citation in the heading.
 - Add note indicating that an interpreter seeking a third period of provisional qualification must have taken the Judicial Council’s ethics course for court interpreters in the last two years.
 - Change subitem a to subitem d and reword it to ask about any “other” training in professional ethics, giving priority in this item to the Judicial Council’s ethics course for court interpreters.
 - Change subitem b to subitem a, remove the reference to the ethics course “for interpreters seeking provisional qualification,” and remove the requirement to take this course for a second six-month qualification period. Change the reference to “State of California’s” ethics training to “Judicial Council’s court interpreter ethics course.”
 - Change subitems c and d to subitems b and c, respectively.
 - Update the name of the ethics manual.
- Update current item 9, “Training in legal terminology.”
 - Renumber as item 10.
 - Change name of item to “Training in legal terminology and process”
 - Move subitems 10a and 10b from current item 10 (“Orientation to court interpreting”) to this section, as they relate to training in legal terminology and process.
 - Reword the question regarding training under Government Code section 68564 to “Describe any other training received in California legal terminology or process.”
- Delete current item 10, “Orientation to court interpreting,” as these questions have all been redistributed to other items.
- No change to item 11, “General education.”

- No change to item 12, “Language training.”
- In item 13 “Disqualifications, decertifications, or criminal offenses,” subitem 13a, change “Please provide detail” to “If yes, please explain.”
- Add “I am 18 years of age or older” to the verification statement and allow for signature under penalty of perjury of interpreter seeking provisional qualification below item 13.
- On the bottom of page 4, add a streamlined provisional qualification finding and order for signature of judicial officer.

Certification of Unavailability of Certified or Registered Interpreter (*form INT-120*)

This is a mandatory form that sets forth a good faith process for courts to follow to demonstrate that they have conducted a diligent search for a certified or registered interpreter. The panel proposes the following revisions to this form:

- Change the name of the form to *Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter*.
- Revise the caption to include the case number, title of case, date of proceeding, and language or languages required.
- Update caption to standard format; include the form name below the court information.
- Remove the references in the caption to a specific interpreter and their qualification status.
- Retitle the Certification of Unavailability as “Unavailability of Certified or Registered Interpreter”
- Revise this section to allow the interpreter coordinator to select one of the following three options to certify:
 - A diligent search was performed but was unsuccessful.
 - Streamline the options to demonstrate a diligent search, limiting the options to sources of certified and registered interpreters only.
 - The panel proposes to remove the options to select that the court administrator contacted the regional coordinator and interpreter agencies in the area, because these are other ways to contact certified and registered interpreters on the Judicial Council Master List.
 - The panel proposes to remove the options to contact federally certified interpreters and certified administrative hearing interpreters because

interpreters holding these credentials are not on the Judicial Council Master List and, if available, would still require provisional qualification.

- The language pair required does not have a qualifying exam that is recognized by the Judicial Council.
- The interpreter coordinator had less than one court day to identify an available interpreter.
- Add a section titled “Availability of Provisionally Qualified Interpreter” to allow the interpreter coordinator to indicate the availability of a specific provisionally qualified interpreter, including their name, date of qualification or that provisional qualification has been requested, and a statement as to whether they have already met or exceeded the limits on the number of court days they may work in a calendar year.
- Delete two pages of instructions.

Temporary Use of a Noncertified or Nonregistered Spoken Language Interpreter (*form INT-140*)

This is an optional form designed to provide the court with the rules and process for the appointment of a temporary interpreter. The panel proposes the following revisions to this form:

- Change the name to *Temporary Qualification of Noncertified or Nonregistered Spoken Language Interpreter*.
- Add questions regarding the case name and type of proceeding, revise question about language to read “language or languages required.”
- Remove the instruction in the caption to “File with the Court Administrator,” as this form, if used, would be filed into the case for which a temporary interpreter is appointed.
- Amend the findings and order on page 2 to reflect the requirements of rule 2.893.

Alternatives Considered

Both the Interpreter Language Access Subcommittee and the Court Interpreters Advisory Panel met and deliberated on the changes necessary to rules and forms to conform with recent statutory changes. The subcommittee considered retaining the requirement that a presiding judge or judicial designee make provisional qualifications but decided that it would be best to give maximum flexibility to the courts by expressly allowing any judicial officer to make the findings and orders necessary for provisional qualification. Depending on size and local practice, local courts may vest authorization for making a finding of provisional qualification with specific judicial officers.

The subcommittee also discussed the possibility of retaining the six-month qualification periods and existing limits on the total number of qualification periods allowed for a noncertified and

nonregistered interpreter. It was determined that public comment would be helpful in determining an appropriate level of incentive to encourage noncertified and nonregistered interpreters to obtain certification, while balancing this against the courts' need for certain language pairs for which it is impossible to achieve certification.

Fiscal and Operational Impacts

The substantive changes to the overall process are minimal, and the forms retain their mandatory or optional status, but there is a significant amount of streamlining and reorganization of the rule and forms that may require education and retraining. The reconfigured form INT-100-INFO is designed to assist courts and interpreters with the procedures. Courts that maintain paper versions of the forms will incur the costs of replacing old forms with the revised forms.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Does the extension of the provisional qualification period from six months to one year and the requirements to demonstrate efforts toward certified or registered status after two provisional qualification periods appropriately meet the twin goals of encouraging interpreters to obtain a credential and providing courts sufficient flexibility to ensure the presence of a qualified interpreter for court proceedings, including interpreters in language pairs for which there is no way to obtain certified or registered status?

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. Cal. Rules of Court, rule 2.893, at pages 12–21
2. Forms INT-100-INFO, INT-110, INT-120, and INT-140, at pages 22–30
3. Link A: Assem. Bill 1032,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1032

Rule 2.893 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 2.893. Appointment of interpreters in court proceedings**

2
3 **(a) Application**

4
5 This rule applies to all trial court proceedings in which the court appoints ~~an~~ a
6 spoken language interpreter for a ~~L~~imited English ~~P~~roficient (LEP) person. ~~This~~
7 ~~rule applies to spoken language interpreters in languages designated and not~~
8 ~~designated by the Judicial Council.~~

9
10 **(b) Definitions**

11
12 As used in this rule:

13
14 (1) “Designated language” means a language selected by the Judicial Council for
15 the development of a certification program under Government Code section
16 68562;

17
18 (2) “Certified interpreter” means an interpreter who is certified by the Judicial
19 Council to interpret a language designated by the Judicial Council under
20 Government Code section 68560 et seq.;

21
22 (3) “Registered interpreter” means an interpreter in a language not designated by
23 the Judicial Council, who is qualified by the court under the ~~qualification~~
24 ~~procedures and guidelines adopted by the Judicial Council, and who has~~
25 ~~passed a minimum of an English fluency examination offered by a testing~~
26 ~~entity approved by the Judicial Council under Government Code section~~
27 ~~68560 et seq.;~~

28
29 (4) ~~“Noncertified interpreter”~~ “Relay interpreter” means ~~an interpreter is not~~
30 ~~certified by the Judicial Council to interpret a language designated by the~~
31 ~~Judicial Council under Government Code section 68560 et seq.;~~ a person who
32 interprets between two non-English spoken languages.;

33
34 (5) ~~“Nonregistered interpreter”~~ means ~~an interpreter in a language not designated~~
35 ~~by the Judicial Council who has not been qualified under the qualification~~
36 ~~procedures and guidelines adopted by the Judicial Council under Government~~
37 ~~Code section 68560 et seq.;~~ A “noncertified” or “nonregistered” interpreter is
38 a person providing interpretation services:

39
40 (A) In a language designated for certification by the Judicial Council,
41 without holding a certification to provide interpretation in that
42 language;

- 1 (B) In a language identified as a registered language by the Judicial
2 Council, without holding registered status to interpret in that language,
3 under the procedures and guidelines adopted by the Judicial Council; or
4 (C) In a language pair for which no exam recognized by the Judicial
5 Council exists that would allow the person to become registered or
6 certified to provide interpretation.

7
8 ~~(6) “Provisionally qualified” means an interpreter who is neither certified nor~~
9 ~~registered but has been qualified under the good cause and qualification~~
10 ~~procedures and guidelines adopted by the Judicial Council under Government~~
11 ~~Code section 68560 et seq.;~~

12
13 ~~(7) “Temporary interpreter” means an interpreter who is not certified, registered,~~
14 ~~or provisionally qualified, but is used one time, in a brief, routine matter.~~

15
16 **(c) Appointment of certified or registered interpreters**

17
18 If a court appoints a certified or registered court interpreter, the ~~judge~~ judicial
19 officer in the proceeding must require the following to be stated on the record:

20
21 (1)–(6) * * *

22
23 **(d) Appointment ~~or use of~~ noncertified or nonregistered interpreters**

24
25 (1) ~~When permissible~~ A noncertified or nonregistered interpreter may be
26 appointed to provide interpretation services as follows:

27
28 ~~If after a diligent search a certified or registered interpreter is not available,~~
29 ~~the judge in the proceeding may either appoint a noncertified or nonregistered~~
30 ~~interpreter who has been provisionally qualified under (d)(3) or, in the~~
31 ~~limited circumstances specified in (d)(4), may use a noncertified or~~
32 ~~nonregistered interpreter who is not provisionally qualified.~~

33 (A) Under a provisional appointment as described in (e); or

34
35 (B) Under a temporary appointment as described in (f).

36
37 (2) *Required record*

38
39 In all cases in which a noncertified or nonregistered interpreter is appointed
40 ~~or used~~, the ~~judge~~ judicial officer in the proceeding must require the
41 following to be stated on the record:

42
43 (A) The language to be interpreted;

1
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- (B) A finding that a certified or registered interpreter is not available and a statement regarding whether a *Certification of Unavailability of Certified or Registered Interpreter and Availability of Provisionally Qualified Interpreter* (form INT-120) for the language to be interpreted is on file for this date with the court administrator;
- (C) A finding that good cause exists to appoint a noncertified or nonregistered interpreter;
- (D) The name of the interpreter;
- (E) A statement that the interpreter is not certified or registered to interpret in the language to be interpreted;
- (F) A finding that the interpreter is qualified to interpret in the proceeding as required in (d)(3) (e) or (d)(4) (f); and
- (G) A statement that the interpreter was administered the interpreter’s oath.

~~(3) Provisional qualification~~

- ~~(A) A noncertified or nonregistered interpreter is provisionally qualified if the presiding judge of the court or other judicial officer designated by the presiding judge:
 - ~~(i) Finds the noncertified or nonregistered interpreter to be provisionally qualified following the Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter as Either Provisionally Qualified or Temporary (form INT-100-INFO); and~~
 - ~~(ii) Signs an order allowing the interpreter to be considered for appointment on *Qualifications of a Noncertified or Nonregistered Spoken Language Interpreter* (form INT-110). The period covered by this order may not exceed a maximum of six months.~~~~
- ~~(B) To appoint a provisionally qualified interpreter, in addition to the matters that must be stated on the record under (d)(2), the judge in the proceeding must state on the record:~~

1 (i) ~~A finding that the interpreter is qualified to interpret the~~
2 ~~proceeding, following procedures adopted by the Judicial Council~~
3 ~~(see forms INT 100-INFO, INT 110, and INT 120);~~

4
5 (ii) ~~A finding, if applicable, that good cause exists under (f)(1)(B) for~~
6 ~~the court to appoint the interpreter beyond the time ordinarily~~
7 ~~allowed in (f); and~~

8
9 (iii) ~~If a party has objected to the appointment of the proposed~~
10 ~~interpreter or has waived the appointment of a certified or~~
11 ~~registered interpreter.~~

12
13 (4) ~~Temporary use~~

14
15 ~~At the request of an LEP person, a temporary interpreter may be used to~~
16 ~~prevent burdensome delay or in other unusual circumstances if:~~

17
18 (A) ~~The judge in the proceeding finds on the record that:~~

19
20 (i) ~~The LEP person has been informed of their right to an interpreter~~
21 ~~and has waived the appointment of a certified or registered~~
22 ~~interpreter or an interpreter who could be provisionally qualified~~
23 ~~by the presiding judge as provided in (d)(3);~~

24
25 (ii) ~~Good cause exists to appoint an interpreter who is not certified,~~
26 ~~registered, or provisionally qualified; and~~

27
28 (iii) ~~The interpreter is qualified to interpret that proceeding, following~~
29 ~~procedures adopted by the Judicial Council (see forms INT 100-~~
30 ~~INFO and INT 140).~~

31
32 (B) ~~The use of an interpreter under this subdivision is limited to a single~~
33 ~~brief, routine matter before the court. The use of the interpreter in this~~
34 ~~circumstance may not be extended to subsequent proceedings without~~
35 ~~again following the procedure set forth in this subdivision.~~

36
37 (e) ~~Appointment of intermediary interpreters working between two languages~~
38 ~~that do not include English~~ **Provisional qualification and appointment of**
39 **noncertified or nonregistered interpreters**

40
41 ~~An interpreter who works as an intermediary between two languages that do not~~
42 ~~include English (a relay interpreter) is not eligible to become certified or registered.~~
43 ~~However, a relay interpreter can become provisionally qualified if the judge finds~~

1 that he or she is qualified to interpret the proceeding following procedures adopted
2 by the Judicial Council (see forms INT-100-INFO, INT-110, and INT-120). The
3 limitations in (f) below do not apply to relay interpreters.
4

5 (1) When permissible

6
7 If after a diligent search, a certified or registered interpreter is not available,
8 the judicial officer in the proceeding may appoint a noncertified or
9 nonregistered interpreter who has been provisionally qualified under this
10 subdivision.

11
12 (2) Provisional qualification

13
14 (A) A noncertified or nonregistered interpreter is provisionally qualified if a
15 judicial officer of a superior court finds the noncertified or
16 nonregistered interpreter to be provisionally qualified to interpret a
17 specific language or languages and signs the order allowing the
18 interpreter to be considered for appointment on *Provisional*
19 *Qualification of Noncertified or Nonregistered Spoken Language*
20 *Interpreter* (form INT-110).

21
22 (B) A provisional qualification on form INT-110 is valid for one year from
23 the date of judicial officer signature.

24
25 (C) Interpreters seeking a third or subsequent provisional qualification
26 period after January 1, 2025, must demonstrate their efforts to achieve
27 certified or registered status by indicating the following on form
28 INT-110:

29
30 (i) They have taken the Judicial Council's ethics training course for
31 court interpreters within the past two years; and

32
33 (ii) They have taken at least two qualifying exams or have attempted
34 a single exam twice in the past two years.

35
36 (3) Required record

37
38 In addition to the matters that must be stated on the record under (d)(2), to
39 make a provisional appointment of a noncertified or nonregistered interpreter,
40 the judicial officer in the proceeding must state on the record:

41
42 (A) A finding that the interpreter has been provisionally qualified to
43 interpret the required language or languages, following procedures

1 adopted by the Judicial Council (see forms INT-100-INFO, INT-110,
2 and INT-120);

3
4 (B) A finding, if applicable, that good cause exists for the court to appoint
5 the interpreter beyond the time ordinarily allowed in (4); and

6
7 (C) If a party has objected to the appointment of the proposed interpreter or
8 has waived the appointment of a certified or registered interpreter.

9
10 (4) Limits on provisional appointment

11
12 (A) Unless the judicial officer in the proceeding determines there is a
13 necessity, a noncertified interpreter who is provisionally qualified
14 under this rule to interpret in Spanish may not interpret in a superior
15 court for more than 45 court days or parts of court days within a
16 calendar year.

17
18 (B) Unless the judicial officer in the proceeding determines there is a
19 necessity, a noncertified or nonregistered interpreter who is
20 provisionally qualified under this rule to interpret a language other than
21 Spanish may not interpret in a superior court for more than 75 court
22 days or parts of court days within a calendar year.

23
24 (f) ~~Limit on appointment of provisionally qualified noncertified and~~
25 ~~nonregistered interpreters~~ Temporary appointment of noncertified or
26 nonregistered interpreter

27
28 (1) ~~A noncertified or nonregistered interpreter who is provisionally qualified~~
29 ~~under (d)(3) may not interpret in any trial court for more than any four~~
30 ~~six-month periods, except in the following circumstances:~~

31
32 (A) ~~A noncertified interpreter of Spanish may be allowed to interpret for no~~
33 ~~more than any two six-month periods in counties with a population~~
34 ~~greater than 80,000.~~

35
36 (B) ~~A noncertified or nonregistered interpreter may be allowed to interpret~~
37 ~~more than any four six-month periods, or any two six-month periods~~
38 ~~for an interpreter of Spanish under (f)(1)(A), if the judge in the~~
39 ~~proceeding makes a specific finding on the record in each case in which~~
40 ~~the interpreter is sworn that good cause exists to appoint the interpreter,~~
41 ~~notwithstanding the interpreter's failure to achieve Judicial Council~~
42 ~~certification.~~

- 1 (2) ~~Except as provided in (f)(3), each six-month period under (f)(1) begins on the~~
2 ~~date a presiding judge signs an order under (d)(3)(A)(ii) allowing the~~
3 ~~noncertified or nonregistered interpreter to be considered for appointment.~~
4
- 5 (3) ~~If an interpreter is provisionally qualified under (d)(3) in more than one court~~
6 ~~at the same time, each six-month period runs concurrently for purposes of~~
7 ~~determining the maximum periods allowed in this subdivision.~~
8
- 9 (4) ~~Beginning with the second six-month period under (f)(1), a noncertified or~~
10 ~~nonregistered interpreter may be appointed if he or she meets all of the~~
11 ~~following conditions:~~
- 12
- 13 (A) ~~The interpreter has taken the State of California Court Interpreter~~
14 ~~Written Exam at least once during the 12-calendar months before the~~
15 ~~appointment;~~
- 16
- 17 (B) ~~The interpreter has taken the State of California's court interpreter~~
18 ~~ethics course for interpreters seeking appointment as a noncertified or~~
19 ~~nonregistered interpreter, or is certified or registered in a different~~
20 ~~language from the one in which he or she is being appointed; and~~
21
- 22 (C) ~~The interpreter has taken the State of California's online court~~
23 ~~interpreter orientation course, or is certified or registered in a different~~
24 ~~language from the one in which he or she is being appointed.~~
25
- 26 (5) ~~Beginning with the third six-month period under (f)(1), a noncertified or~~
27 ~~nonregistered interpreter may be appointed if he or she meets all of the~~
28 ~~following conditions:~~
- 29
- 30 (A) ~~The interpreter has taken and passed the State of California Court~~
31 ~~Interpreter Written Exam with such timing that he or she is eligible to~~
32 ~~take a Bilingual Interpreting Exam; and~~
33
- 34 (B) ~~The interpreter has taken either the Bilingual Interpreting Exam or the~~
35 ~~relevant Oral Proficiency Exam(s) for his or her language pairing at~~
36 ~~least once during the 12-calendar months before the appointment.~~
37
- 38 (6) ~~The restrictions in (f)(5)(B) do not apply to any interpreter who seeks~~
39 ~~appointment in a language pairing for which no exam is available.~~
40
- 41 (7) ~~The restrictions in (f)(4) and (5) may be waived by the presiding judge for~~
42 ~~good cause whenever there are fewer than 25 certified or registered~~

1 ~~interpreters enrolled on the Judicial Council's statewide roster for the~~
2 ~~language requiring interpretation.~~

3
4 (1) When permissible

5
6 If the judicial officer in a proceeding finds that a certified or registered
7 interpreter is not available, a noncertified or nonregistered interpreter may be
8 appointed to interpret for a single brief, routine matter before the court, in
9 order to prevent burdensome delay or in other unusual circumstances.

10
11 (2) Required record

12
13 A noncertified or nonregistered interpreter may be appointed on a temporary
14 basis, if, in addition to the requirements of (d)(2), the judicial officer in the
15 proceeding finds on the record that:

16
17 (A) The LEP person has been informed of their right to an interpreter and
18 has waived the appointment of a certified or registered interpreter or an
19 interpreter who could be provisionally qualified by the judicial officer
20 in the proceeding, as provided in (e);

21
22 (B) Good cause exists to appoint an interpreter who is not certified,
23 registered, or provisionally qualified; and

24
25 (C) The interpreter is qualified to interpret that proceeding, following
26 procedures adopted by the Judicial Council (see forms INT-100-INFO
27 and INT-140).

28
29 (3) Limits on temporary appointment

30
31 The appointment of an interpreter under this subdivision is limited to a single
32 brief, routine matter before the court. The use of the interpreter in this
33 circumstance may not be extended to subsequent proceedings without again
34 following the procedure set forth in this subdivision.

35
36 **(g) Appointment of relay interpreter**

37
38 (1) When permissible

39
40 If, after a diligent search, a certified or registered interpreter is not available
41 to interpret between English and the language required for a court
42 proceeding, the court may appoint a relay interpreter to interpret between two
43 non-English spoken languages and a second interpreter who can interpret

1 between one of the relay interpreter’s languages and English. A relay
2 interpreter may be appointed provisionally as described in (e), or on a
3 temporary basis as described in (f).

4
5 (2) Required record

6
7 (A) If the relay interpreter is appointed as a provisional interpreter, the
8 judicial officer must make the record required for all appointments of
9 noncertified and nonregistered interpreters in (d)(2), must follow the
10 rules for provisional qualification in (e)(2), and must make the record
11 required in (e)(3).

12
13 (B) If the relay interpreter is appointed as a temporary interpreter, the
14 judicial officer must make the record required for all appointments of
15 noncertified and nonregistered interpreters in (d)(2) and the record
16 required in (f)(2).

17
18 (3) Limits on appointment of relay interpreters

19
20 (A) A relay interpreter who is qualified for a provisional appointment
21 described in (e) is subject to the time limits for appointment set forth in
22 (e)(4).

23
24 (B) A relay interpreter with a temporary appointment described in (f) is
25 subject to the limits on temporary appointments to single, brief, and
26 routine matters before the court.

27
28 **Advisory Committee Comment**

29
30 **Subdivisions (c) and (d)(2).** When a court reporter is transcribing the proceedings, or an
31 electronic recording is being made of the proceedings, a ~~judge~~ judicial officer may satisfy the “on
32 the record” requirement by stating the required details of the interpreter appointment in open
33 court. If there is no court reporter and no electronic recording is being made, the “on the record”
34 requirement may be satisfied by stating the required details of the interpreter appointment and
35 documenting them in writing—such as in a minute order, the official clerk’s minutes, a formal
36 order, or even a handwritten document—that is entered in the case file.

37
38 **Subdivision ~~(d)(4)~~(f).** This provision is intended to allow for the one-time use of a noncertified or
39 nonregistered interpreter who is not provisionally qualified to interpret for an LEP person in a
40 courtroom event. This provision is not intended to be used to meet the extended or ongoing
41 interpretation needs of LEP court users.
42

1 **Subdivision ~~(b)(7)~~ and ~~(d)(4)(f)~~.** When determining whether the matter before the court is a
2 “brief, routine matter” for which a noncertified or nonregistered interpreter who has not been
3 provisionally qualified may be used, the judicial officer should consider the complexity of the
4 matter at issue and likelihood of potential impacts on the LEP person’s substantive rights,
5 keeping in mind the consequences that could flow from inaccurate or incomplete interpretation of
6 the proceedings.

DRAFT

The court is required to appoint a certified or registered interpreter. If a certified or registered interpreter is not available, the court may appoint a noncertified and nonregistered interpreter on a **provisional or temporary** basis, according to the instructions provided in this information sheet.

DRAFT 3.7.2024 NOT APPROVED BY THE JUDICIAL COUNCIL

Provisional Qualification and Appointment

When Allowed

If, after a diligent search, a certified or registered interpreter is not available, a noncertified or nonregistered interpreter who has been provisionally qualified may be appointed.

Provisional Qualification Process

1. The noncertified or nonregistered interpreter may complete, sign, and submit to a judicial officer *Provisional Qualification of Noncertified or Nonregistered Spoken Language Interpreter* (form INT-110). In the alternative, a judicial officer may use form INT-110 to conduct a *voir dire* process to evaluate the qualifications of the proposed interpreter.
2. The judicial officer reviews the information on form INT-110. If the judicial officer finds that the interpreter is eligible for provisional qualification, they will sign the finding and order on page 4 of this form.
3. A provisional qualification is valid for 12 months from the date of signature by the judicial officer.

Limits on Provisional Qualification

A noncertified and nonregistered interpreter seeking a third or subsequent period of provisional qualification must demonstrate efforts to become certified or registered by indicating on form INT-110 that they have, during the last two years:

1. Taken the Judicial Council's court interpreter ethics course; and
2. Taken two qualifying exams for their language pair that are recognized by the Judicial Council, or attempted to pass a single exam twice, if there are exams recognized by the Judicial Council for their language pair.

Provisional Appointment Process

1. The court must certify that no certified or registered interpreter is available for the language or languages required on the date required. This certification is made when the court completes, signs, and files with the court administrator a *Certification of Unavailability of Certified or Registered Spoken Language Interpreter and Availability of Provisionally Qualified Interpreter* (form INT-120).
2. After the court has made this certification, a provisionally qualified interpreter may be appointed by the judicial officer in a proceeding. If the prospective interpreter has not yet been made provisionally qualified, the judicial officer must review the qualifications on form INT-110, according to the instructions above.

Required Record

In order to appoint a provisionally qualified interpreter, the judicial officer in the proceeding must state the following on the record:

- A finding that a certified or registered interpreter is not available and that good cause exists to appoint a noncertified or nonregistered interpreter;
- The name of the noncertified and nonregistered interpreter, and the language or languages to be interpreted;
- A statement that the noncertified and nonregistered interpreter has been provisionally qualified to interpret in the required language or languages and the date of provisional qualification;
- A finding that the appointment is within the time limits in California Rules of Court, rule 2.893, or a finding that there is a necessity for the court to appoint the interpreter beyond these time limits; and
- A statement that the interpreter was administered the interpreter's oath.

Limits on Provisional Appointments

Unless the judicial officer in the proceeding determines there is a necessity:

1. A noncertified interpreter who is provisionally qualified under this rule to interpret in Spanish and English may not interpret in a superior court for more than 45 court days or parts of court days within a calendar year.
2. A noncertified or nonregistered interpreter who is provisionally qualified under this rule to interpret a language pair other than Spanish and English may not interpret in a superior court for more than 75 court days or parts of court days within a calendar year.

Temporary Appointment**When Allowed**

If the court finds that a certified or registered interpreter is not available, a noncertified or nonregistered interpreter may be appointed to interpret for a single, brief, routine matter before the court, in order to prevent burdensome delay or in other unusual circumstances.

Temporary Appointment Process

1. A temporary appointment is allowed only for a single, brief, routine matter before the court, when necessary to prevent burdensome delay, or in other unusual circumstances.
2. If the judicial officer finds that a certified or registered interpreter is not available, a temporary interpreter may be appointed by the judicial officer in a proceeding. **Optional:** The judicial officer in a proceeding may ask the prospective interpreter to fill out and submit information on *Temporary Qualification of Noncertified or Nonregistered Spoken Language Interpreter* (form INT-140).

Required Record

In order to appoint a noncertified and nonregistered interpreter on a temporary basis, the judicial officer in the proceeding must state the following on the record:

- A finding that a certified or registered interpreter is not available and that good cause exists to appoint a noncertified or nonregistered interpreter;
- The name of the noncertified and nonregistered interpreter, and the language or languages to be interpreted;
- A statement that the LEP person has been informed of their right to an interpreter and has waived the appointment of a certified or registered interpreter, or an interpreter who could be provisionally qualified; and
- A statement that the interpreter was administered the interpreter's oath.

Limits on Temporary Appointments

Unless the judicial officer in the proceeding determines there is a necessity, all temporary appointments are limited to single, brief, and routine matters before the court.

Relay Interpreters

Relay interpreters work between two non-English spoken languages and may be provisionally qualified and appointed or temporarily appointed, depending on the circumstances. If a relay interpreter is provisionally appointed, they must abide by the limit of 75 court days or parts of court days in a calendar year, as described above. If a relay interpreter is temporarily appointed, their appointment is limited to a single, brief, and routine matter before the court.

INTERPRETER NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: WORK NO. : EMAIL ADDRESS: DRIVER'S LICENSE or STATE ID:	FOR COURT USE ONLY (FILE WITH THE COURT ADMINISTRATOR) DRAFT 3.7.2024 NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	

PROVISIONAL QUALIFICATION OF NONCERTIFIED OR NONREGISTERED SPOKEN LANGUAGE INTERPRETER

This form is used to qualify a noncertified or nonregistered spoken language interpreter for provisional appointment under California Rules of Court, rule 2.893. The qualification on page 4 is valid for one year from the date of signature of the judicial officer.

1. Languages

- a. Language or languages: _____
- b. Select the option below that best describes your language pair:
 - English and Spanish
 - English and designated language other than Spanish
 - English and nondesignated language
 - Two non-English spoken languages (relay interpreter)

Information about languages designated by the Judicial Council is available at <https://www.courts.ca.gov/programs-interpreters.htm>

The following questions may be addressed to the noncertified or nonregistered interpreter as voir dire, or the court may have the prospective interpreter answer the questions in writing on this form. All of the information provided by the interpreter should be considered by the court to determine whether the interpreter is appointed to interpret the stated language.

2. Previous provisional qualification

Since January 1, 2025, have you been provisionally qualified to interpret in this language or languages by a judge in this court or any other court under Cal. Rules of Court, rule 2.893?

- No
- Yes. For each previous provisional qualification, state:

Date of qualification: _____	Court: _____
Date of qualification: _____	Court: _____
Date of qualification: _____	Court: _____
Date of qualification: _____	Court: _____
Date of qualification: _____	Court: _____

3. Interpreter and translator credentials

a. Please list the two most relevant interpreter or translator credentials you currently hold, and which are in good standing (e.g., court interpreter certification from another state, in another language, or for the federal courts; ATA certification; community college certificate; etc.):

Credential name: _____	ID #: _____
Language pair: _____	Date of initial credential: _____
Credential name: _____	ID #: _____
Language pair: _____	Date of initial credential: _____

b. Have you taken the Judicial Council's online court interpreter orientation course? Yes (date): _____ No

INTERPRETER (name): _____

4. Interpreter examinations and evaluations (related to credentials you do not currently hold)

Note: Interpreters seeking a third or subsequent provisional qualification period after January 1, 2025, to interpret between English and a non-English language must demonstrate that, during the last two years, they have taken at least two exams recognized by the Judicial Council for their language pair, or that they have attempted a single exam twice.

Examinations recognized by the Judicial Council

a. Bilingual Interpreting Examination [] Not available for this language pair
Language _____ (date): _____ Results: _____
Language _____ (date): _____ Results: _____
b. Oral Proficiency Examination (non-English language) [] Not available for this language
Language _____ (date): _____ Results: _____
Language _____ (date): _____ Results: _____
c. Oral Proficiency Examination (English)
Language _____ (date): _____ Results: _____
Language _____ (date): _____ Results: _____
d. Written Examination (English)
Language _____ (date): _____ Results: _____
Language _____ (date): _____ Results: _____

[] See attachment for additional information on examinations and evaluations recognized by the Judicial Council

Other examinations and evaluations

e. Have you taken the Federal Court Interpreter Certification Examination?
[] Yes (dates): _____ What were the results? _____
[] No (check one): [] Not taken [] Not given in the language specified above
f. Have you taken a Court Interpreter Certification Examination from other states?
[] Yes (dates): _____ Give states and results of each: _____
[] No (check one): [] Not taken [] Not given in the language specified above
g. Have your interpreting skills been evaluated in any other way? [] Yes [] No
If yes, which aspects of your skills were evaluated? (check all that apply):
[] Interpreting modes: [] Consecutive [] Simultaneous [] Sight translation
[] Other (specify): _____ What languages? _____
When were you evaluated? _____ Which authority evaluated your skills? _____
What were the results? _____

5. Interpreting and translation training

a. Institutions attended: _____ Year: _____
_____ Year: _____
_____ Year: _____
b. Court interpreting observation (indicate number of hours you have observed court interpreters in the courtroom setting): _____
c. Legal/court interpreting training (select one):
(1) [] 40 or more hours of training in legal interpreting in the last 2 years
(2) [] 80 or more hours of training in legal interpreting in the last 4 years
(3) [] Less legal training than either (1) or (2) during the identified time period

6. Translation

a. Do you have any experience in written translation? [] Yes [] No
b. List types of documents: _____
c. What languages? _____

INTERPRETER (name):

7. Teaching experience

Do you have any language teaching experience? Yes No

If yes, which languages?

At what levels?

8. Interpreting experience

a. Have you interpreted in any court or administrative proceedings? Yes No

Please indicate how many proceedings or events you have interpreted in the last 2 years for each type:

Criminal Traffic Juvenile Family
Civil Small Claims Unlawful Detainer Probate/Conservatorship

Dates (if known): List the last two counties you have worked in:

What languages?

Which modes of interpreting did you employ? (check all that apply):

Consecutive Simultaneous Sight translation

b. Have you interpreted in any noncourt setting? Yes No

Please indicate type (medical, business, education, community, other):

Number of events interpreted in the last 2 years: Is your role as an interpreter compensated? Yes No

Approximate number of total days: What languages?

Modes of interpreting employed (check all that apply): Consecutive Simultaneous Sight translation

c. Have you had 72 hours of legal interpreting experience with, or under the guidance of, a certified or registered court interpreter mentor (includes police interpreted work, depositions, etc., as well as mock trials and other court training simulations)?

Yes No

d. Number of proceedings or events you have interpreted in the last 2 years by remote means:

e. Are you a member of any language-related professional organizations? Yes No

If yes, please indicate:

Name of organization: How long have you been a member?

Name of organization: How long have you been a member?

9. Code of professional conduct/ethics (California Rules of Court, rule 2.890)

Note: Interpreters seeking a third or subsequent provisional qualification period after January 1, 2025, must indicate that they have taken the Judicial Council's court interpreter ethics course within the last two years.

a. Have you taken the Judicial Council's court interpreter ethics course?

Yes (date): No

b. Do you have a copy of the Professional Standards and Ethics for California Court Interpreters? Yes No

c. Have you read, do you understand, and will you abide by the Professional Standards and Ethics for California Court Interpreters? Yes No

d. Have you had any other training in professional ethics for court interpreters? Yes No

Please explain:

10. Training in legal terminology and process

a. Have you received training in criminal procedure? Yes No

Please describe:

b. Have you received training in civil procedure? Yes No

Please describe:

c. Describe any other training received in California legal terminology or process:

INTERPRETER (name):

11. General education

Highest level degree attained:

[] N/A (No degree) [] High school [] Jr. college [] University [] Graduate degree [] Postgraduate

Name of institution:

Degree awarded: Year: Major:

Degree awarded: Year: Major:

12. Language training

a. How did you learn English? (mark N/A if not interpreting in English):

b. How did you learn the non-English language to be interpreted?

c. In which languages were you educated?

Language (specify): Elementary Jr. high High school University

(1) [] [] [] []

(2) [] [] [] []

d. What languages [] are [] were spoken at home (specify):

13. Disqualifications, decertifications, or criminal offenses

a. Have you had any certifications that have lapsed or have you been disqualified from interpreting in any court or administrative hearing? [] Yes [] No

If yes, please explain:

b. Have you ever been convicted of violating any federal law, state law, county or municipal law, regulation, or ordinance? (Do not include traffic infractions.) [] Yes [] No

If yes, please explain:

I am 18 years of age or older and I declare under penalty of perjury under the laws of the State of California that the information provided above and on the preceding pages is true and correct. I understand that any false or misleading statements disqualify me from being considered for interpreting assignments in the trial courts, in addition to other penalties provided by law.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PROSPECTIVE INTERPRETER)

PROVISIONAL QUALIFICATION FINDING AND ORDER OF THE COURT (California Rules of Court, rule 2.893)

- 1. Interpreter (name):
2. Language or languages to be interpreted:
3. The Court finds that the above-named interpreter is provisionally qualified to interpret the language or languages specified above.
4. The Court orders that the above-named interpreter may be considered for appointment to interpret the language or languages specified above in any proceeding in this court for a period of one year from the date of the signature below.

Date:

(TYPE OR PRINT NAME)

JUDICIAL OFFICER)

<p>CASE NUMBER: TITLE OF CASE: DATE OF PROCEEDING: LANGUAGE OR LANGUAGES REQUIRED: SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p>	<p style="text-align: center;"><i>FOR COURT USE ONLY</i> <i>(FILE WITH THE COURT ADMINISTRATOR)</i></p> <p style="text-align: center;">DRAFT 3.7.2024 NOT APPROVED BY THE JUDICIAL COUNCIL</p>
<p style="text-align: center;">CERTIFICATION OF UNAVAILABILITY OF CERTIFIED OR REGISTERED INTERPRETER AND AVAILABILITY OF PROVISIONALLY QUALIFIED INTERPRETER</p>	

UNAVAILABILITY OF CERTIFIED OR REGISTERED INTERPRETER

- I am the person responsible for assigning interpreters to this court.
- I have read and understand Government Code sections 68561, 68562, and 71802, mandating the use of certified court interpreters in court proceedings in languages that have been designated by the Judicial Council, and the use of registered interpreters in proceedings in languages not designated by the Judicial Council.

Select option 3, 4, or 5 below:

- After making a diligent search, I certify that no certified or registered court interpreter is available on the date of the proceeding to interpret the language or languages stated above. The diligent search consisted of the following:
 - I attempted to contact all certified or registered court interpreters for this language pair in this county.
 - I attempted to contact all certified or registered court interpreters for this language pair in the neighboring counties of (specify):
 - I attempted to contact additional certified or registered interpreters on the Judicial Council Master List of Certified and Registered Court Interpreters.
- There is no exam recognized by the Judicial Council that would allow an interpreter to become certified or registered to provide interpretation in the language pair required for this proceeding.
- The undersigned had less than one court day to identify an available interpreter.

AVAILABILITY OF PROVISIONALLY QUALIFIED INTERPRETER

The following interpreter is available on the date of the proceeding indicated above:

- Name: _____
- Provisional qualification (select one):
 - This interpreter was provisionally qualified to interpret the language or languages required on (date): _____
 - Provisional qualification has been requested and form INT-110 has been provided to the court.
- Limits on provisional appointments (select one):
 - This interpreter is within the limits on court days or parts of court days worked in this calendar year, in California Rules of Court, rule 2.893.
 - This interpreter has met or exceeded, or, with this appointment is likely to exceed the limits on court days or parts of court days worked in this calendar year, in California Rules of Court, rule 2.893.

I certify that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)


 (SIGNATURE OF COURT ADMINISTRATOR DESIGNEE)

INTERPRETER NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: WORK NO. : EMAIL ADDRESS:	FOR COURT USE ONLY DRAFT 3.7.2024 NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY QUALIFICATION OF NONCERTIFIED OR NONGREGISTERED SPOKEN LANGUAGE INTERPRETER	CASE NUMBER: _____
This form is used to establish the qualifications of a temporary interpreter for the proceeding listed below. Under California Rules of Court, rule 2.893, if a certified or registered interpreter is unavailable, a temporary interpreter may be used for a single, brief, routine matter before the court to prevent burdensome delay or in other unusual circumstances.	

CASE NAME: _____

DATE OF PROCEEDING: _____

TYPE OF PROCEEDING: _____

LANGUAGE OR LANGUAGES REQUIRED: _____

The following questions may be addressed to the noncertified or nonregistered interpreter as *voir dire*, or the court may have the prospective interpreter answer the questions in writing on this form. All of the information provided by the temporary interpreter should be considered by the court to determine whether the interpreter may be used to interpret the required languages in the proceeding above.

1. General education

Highest level degree attained:

N/A (No degree)
 High school
 Jr. college
 University
 Graduate degree
 Postgraduate

Name of institution: _____

Degree awarded: _____ Year: _____ Major: _____

Degree awarded: _____ Year: _____ Major: _____

2. Language training

a. How did you learn English? (*mark N/A if not interpreting in English*): _____

b. How did you learn the non-English language or languages to be interpreted? _____

c. In which languages were you educated?

Language (<i>specify</i>):	Elementary	Jr. high	High school	University
(1) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

d. What languages are were spoken at home (*specify*): _____

e. Have you ever been used as an interpreter in a court or administrative hearing? Yes No

If yes, please explain:

INTERPRETER (name):	CASE NUMBER:
---------------------	--------------

3. Disqualifications, decertifications, or criminal offenses

a. Have you had any certifications that have lapsed, or have you been disqualified from interpreting in any court or administrative hearing? Yes No

Please provide detail:

b. What is your relationship to the party? Acquainted Related Do not know party

Please explain or provide detail:

c. Have you ever been convicted of violating any federal law, state law, county or municipal law, regulation, or ordinance? (Do not include traffic infractions.) Yes No

If yes, please explain:

TEMPORARY INTERPRETER DECLARATION

I am 18 years of age or older and I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE OF PROSPECTIVE INTERPRETER)

FINDING OF QUALIFICATION FOR TEMPORARY APPOINTMENT
(California Rules of Court, rule 2.893)

The Court finds:

1. No certified or registered interpreter is available, and good cause exists to qualify and appoint a temporary interpreter for this single, brief, and routine matter before the court.
2. The limited English proficient (LEP) person has been informed of their right to an interpreter and has waived the appointment of a certified or registered interpreter, or an interpreter who could be provisionally qualified.

The Court orders that the above-named individual is qualified to interpret in the language or languages specified above and is appointed to interpret in this proceeding. This order expires at the conclusion of the listed proceeding.

Date: _____

(TYPE OR PRINT NAME)
(JUDICIAL OFFICER)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/28/2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Criminal Law: Parole Period Advisement

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 4.433

Committee or other entity submitting the proposal:
Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-ihn@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): 10/26/23

Project description from annual agenda: Amend California Rules of Court, rule 4.433, Matters to be considered at time set for sentencing, to update references to the parole or postrelease community supervision period. Rule 4.433 currently states that the sentencing judge must inform the defendant under Penal Code section 1170(c) of the parole period provided by section 3000 to be served after the expiration of the sentence. Section 1170(c) was amended by AB 1156 (Stats. 2015, ch. 378) to add references to a parole period provided by section 3000.08 or postrelease community supervision in section 3451.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-15

Title

Criminal Law: Parole Period Advisement

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 4.433

Proposed Effective Date

January 1, 2025

Proposed by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Contact

Sarah Fleischer-Ihn, 415-865-7702
sarah.fleischer-ihn@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes amending rule 4.433 of the California Rules of Court to add a reference to the parole periods described in Penal Code section 3000.01. This reference would appear in subdivision (e), which describes the sentencing judge’s advisement to the defendant about the parole period to be served after expiration of the sentence.

The Proposal

Rule 4.433 outlines matters for the court to consider at sentencing, including a requirement for the sentencing judge to inform a defendant “[u]nder section 1170(c) of the parole period provided by section 3000 to be served after expiration of the sentence, in addition to any period of incarceration for parole violation.” (Cal. Rules of Court, rule 4.433(e)(1); see Pen. Code, § 1170(c)¹.) Penal Code section 3000² sets a three-year parole period for persons who served a determinate prison sentence for a serious or violent felony committed on or after June 1, 2013, with specified exceptions. (§ 3000(b)(2)(B).)

Beginning August 6, 2020, section 3000.01 limits the parole period to two years for persons sentenced to a determinate term in state prison and released on or after July 1, 2020, with

¹ Under section 1170(c), “[t]he court shall also inform the defendant that as part of the sentence after expiration of the term, [the defendant] may be on parole for a period as provided in section 3000 or 3000.08 or postrelease community supervision for a period as provided in Section 3451.”

² All further references are to the Penal Code unless otherwise specified.

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.

specified exceptions.³ *People v. Tilley* (2023) 92 Cal.App.5th 772, 779–780 described how this legislative change has created some ambiguity and inconsistency:

[D]espite adding section 3000.01 limiting the parole term for those released from prison on or after July 1, 2020, the Legislature did not amend the relevant provisions of sections 3000 and 3000.08, which still provide the inmate shall be released on parole for a period of three years. (§ 3000, subd. (b)(2)(B).) Section 1170 and California Rules of Court, rule 4.433 still require the court to advise as to the period delineated in section 3000, and section 3000 makes no reference to section 3000.01. The Judicial Council forms similarly indicate the parole term is three years under section 3000, subdivision (b). These statutory inconsistencies put trial courts in a bit of a conundrum when advising of the parole term, but as noted above, it is up to the Legislature to amend all the relevant statutes to reflect the correct parole terms.

As noted, rule 4.433(e) currently only refers to the parole period under section 3000. To address the issue identified in *Tilley* and guide trial courts in providing accurate information to defendants about parole periods to be served after expiration of a sentence, the committee proposes amending the rule to add a reference to parole periods under section 3000.01.

Alternatives Considered

The committee discussed whether to take a more flexible approach and amend the language to be more general by requiring courts to inform the defendant “of the parole period to be served after expiration of the sentence,” without reference to specific statutes. However, most committee members supported referencing specific statutes to better aid sentencing courts in accurately informing defendants of relevant parole periods. The committee requests specific comments on whether the general language is preferred.

Fiscal and Operational Impacts

The committee anticipates no fiscal or operational impacts because of this proposal.

³ Sen. Bill 118; Stats. 2020, ch. 29. SB 118 was a public safety budget trailer bill that took effect immediately upon the Governor’s signature.

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?
- Should the advisal on parole periods to be served after expiration of a sentence be more general and not refer to specific statutes?

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. Cal. Rules of Court, rule 4.433, at page 4
2. Link A: Pen. Code, § 3000.01,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3000.01.&awCode=PEN

Rule 4.433 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 4.433. Matters to be considered at time set for sentencing**

2
3 **(a)–(b)** * * *

4
5 **(c)** If a sentence of imprisonment is to be imposed, or if the execution of a sentence of
6 imprisonment is to be suspended during a period of probation, the sentencing judge
7 must:

- 8
9 (1) Determine, under section 1170(b), whether to impose one of the three
10 authorized terms of imprisonment referred to in section 1170(b), or any
11 enhancement, and state on the record the reasons for imposing that term;
12
13 (2) Determine whether any additional term of imprisonment provided for an
14 enhancement charged and found will be stricken;
15
16 (3) Determine whether the sentences will be consecutive or concurrent if the
17 defendant has been convicted of multiple crimes;
18
19 (4) Determine any issues raised by statutory prohibitions on the dual use of facts
20 and statutory limitations on enhancements, as required in rules 4.420(c) and
21 4.447; and
22
23 (5) Pronounce the court’s judgment and sentence, stating the terms thereof and
24 giving reasons for those matters for which reasons are required by law.

25
26 **(d)** * * *

27
28 **(e)** When a sentence of imprisonment is imposed under (c) or under rule 4.435, the
29 sentencing judge must inform the defendant:

- 30
31 (1) ~~Under section 1170(e)~~ Of the parole period provided by section 3000 under
32 section 1170(c), or the parole period provided by section 3000.01, to be
33 served after expiration of the sentence, in addition to any period of
34 incarceration for parole violation;
35
36 (2) Of the period of postrelease community supervision provided by section 3456
37 to be served after expiration of the sentence, in addition to any period of
38 incarceration for a violation of postrelease community supervision; or
39
40 (3) Of any period of mandatory supervision imposed under section
41 1170(h)(5)(A) and (B), in addition to any period of imprisonment for a
42 violation of mandatory supervision.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/28/2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Criminal Law: Firearm and Body Armor Prohibitions

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210

Committee or other entity submitting the proposal:
 Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-ihn@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
 Annual agenda approved by Rules Committee on (date): 10/24/2024, 2/9/2024
 Project description from annual agenda:

Revise the optional misdemeanor domestic violence plea form (form CR-102) to reflect the lifetime ban on possession of firearms for persons convicted after January 1, 2019 of a misdemeanor violation of Penal Code section 273.5. This statutory change was enacted by AB 3219 (Stats. 2018, ch. 883).

Revise Prohibited Persons Relinquishment Form Findings (form CR-210) to reflect statutory changes to firearms relinquishment procedures under AB 732 (Stats. 2023, ch. 240).

Develop recommendations for form revisions to implement Assembly Bill 92 (Stats. 2023, Ch. 232). Under the statute, any person prohibited from possessing firearms is, also prohibited from possessing, owning, or buying body armor. This advisement needs to be added to forms in the Domestic Violence, Juvenile, Criminal, Civil Harassment, Elder Abuse, Workplace Violence, School Violence, and Gun Violence form series.

Revise the felony plea form advisement on parole violations to state that a parole violation may result in a return to state prison if the defendant is convicted of a crime that is subject to parole pursuant to Penal Code section 3000.1 or 3000(b)(4) and delete references to the Department of Juvenile Justice.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

- The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is

checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-16

Title

Criminal Law: Firearm and Body Armor Prohibitions

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise forms CR-101, CR-102, CR-160, CR-161, CR-162, CR-210

Proposed Effective Date

January 1, 2025

Proposed by

Criminal Law Advisory Committee
Hon. Brian. M. Hoffstadt, Chair

Contact

Sarah Fleischer-Ihn, 415-865-7702
sarah.fleischer-ihn@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes revising six criminal forms to incorporate firearm and body armor prohibitions enacted in recent legislation. The committee also proposes further revisions to the plea and relinquishment forms in this proposal (forms CR-101, CR-102, and CR-210) to reflect new procedures on firearm relinquishment, clarify prohibited items and relinquishment requirements, and refer to the possibility of a lifetime prohibition on firearm possession for misdemeanor domestic violence offenses. Finally, the committee proposes additional revisions to the felony plea form (form CR-101) based on other statutory changes, and to the criminal protective orders (forms CR-160 and CR-161) based on stakeholder suggestions.

Background

Firearm and body armor prohibitions and relinquishment

Body armor prohibition

Assembly Bill 92 (Stats. 2023, ch. 232) amended Penal Code section 31360¹ to expand the prohibition against owning, purchasing, or possessing body armor to any person prohibited from

¹ All further statutory references are to the Penal Code unless otherwise specified.

possessing a firearm under state law,² effective January 1, 2024.³ The amendment included a requirement that the court advise a prohibited person of the body armor prohibition.⁴

The amended statute further requires that a prohibited person relinquish any body armor in their possession. However, unlike firearms relinquishment procedures when convicted of specified offenses or subject to a protective order, section 31360 does not outline a relinquishment procedure time frame or designate entities to receive relinquished body armor.

Advisement of prohibited items and relinquishment requirements

Under existing law, criminal defendants are prohibited from possessing a firearm, ammunition, reloaded ammunition, and ammunition feeding devices if they are convicted of a felony or a specified misdemeanor and they must relinquish any firearms in their possession. (§§ 29800(a)(1), 29805, 29810(a)(1) & (2), 30305(a)(1).) Courts must instruct defendants of these prohibitions and relinquishment requirements upon conviction of a qualifying offense. (§ 29810(a)(2).)

Lifetime firearm ban for misdemeanor domestic violence convictions

Effective January 1, 2019, Assembly Bill 3129 (Stats. 2018, ch. 883) amended section 29805 to require a lifetime ban on possession of firearms for anyone convicted of a misdemeanor violation of section 273.5 (willful infliction of corporal injury to a spouse or cohabitant) on or after January 1, 2019. Additionally, existing federal law makes it unlawful for a person convicted in any court of a misdemeanor crime of domestic violence “to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.” (18 U.S.C. § 922(g)(9).)

Court confirmation of firearm relinquishment

Effective January 1, 2024, Assembly Bill 732 (Stats. 2023, ch. 240) amended section 29810 to add new procedural requirements for firearm relinquishment due to a qualifying conviction. Among these changes, prior to final disposition or sentencing in the case, courts are required to “confirm” that the defendant relinquished all firearms and whether the court received a completed Prohibited Persons Relinquishment Form⁵ and receipts. Under prior law, the court was required to make findings “concerning whether the probation officer’s report indicates” that

² Except under section 29610.

³ Prior to this amendment, section 31360 only prohibited persons convicted of “a violent felony under the laws of the United States, the State of California, or any other state, government, or country” from purchasing, owning, or possessing body armor.

⁴ AB 92 also impacts numerous protective orders issued in civil, domestic violence, and juvenile matters. The Joint Protective Order Working Group, composed of members from the Criminal Law Advisory Committee, the Civil and Small Claims Advisory Committee, and the Family and Juvenile Law Advisory Committee, met in January 2024 to coordinate consistent and clear language for the body armor prohibition across protective orders. The working group also discussed the need for clarifying legislation regarding how body armor must be relinquished.

⁵ As required by section 29810, the Department of Justice has developed such a form with that name and assigned it form number BOF 1022.

the defendant relinquished all firearms and turned in the Prohibited Persons Relinquishment Form and receipts.

The Proposal

Firearm and body armor prohibitions and relinquishment

The committee proposes the following revisions to incorporate firearm and body armor prohibitions and relinquishment requirements, as required by or to reflect provisions in Penal Code sections 29805, 29810, and 31360, and in 18 U.S.C. § 922(g)(9):

- Add a court advisement prohibiting body armor on six criminal forms. These forms currently include a court advisement prohibiting firearm possession due to qualifying convictions or being subject to a criminal protective order.⁶
- Add ammunition-related prohibitions and firearm relinquishment requirements to existing court advisements prohibiting firearm and ammunition possession on the criminal plea forms. The Judicial Council plea forms currently include some, but not all, of the advisements on prohibited items and relinquishment requirements.
- Reference a possible lifetime ban on possessing a firearm on the misdemeanor domestic violence plea form (form CR-102) to reflect state and federal law. Form CR-102 does not currently reference federal firearm prohibitions, while the felony plea form (form CR-101) does.

Additional legislative changes related to *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101)

The felony plea form lists the Division of Juvenile Justice (DJJ) as an option for sentencing because criminal courts previously had authority, in limited circumstances, to commit a minor to DJJ. (See Welf. & Inst. Code, §§ 736.5(c), 1731.5, 1732.6.) However, DJJ closed on June 30, 2023, due to legislation enacted in 2020 and 2021.⁷

The felony plea form also refers to possible custody periods due to a parole violation, including being “returned to state prison for up to one year, up to a maximum of ____ years.” However, after criminal justice realignment, a person on parole can only be returned to state prison to serve parole revocation time in limited circumstances, and the maximum time served varies and is determined by the Board of Parole Hearings.⁸

⁶ The criminal forms incorporate firearm prohibitions under sections 136.2(a)(1)(G)(ii), 29800, 29805, and Code of Civil Procedure section 527.9.

⁷ Sen. Bill 823 (Stats. 2020, ch. 337); Sen. Bill 92 (Stats. 2021, ch. 18).

⁸ If a person is subject to parole for a specified sex offense (§ 3000(b)(4)) or a murder conviction with a maximum term of life imprisonment (§ 3000.1(a)(2)) and a court determines that the person has violated the law or the conditions of parole, the person “shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.” (§ 3000.08(h).) For persons subject to life parole, a parole reconsideration hearing must be held on the next available calendar, but no later than 12 months from the date of the parole revocation. (§ 3000.1(d); 15 Cal. Code Regs.

Stakeholder suggestions related to criminal protective orders (forms CR-160 and CR-161)

The criminal protective orders underwent extensive revisions effective March 1, 2023. These revisions included new item 3a, a check box for the court to indicate that it finds the protected person’s family members have been targeted or harmed by the defendant, a finding required for postconviction protective orders under section 136.2(i)(1). The committee added item 3a because under section 136.2(i)(1), a court may issue an order restraining the defendant from any contact with “a victim of the crime” for up to 10 years upon conviction of specified offenses.

Courts have held that a victim’s family members cannot be included in the postconviction protective order under section 136.2(i)(1) without evidence they have been targeted or harmed. (See, e.g., *People v. Beckemeyer* (2015) 238 Cal.App.4th 461; *People v. Delarosaranda* (2014) 227 Cal.App.4th 205, 212.) An attorney with the Los Angeles City Attorney’s office requested that item 3a include non-family members if there is evidence they were targeted or harmed during the incident of domestic violence. In support of this request, the attorney asserts that the case law defines a “victim” under section 136(i)(1) to include anyone targeted or harmed during the incident (see *People v. Beckemeyer, supra*, 238 Cal.App.4th at 466 [“victim” is broadly defined in section 136 as any person against whom there is reason to believe a crime has been committed] and *People v. Race* (2017) 18 Cal.App.5th 211, 219 [the term “victim” pursuant to section 136.2 criminal protective orders must be construed broadly to include any individual against whom there is “some evidence” from which the court could find the defendant had committed or attempted to commit some harm within the household].) The committee requests specific comments on whether the proposed changes properly reflect the case law defining a “victim” for purposes of a postconviction order issued under section 136.2(i)(1).

In addition to the above suggestion, an attorney with the Alameda County District Attorney’s office requested revising item 1 of the instructions for law enforcement (on page 4 of form CR-160 and page 3 of form CR-161) to state that postconviction protective orders may be issued by the court “regardless of” whether the defendant is sentenced to custody or probation. (See § 136.2(i)(1), which provides: “This protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail, whether the defendant is subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation.”)

Plea Form, With Explanations and Waiver of Rights—Felony (form CR-101)

- Delete reference to the Division of Juvenile Justice from item 2a.
- Revise item 3b to state that if a defendant violates parole, the defendant may be returned to state prison if the conviction was for a crime subject to section 3000(b)(4) or 3000.1.

§ 2275(a.) The panel or board must release the person within one year of the date of revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of public safety requires a lengthier period of incarceration or unless there is a new prison commitment following a conviction. (§ 3000.1(d).) If a person is not rereleased on parole, they must be reconsidered for release on parole annually. (*Ibid.*)

- Revise item 3j (“Firearms (Guns), Firearm Parts, and Ammunition Prohibition”) to:
 - Add “relinquishment” to the item’s title;
 - Rephrase the advisement to be written in the first person, similar to the rest of the plea form;
 - Supplement existing language prohibiting possession of prohibited items to also prohibit owning, using, receiving, or having prohibited items under the defendant’s custody or control (see § 29800(a)(1));
 - Include reloaded ammunition and ammunition feeding devices, including but not limited to magazines as prohibited items (see §§ 30305(a)(1), 29810(a)(2)); and
 - State that firearms and firearm parts must be relinquished (see § 29810(a)(1)).
- Add new item 3k, “Body Armor Prohibition and Relinquishment,” stating that the defendant understands that a conviction in this case prohibits the defendant from purchasing, owning, or possessing body armor (defined in Penal Code section 16288) and must relinquish any body armor in the defendant’s possession.
- Replace gendered pronouns.

Domestic Violence Plea Form With Waiver of Rights—Misdemeanor (form CR-102)

- Revise item 7f (“Firearms (Guns), Firearm Parts, and Ammunition Prohibition”) to:
 - Add “relinquishment” to the item’s title;
 - State that a conviction may result in a lifetime prohibition on possession of prohibited items under state and federal law;
 - Include reloaded ammunition and ammunition feeding devices, including but not limited to magazines as prohibited items (see §§ 30305(a)(1), 29810(a)(2)); and
 - State that a conviction may require the relinquishment of firearms and firearm parts (see § 29810(a)(1)).
- Add new item 7g, “Body Armor Prohibition and Relinquishment,” stating that the defendant understands that a conviction in this case may prohibit the defendant from purchasing, owning, or possessing body armor (defined in Penal Code section 16288) and must relinquish any body armor in the defendant’s possession.
- Replace gendered pronouns.

Criminal Protective Order—Domestic Violence (form CR-160) and Criminal Protective Order—Other Than Domestic Violence (form CR-161)

- Revise item 3a to apply to additional protected persons who are also victims of the crime.
- Add a new item 9, “No body armor,” stating that the defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288) and that the defendant must relinquish any body armor in defendant’s possession.

- Revise item 1 of the instructions for law enforcement (on page 4 of form CR-160 and page 3 of form CR-161) to state that postconviction protective orders may be issued by the court “regardless of” whether the defendant is sentenced to custody or probation.

Order to Surrender Firearms in Domestic Violence Case (form CR-162)

- Add new item 5, “No body armor,” stating that the defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288) and that the defendant must relinquish any body armor in defendant’s possession.
- Update references to Code of Civil Procedure section 527.9 to comply with Judicial Council form guidelines.

Prohibited Persons Relinquishment Form Findings (form CR-210)

- Add language to the introduction that the defendant is prohibited from purchasing, owning, or possessing body armor (defined in Penal Code section 16288) and must relinquish any body armor in the defendant’s possession.
- Revise item 1 on compliance to state that the court received a Prohibited Persons Relinquishment Form from the defendant, and allow the court to choose one of three options regarding defendant’s compliance with statutory requirements.
- Incorporate item 2 into item 1c and revise it to state that the defendant had no firearms according to the Prohibited Persons Relinquishment Form and the probation officer’s report.
- Renumber item 3 in the noncompliance section as item 2 and revise it to state that the court has not received a Prohibited Persons Relinquishment Form from the defendant, and allow the court to indicate whether the probation officer’s report indicates registered firearms and if so, whether they were recovered or not.
- Add new item 3 in the noncompliance section of the form to state that the court received a Prohibited Persons Relinquishment Form from the defendant but that the probation officer’s report indicates possession of registered firearms that were not reported on the form, and allow the court to indicate whether the registered firearms were recovered or not.
- Delete item 4 since noncompliance is covered in more detail in new items 2 and 3.
- Delete item 5, on search warrants, due to statutory changes regarding when search warrants are issued.
- Additional technical amendments to use plain language and replace gendered pronouns.

Alternatives Considered

The committee did not consider the alternative of not revising the forms, determining that it was important to revise the forms to implement legislative changes.

In implementing the new body armor prohibition, the committee considered providing more guidance on how “relinquishment” can be satisfied (e.g., include a deadline, who to give it to, and whether destruction of body armor qualifies). However, the committee decided against this approach as the statute does not define relinquishment or provide a framework for compliance.

The committee discussed whether to revise the advisement that a misdemeanor domestic violation conviction *may* subject a defendant to a firearm prohibition to be a mandatory prohibition. While the most common misdemeanor domestic violence offenses are listed under prohibitions of firearm possession,⁹ the committee decided not to recommend mandatory prohibition language because there could be offenses, such as vandalism, that may not be subject to a firearm prohibition but still be considered a domestic violence offense, since a domestic violence offense is defined by the relationship between the defendant and the victim.¹⁰

Fiscal and Operational Impacts

The fiscal and operational impacts of this proposal are largely attributable to legislation. Expected costs include training, case management system updates, and the production of new forms.

⁹ For example, violations of sections 140, 243, 273.5, 422, and 646.9. (§ 29805(a)(1).)

¹⁰ The Penal Code defines “domestic violence” as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. (§ 13700(b).)

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?
- Do the proposed revisions to item 3a in forms CR-160 and CR-161 properly reflect the case law defining a “victim” for purposes of a postconviction protective order under section 136.2(i)(1)?

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 CR-101, CR-102, CR-160, CR-161, CR-162, and CR-210, at pages 9–28
2. Link A: Penal Code section 16288,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=16288.&lawCode=PEN
3. Link B: Penal Code section 29800,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=29800.&lawCode=PEN
4. Link C: Penal Code section 29805,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=29805.&lawCode=PEN
5. Link D: Penal Code section 29810,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=29810.&lawCode=PEN
6. Link E: Penal Code section 30305,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=30305.&lawCode=PEN
7. Link F: Penal Code section 31360,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=31360.&lawCode=PEN

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: FOR COURT USE ONLY 03/07/2024 DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS—FELONY	

INSTRUCTIONS:

- (1) Fill out this form only if you want to plead guilty or no contest.
- (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- (3) On page 6, sign and date the form under "DEFENDANT'S STATEMENT."
- (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM.** I want to plead guilty or no contest ("nolo contendere") to the charges and admit the following prior convictions, enhancements, allegations, and circumstances in aggravation listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below. INITIALS

COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS / MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, ALLEGATIONS & CIRCUMSTANCES IN AGGRAVATION (SECTION & DESCRIPTION)	YEARS / MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
AGGREGATE MAXIMUM TIME OF IMPRISONMENT							

2. **PLEA AGREEMENT.** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court. My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed above, the court will sentence me as follows:

- a. Check one: **State Prison** for **County Jail** for
- (1) years and months or
- (2) not less than years and months and/or not more than years and months.
- (3) Other (*specify*):
- b. **Probation** for years under conditions to be set by the court, including
- days in the **county jail** or
- up to days in the **county jail**.

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **county jail or state prison** for up to the **"Aggregate Maximum Time of Imprisonment"** specified in item 1, which may include a period of mandatory supervision under Penal Code section 1170(h)(5)(B) if the court sends me to county jail.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

2. c. **Split Sentence (1170(h)(5)(B)):** years and days in the county jail and years and days on mandatory supervision under conditions set by the court. I understand that if I violate any of the terms or conditions of mandatory supervision, I may be remanded into custody for the entire unserved portion of the sentence.

d. Open Plea

- (1) I understand the maximum and minimum sentences for the charges, enhancements, and allegations stated on page 1. No one has made any other promises to me about what sentence the court may order.
- (2) I understand that I am not eligible for probation.
- (3) I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

e. Restitution, Statutory Fees, and Assessments

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

- (1) \$ **to the Victim Restitution Fund**
- (2) \$ **restitution to actual victims**
- (3) \$ **restitution to the State of California, Victims of Crime Fund**
- (4) \$ **court operations assessment**
- (5) \$ **court facilities assessment**
- (6) \$ **base fine plus any applicable penalties, assessments, and surcharges**
- (7) \$ **other (specify):**
- (8) \$ **other (specify):**
- (9) An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set.

f. Fines for Revocation of Parole, Postrelease Community Supervision, Mandatory Supervision, or Probation

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine or a postrelease community supervision revocation fine, which will be collected only if my parole or postrelease community supervision is later revoked. I also understand that if I am granted probation or mandatory supervision, the court **will** impose a probation revocation fine or mandatory supervision revocation fine, which will be collected only if my probation or mandatory supervision is later revoked.

g. Dismissal of Other Counts

I understand that as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

h. Other Terms (specify):

3. CONSEQUENCES OF MY PLEA

a. No Contest ("Nolo Contendere") Plea

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest, I will be convicted and my no contest plea could be used against me in a civil case.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

3. b. **Parole and Postrelease Community Supervision**

I understand that if I am sentenced to **state prison**

- (1) I will be placed on parole or postrelease community supervision for up to _____ years after my release.
- (2) if I abscond or the court tolls my supervision, the total time of parole or postrelease community supervision can be extended.
- (3) if I violate any of the terms or conditions of my parole, I can be sentenced to county jail for up to 180 days for each violation, or if I am convicted of a crime that is subject to parole pursuant to Penal Code section 3000(b)(4) or 3000.1, I could be returned to state prison.

c. **Effect of Conviction on Other Cases**

I understand that a conviction in this case may constitute a violation of any other current grant of parole, mandatory supervision, postrelease community supervision, or probation in any other case and that I may receive additional punishment as a result of that violation.

d. **Registration**

I understand that I will be required to register with the local police agency or sheriff's department in the city or county in which I reside as

- (1) an arson offender
- (2) a gang member
- (3) a sex offender (**this registration is a lifelong requirement**)
- (4) Other (*specify*):

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me.

e. **Prints and DNA Samples**

I understand that I must provide biological samples and prints for identification purposes—including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law—and that failure to do so constitutes a new criminal offense.

f. **Serious or Violent Felony**

- (1) I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
- (2) I understand that if I am convicted of a violent felony, jail or prison conduct/work-time credit I may accrue will not exceed 15 percent.
- (3) I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20 percent of the total term of imprisonment.
- (4) I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

g. **Prior Prison Term for Sexually Violent Offense**

I understand that if I am sentenced to serve a state prison term for this sexually violent offense, as defined in Welfare and Institutions Code section 6600(b), the penalty for any future felony conviction may be increased as a result of my incarceration in this case.

h. **Driver's License and Vehicle Forfeiture**

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

- 3. i. **Immigration Consequences**
 I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.
- j. **Firearms (Guns), Firearm Parts, and Ammunition Prohibition and Relinquishment**
 I understand that under federal and state law a conviction in this case prohibits me from owning, using, receiving, possessing, or having under my custody or control firearms (guns), firearm parts, ammunition, reloaded ammunition, and ammunition feeding devices, including but not limited to magazines for life. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I must relinquish any firearms and firearm parts I own, possess, or have under my custody or control (see Penal Code section 29810).
- k. **Body Armor Prohibition and Relinquishment**
 I understand that a conviction in this case prohibits me from purchasing, owning, or possessing body armor (defined in Penal Code section 16288). I must relinquish any body armor I have in my possession.
- l. **Other Consequences (specify):**

- 4. **RIGHT TO AN ATTORNEY**
 I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.
I hereby give up my right to be represented by an attorney.
- 5. **OTHER CONSTITUTIONAL RIGHTS**
 I understand that I am entitled to each of the following rights as to the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1):
 - a. **Right to a Jury Trial**
 I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my counsel, to participate in jury selection.
 - b. **Right to a Court Trial**
 I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.
 - c. **Right to Confront and Cross-Examine Witnesses**
 I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.
 - d. **Right to Remain Silent and Not to Incriminate Myself**
 I understand that I have the right to remain silent, and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself, and I cannot be forced to testify.
 - e. **Right to Produce Evidence and to Present a Defense**
 I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.
- 6. **BEFORE THE PLEA**
 - a. **Discussion With My Attorney**
Before entering this plea, I have had a full opportunity to discuss the following with my attorney:
 - (1) The facts of my case;
 - (2) The elements of the charged offenses, prior convictions, enhancements, allegations, and circumstances in aggravation;
 - (3) Any defenses that I may have;
 - (4) My constitutional and statutory rights and waiver of those rights;
 - (5) The consequences of this plea, including the immigration consequences; and
 - (6) Anything else I think is important to my case.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

6. b. **Questions**

I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

c. **Stipulation to Commissioner**

I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

d. **Medications or Controlled Substances**

I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following:

e. **Court Approval of Plea Agreement**

I understand that the plea agreement in item 2 (on pages 1 and 2) is based on the facts before the court. I understand that if the court approves this plea agreement, the approval of the court is not binding, and that the court may withdraw its approval of the plea agreement upon further consideration of the matter. I understand that if the court withdraws its approval of this plea agreement, I will be allowed to withdraw my plea. (Pen. Code, § 1192.5.)

7. **STATUTORY RIGHT TO A PRELIMINARY HEARING**

I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above constitutional rights at the preliminary hearing, except for the right to a jury trial.

I give up my right to a preliminary hearing and the constitutional rights listed in item 5 (on page 4).

8. **WAIVER OF CONSTITUTIONAL AND STATUTORY RIGHTS**

I give up, for each of the charges, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

9. **THE PLEA**

I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1 (on page 1) and admit the prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1), understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or my loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. **I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.**

I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:

(1) **I understand that the court may consider the following as proof of the factual basis for my plea:**

- (a) Preliminary hearing transcript
- (b) Police report
- (c) Probation report
- (d) Welfare investigator's declaration
- (e) Court documents regarding any alleged prior offenses
- (f) Other(*specify*):
- (g) (*Specify facts*):

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

9. b. (2) **I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea).** (*People v. West* (1970) 3 Cal.3d 595.)

10. AFTER THE PLEA

a. **Surrender**

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

I agree that if I fail to appear on the date set for surrender or sentencing without a legal excuse, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

b. **Sentencing Court**

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea.

I give up that right and agree that any judge or commissioner may sentence me.

c. **Sentencing Date**

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to be sentenced at a later date.

11. MANDATORY WARNING

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code section 23103.5, or Vehicle Code section 23152 or 23153, the following warning applies:

You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and effects of any prior convictions, enhancements, allegations, and circumstances in aggravation have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF DEFENDANT)
----------------------	--------------------------

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of the defendant's questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge; any possible defenses to the charges; the effect of any prior convictions, enhancements, allegations, and circumstances in aggravation; and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of the defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the police report preliminary hearing transcript probation report other (*specify*): _____ . (*People v. West* (1970) 3 Cal.3d 595.)

Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF ATTORNEY)
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PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify):

Date: _____ (CERTIFICATION NUMBER)

_____ (TYPE OR PRINT NAME)  _____ (SIGNATURE OF INTERPRETER)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.

I agree do not agree with the terms of the plea agreement and the indicated sentence.

Date: _____ (SIGNATURE OF DISTRICT ATTORNEY)

_____ (TYPE OR PRINT NAME) 

COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The initialed items in this form have been read by or read to the defendant, and the defendant understands each of them.
2. The defendant understands the nature of the crimes, prior convictions, enhancements, allegations, and circumstances in aggravation listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives the constitutional and statutory rights associated with this plea.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions, or the defendant is pleading under a plea bargain under *People v. West*.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: _____ (SIGNATURE OF JUDICIAL OFFICER)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 03/05/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	
DOMESTIC VIOLENCE PLEA FORM WITH WAIVER OF RIGHTS—MISDEMEANOR	CASE NUMBER:

Instructions:

- (1) Fill out this form only if you want to plead guilty or no contest.
- (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
- (3) Sign and date the form under "DEFENDANT'S STATEMENT" on page 4.
- (4) Keep in mind that the court cannot give legal advice. If you have an attorney and have questions about anything in this form, ask your attorney.

1. **Charges and Maximum Penalties.** I want to plead guilty or no contest to the charges listed below. I understand that the maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

INITIALS

COUNT	CHARGES (SECTION & DESCRIPTION)	MAXIMUM PENALTY (FINE & JAIL)

2. **Prior Convictions.** I understand that I am also charged with a prior conviction in case number(s):

3. **Probation Violations.** I understand that I am also charged with a violation of probation in case number(s):

4. **Right to an Attorney** (*Leave this box blank if you have an attorney*). I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me. **I hereby give up my right to be represented by an attorney.**

5. **Other Constitutional Rights.** I understand that I am entitled to each of the following rights concerning the charges and prior convictions (if any) listed in items 1 and 2 (above):

a. **Right to a jury trial.** I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.

b. **Right to confront and cross-examine witnesses.** I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court to testify under oath in my presence and I or my attorney may question them.

c. **Right to remain silent and not incriminate myself.** I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

6. **Rights for Probation Violations** (*Leave this box blank if you are not charged with a probation violation*). I understand that I have all the constitutional rights listed above for all probation violations charged against me, except that I do not have a right to a jury trial, only a court hearing before a judge.

7. **Consequences of My Plea**

a. **No contest plea.** I understand that a no contest plea has the same effect as a guilty plea except that it cannot be used against me in a civil case that derives from an act on which this prosecution is based unless the offense is punishable as a felony.

b. **Effect of conviction on other cases.** I understand that a conviction in this case may be used to increase my punishment for future domestic violence convictions and may constitute a violation of any other current grant of parole or probation, which may result in additional punishment.

c. **Mandatory minimum conditions of probation.** I understand that if I am granted probation, the terms and conditions will include *at least* all of the following (see Pen. Code, § 1203.097):

- (1) A minimum of either 36 months (three years) or 48 months (four years) of probation;
- (2) A criminal court protective order that may include residence exclusion or stay-away conditions;
- (3) Booking within one week of sentencing if I have not already been booked;
- (4) Several statutory fines, fees, and assessments, including a domestic violence fee, restitution fine, probation revocation fine (stayed), criminal conviction assessment, and court security fee;
- (5) Successful completion of an appropriate batterer's treatment program lasting at least 52 weeks;
- (6) Community service;
- (7) Restitution to the victim (if applicable); and
- (8) Other:

d. **Effect of future probation violation.** I understand that if I violate any of the terms or conditions of probation, I may be returned to court and sentenced up to the maximum punishment on each charge as indicated in item 1.

e. **Immigration consequences.** I understand that if I am not a citizen of the United States, my plea of guilty or no contest may result in my deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States.

f. **Firearms (guns), firearm parts, ammunition prohibition and relinquishment.** I understand that a conviction in this case may prohibit me from owning, using, or possessing firearms (guns), firearm parts, ammunition, reloaded ammunition, and ammunition feeding devices, including, but not limited magazines for 10 years to life under federal law and state law (Pen. Code, §§ 29805 and 30305). This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I understand that a conviction in this case may require me to relinquish any firearm or firearm parts I own, possess, or have under my custody or control (Penal Code section 29810).

g. **Body armor prohibition and relinquishment.** I understand that a conviction in this case may prohibit me from purchasing, owning, or possessing body armor (defined in Penal Code section 16288). I must relinquish any body armor I have in my possession.

h. **Child custody consequences.** I understand that a conviction in this case may result in a rebuttable presumption that an award of sole or joint physical or legal custody of a child is detrimental to the best interest of the child under Family Code section 3044.

i. **Other consequences** (*specify*):

8. **Before the Plea**

a. **Discussion with my attorney** (*leave this box blank if you are not represented by an attorney*). Before entering this plea, I have had a full opportunity to discuss with my attorney the facts of the case, the elements of the charged offenses and prior convictions (if any), any defenses that I may have, my constitutional and statutory rights and waiver of those rights, the consequences of this plea, and anything else I think is important to my case.

b. **Questions.** I have no further questions for the court or for my attorney with regard to my plea and admissions in this case or any of my rights or anything else on this form.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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INITIALS

- 9. **Waiver of Constitutional Rights.** For each of the charges, prior convictions (if any), and probation violations (if any) listed in items 1, 2, and 3, I give up my right to a jury trial, my right to a court hearing, my right to confront and cross-examine witnesses, and my right to remain silent and not to incriminate myself. I understand that I am, in fact, incriminating myself with my plea.
- 10. **The Plea** (*check one*). I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1. I offer my plea with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.
- 11. **Prior Convictions.** I freely and voluntarily admit the prior convictions (if any) listed in item 2, and I understand that this admission may increase the penalties that are imposed on me.
- 12. **Probation Violations.** I freely and voluntarily admit the probation violations (if any) listed in item 3.
- 13. **Sentencing.** I understand that I have a right to delay my sentencing at least 6 hours and as long as 5 days after my plea. I give up this right and agree to be sentenced at this time.

PEOPLE OF THE STATE OF CALIFORNIA v. Defendant:	CASE NUMBER:
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DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions and probation violations have been explained to me. I understand each of the rights outlined above and I give up each of them to enter my plea.

Date: _____

_____ _____
 (TYPE OR PRINT NAME) SIGNATURE OF DEFENDANT

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of the defendant's questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions and probation violations, and the consequences of the plea.

Date: _____

_____ _____
 (TYPE OR PRINT NAME) SIGNATURE OF ATTORNEY

INTERPRETER'S STATEMENT

I, having been duly sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language noted below.

Language: Spanish Other (specify):

Date: _____

_____ (CERTIFICATION NUMBER)
 _____ _____
 (TYPE OR PRINT NAME) SIGNATURE OF INTERPRETER

COURT'S FINDINGS AND ORDER

The court, having reviewed this form and having orally examined the defendant, finds that (a) the defendant has read or been read and understands each of the initialed items on this form; (b) the defendant understands the nature of the crimes and allegations listed in items 1, 2, and 3 and the consequences of the plea and any admissions; (c) the defendant expressly, knowingly, understandingly, and intelligently waives the defendant's constitutional and statutory rights; and (d) the defendant's plea, admissions, and waiver of rights are made freely and voluntarily.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

Date: _____

_____ SIGNATURE OF JUDICIAL OFFICER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 03/05/2025 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE (CLETS—CPO) <input type="checkbox"/> ORDER PENDING TRIAL (Pen. Code, § 136.2) <input type="checkbox"/> MODIFICATION <input type="checkbox"/> PROBATION CONDITION ORDER (Pen. Code, § 1203.097(a)(2)) ORDER UPON CONVICTION: <input type="checkbox"/> PENAL CODE, § 136.2(i) <input type="checkbox"/> PENAL CODE, § 273.5(j) <input type="checkbox"/> PENAL CODE, § 368(f) <input type="checkbox"/> PENAL CODE, § 646.9(k)	CASE NUMBER:

This order may take precedence over other conflicting orders; see item 4 on page 4.

1. Restrained person

*Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____

2. Protected person

*Name: _____ *Gender: M F Nonbinary Age: _____

3. Additional protected persons

*Name	*Gender	Relationship to person in item 2
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- a. The court finds that the additional protected persons were also victims of the crime (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).
- b. The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).

(For items 1, 2, and 3: Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

4. Expiration date

- a. For pretrial orders, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
- b. For postconviction orders, this order expires on (date): _____ (Postconviction orders under Penal Code sections 136.2(i), 273.5(j), 368(f), and 646.9(k) may be valid for up to 10 years.)

5. Hearing

This proceeding was heard on (date): _____ at (time): _____ in Dept.: _____
 by (judicial officer): _____

6. Personal service

Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.

7. The court finds good cause to grant a protective order. See items 8–18.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense. (18 U.S.C. § 2261(a)(1).)

DEFENDANT:	CASE NUMBER:
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8. No firearms (guns), firearm parts, or ammunition

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms (guns), firearm parts (meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame; see Penal Code section 16531), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.
- b. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms and firearm parts owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored.
- d. The court finds good cause to believe that the defendant has a firearm and firearm parts within their immediate possession or control and sets a review hearing for (*date*): _____ (*time*): _____ (*dept.*): _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code of Civil Procedure section 527.9 (Cal. Rules of Court, rule 4.700).
- e. Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure section 527.9(f). Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.

9. No body armor

The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

10. No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))

The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.

11. No obtaining addresses (for orders issued under Penal Code section 136.2)

- a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
- b. The court finds good cause not to make this order.

12. Order to not abuse

Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.

- “Disturb the peace of” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, activities, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status; and reproductive coercion, meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

13. No-contact order

Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.

14. Stay-away order

Defendant must stay at least _____ yards away from the protected person and their

- a. home
- b. job or workplace
- c. vehicle
- d. other protected person in item 3
- e. other locations:

DEFENDANT:	CASE NUMBER:
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15. Exceptions

Defendant may have peaceful contact with the protected persons named in items 2 and 3, as an exception to the no-contact and stay-away orders in items 13 and 14 of this order, only for the safe exchange of children and court-ordered visitation as stated in

- a. the family, juvenile, or probate court order in *(case number)*:
issued on *(date)*:
- b. any family, juvenile, or probate court order issued *after* the date this order is signed.

The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.

16. Protected animals

a. The protected persons named in items 2 and 3 are given the exclusive care, possession, and control of the animals listed below:

Name:	Type of animal:	Breed (optional):	Color (optional):
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- b. Defendant must not take, transfer, sell, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the animals listed above.
- c. Defendant must not come within _____ yards of the animals listed above.

17. Electronic monitoring

Defendant must be placed on electronic monitoring for *(specify length of time)*:
(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)

18. Recordings

The protected person in item 2 may record communications made by the person in item 1 that violate this order.

19. Other orders

Executed on *(date)*:

JUDICIAL OFFICER

Certificate of Compliance With Violence Against Women Act (VAWA)

This protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994). This court has jurisdiction over the parties and the subject matter, and the restrained person has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, and shall be enforced as if it were an order of that jurisdiction.**

DEFENDANT:	CASE NUMBER:
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Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), and 646.9(k) are valid for up to 10 years and may be issued by the court **regardless of** whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- Orders under Penal Code section 1203.097(a)(2) are probationary orders, and the court has jurisdiction as long as the defendant is on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS-CANCEL)*.

2. If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

3. Enforcing This Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).
- Law enforcement must determine whether the restrained person had notice of the order. If notice cannot be verified, law enforcement must advise the restrained person of the terms of the order and, if the restrained person fails to comply, must enforce it. (Fam. Code, § 6383.)

4. Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item **13** is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
- **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Peace Officer Firearm Prohibition Exemption

If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty, but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	03/05/2025 DRAFT Not approved by the Judicial Council
CRIMINAL PROTECTIVE ORDER—OTHER THAN DOMESTIC VIOLENCE (CLETS-CPO) (Pen. Code, §§ 136.2, 136.2(i), 136.2(f) and 646.9(k)) ORDER <input type="checkbox"/> Pen. Code, § 136.2 <input type="checkbox"/> MODIFICATION PENDING TRIAL: ORDER UPON <input type="checkbox"/> Pen. Code, § 136.2(i) <input type="checkbox"/> Pen. Code, § 646.9(k) CONVICTION: <input type="checkbox"/> Pen. Code, § 368(f)	CASE NUMBER:

1. **Restrained person**

*Name: _____ *Gender: M F Nonbinary *Race: _____
 *Date of birth: _____ Height: _____ Weight: _____ Hair color: _____ Eye color: _____

2. **Protected person**

*Name: _____ *Gender: M F Nonbinary Age: _____

3. **Additional protected persons**

*Name _____ *Gender _____ Relationship to person in item 2 _____

- a. The court finds that the additional protected persons were also victims of the crime (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).
- b. The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(1)).

(For items 1, 2, and 3: Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

4. **Expiration date**

- a. For pretrial orders, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
- b. For postconviction orders, this order expires on (date): _____ (Postconviction orders under Penal Code sections 136.2(i) and 646.9(k) may be valid for up to 10 years.)

5. **Hearing**

This proceeding was heard on (date): _____ at (time): _____ in Dept.: _____
 by (judicial officer): _____

6. **Personal service**

Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.

7. The court finds good cause to grant a protective order. See items 8–16.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.

8. **No firearms (guns), firearm parts, or ammunition**

- a. The defendant must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms (guns), firearm parts (meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame; see Penal Code section 16531), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution and may include jail or prison time and/or a fine.

DEFENDANT:	CASE NUMBER:
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8. b. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms or firearm parts owned by the defendant or within the defendant's immediate possession or control.
- c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms and firearm parts have been turned in, sold, or stored.
- d. The court finds good cause to believe that the defendant has a firearm and firearm parts within their immediate possession or control and sets a review hearing for *(date):* _____ *(time):* _____ *(dept.):* _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of Code of Civil Procedure section 527.9 (Cal. Rules of Court, rule 4.700).
- e. Limited exemption: The court has made the necessary findings to grant an exemption under Code of Civil Procedure section 527.9(f). Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and while traveling to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.
9. **No body armor**
The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.
10. **No dissuading victim or witness (for pretrial orders issued under Penal Code section 136.2(a)(1))**
The defendant must not attempt to or actually prevent or dissuade any victim or witness from attending a hearing, testifying, or making a report to any law enforcement agency or person.
11. **No obtaining addresses (for orders issued under Penal Code section 136.2)**
a. The defendant must take no action to obtain the addresses or locations of protected persons or their family members, caretakers, or guardians unless good cause exists otherwise.
b. The court finds good cause not to make this order.
12. **Order to not abuse**
Defendant must not harass, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy or damage personal or real property, disturb the peace of, keep under surveillance, annoy by phone or other electronic means (including repeatedly contact), impersonate (on the internet, electronically, or otherwise), or block movements of the protected persons named in items 2 and 3.
13. **No-contact order**
Defendant must not contact the protected persons named in items 2 and 3, directly or indirectly, by any means, including by telephone, mail, email or other electronic means, or through a third party. Contact through an attorney under reasonable restrictions set by the court does not violate this order.
14. **Stay-away order**
Defendant must stay at least _____ yards away from the protected person and their
a. home b. job or workplace c. vehicle d. other protected person in item 3
e. other locations:
15. **Exceptions**
Defendant may have peaceful contact with the protected persons named in items 2 and 3, as an exception to the no-contact and stay-away orders in items 13 and 14 of this order, only for the safe exchange of children and court-ordered visitation as stated in
a. the family, juvenile, or probate court order in *(case number)*: _____ issued on *(date)*: _____
b. any family, juvenile, or probate court order issued *after* the date this order is signed.
The restrained and protected persons should always carry a certified copy of the most recent order issued by the family, juvenile, or probate court.
16. **Electronic monitoring**
Defendant must be placed on electronic monitoring for *(specify length of time)*: _____
(Not to exceed 1 year from the date of this order. Pen. Code, § 136.2(a)(1)(G)(iv), (i)(3).)
17. **Other orders**

Executed on *(date)*:_____
JUDICIAL OFFICER

DEFENDANT:	CASE NUMBER:
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Instructions for Law Enforcement

1. Start Date and End Date of Order

This order starts on the date it was issued by a judicial officer.

This order ends as ordered in item 4 on page 1 of this order.

- Orders under Penal Code section 136.2(a) are valid as long as the court has jurisdiction over the case. They are not valid after imposition of a county jail or state prison commitment. (*People v. Stone* (2004) 123 Cal.App.4th 153.)
- Orders issued under Penal Code sections 136.2(i)(1) and 646.9(k) are valid for up to 10 years and may be issued by the court **regardless of** whether the defendant is sentenced to state prison, county jail, or subject to mandatory supervision or if imposition of sentence is suspended and the defendant is placed on probation.
- To terminate this protective order, courts should use form CR-165, *Notice of Termination of Protective Order in Criminal Proceeding (CLETS—CANCEL)*.

2. Enforcing This Order in California

- This order must be enforced in California by any law enforcement agency that has received the order, or is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS).

3. Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

- **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
- **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item **13** is an example of a no-contact order.
- **Criminal Protective Order (CPO):** If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
- **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Peace Officer Firearm Prohibition Exemption

If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty, but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 03/05/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
ORDER TO SURRENDER FIREARMS IN DOMESTIC VIOLENCE CASE (CLETS—CPO) (Penal Code, § 136.2(a)(1)(G)(ii))	CASE NUMBER:

PERSON TO SURRENDER FIREARMS (*complete name*):

Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary	Race:	Date of birth:
Ht.:	Wt.:	Hair color:
		Eye color:

1. This proceeding was heard on (*date*): _____ at (*time*): _____ in Dept.: _____
 Room: _____ by judicial officer (*name*): _____
2. This order expires on (*date*): _____. If no date is listed, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
3. Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this order is required.
4. **GOOD CAUSE APPEARING, THE COURT ORDERS THAT THE ABOVE-NAMED DEFENDANT**
 - a. Must not own, possess, buy or try to buy, receive or try to receive, or in any other way get any firearms, firearm parts (meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame; see Penal Code section 16531), or ammunition. Possession of firearms, firearm parts, or ammunition while this order is in effect may subject the defendant to state or federal prosecution, and may include jail or prison time and/or a fine.
 - b. Within 24 hours of receiving this order the defendant must turn in to local law enforcement, or sell to or store with a licensed gun dealer, any firearms or firearm parts owned by the defendant or within the defendant's immediate possession or control.
 - c. Within 48 hours of receiving this order the defendant must file a receipt with the court showing that all firearms or firearm parts have been turned in, sold, or stored.
 - d. The court finds good cause to believe that the defendant has a firearm or firearm parts within their immediate possession or control and sets a review hearing for (*date*): _____ (*time*): _____ (*dept.*): _____ to ascertain whether the defendant has complied with the firearm and firearm parts relinquishment requirements of **Code of Civil Procedure section 527.9** (Cal. Rules of Court, rule 4.700.)
 - e. Limited exemption: The court has made the necessary findings to grant an exemption under **Code of Civil Procedure section 527.9**. Under California law, the defendant is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the defendant may be subject to federal prosecution for possessing or controlling a firearm.
5. **No body armor**
 The defendant must not own, possess, or buy any body armor (defined in Penal Code section 16288). Defendant must relinquish any body armor in their possession.

Executed on: _____ (DATE) _____ (SIGNATURE OF JUDICIAL OFFICER)

NOTICES

- This order is effective as of the date it was issued by the judicial officer and expires as ordered in item 2.
- This order is to be used **ONLY** when the court orders firearms relinquishment but does not make any other protective or restraining orders. Do NOT use in conjunction with other criminal protective orders (form CR-160 or CR-161).
- Specified defendants may request an exemption from the firearm relinquishment requirements stated in item 4 of this order. *The court must check the box under item 4 to order an exemption from the firearm relinquishment requirements.* If the defendant can show that the firearm is necessary as a condition of continued employment, the court may grant an exemption for a particular firearm to be in the defendant's possession only during work hours and while traveling to and from work. If a peace officer's employment and personal safety depend on the ability to carry a firearm, a court may grant an exemption that allows the officer to carry a firearm on or off duty, but only if the court finds, after a mandatory psychological examination of the peace officer, that the officer does not pose a threat of harm. (Code Civ. Proc., § 527.9(f).)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> 03/05/2024 DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PROHIBITED PERSONS RELINQUISHMENT FORM FINDINGS (Pen. Code, § 29810(c))	<i>FOR COURT USE ONLY</i> Date: Time: Department:

Any reference to "firearm" in this form includes any firearms (guns), receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16351). The defendant is prohibited from owning, purchasing, receiving, possessing, or having under their custody any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and must relinquish all firearms under Penal Code section 29810. The defendant is prohibited from purchasing, owning, or processing body armor (defined in Penal Code section 16288) and must relinquish any body armor in their possession.

Compliance

1. The court received a Prohibited Persons Relinquishment Form from the defendant, and (choose one):
 - a. defendant relinquished all firearms to a local law enforcement agency or a licensed firearms dealer under Penal Code section 29810(a)(3) and provided relinquishment receipts;
 - b. defendant was allowed an alternative method of relinquishment under Penal Code section 29810(f) and relinquished all firearms under an alternative method; or
 - c. defendant has no firearms according to the Prohibited Persons Relinquishment Form and no registered firearms according to the probation officer's report

Noncompliance

2. The court has not received a Prohibited Persons Relinquishment Form from the defendant, and (choose one):
 - a. the probation officer's report does not indicate any registered firearms; or
 - b. the probation officer's report indicates the defendant has registered firearms. The firearms were:
 - (1) Recovered (explain):

 - (2) Not recovered (explain):

3. The court received a Prohibited Persons Relinquishment Form from the defendant. The probation officer's report indicates the defendant has registered firearms that were not reported on the form. The firearms were:
 - a. Recovered (explain):

 - b. Not recovered (explain):

(DATE)

(SIGNATURE OF JUDICIAL OFFICER)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Criminal Law and Family Law: Changes to Form MIL-100

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form MIL-100

Committee or other entity submitting the proposal:
Criminal Law Advisory Committee and Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-Ihn.jud.ca.gov and Gabrielle D.Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): Criminal: October 26, 2023 (amended February 7 and 9, 2024); Family/Juvenile: October 26, 2023 (amended February 9, 2024)
Project description from annual agenda:

Criminal Law Advisory Committee: Revise Notification of Military Status form (MIL-100) to 1) state that, in a criminal case, either the defendant or defendant's counsel may file the notification with the court; 2) add language stating that in a criminal case, the court will send the form to the county veteran's service office to confirm the person's military status, 3) add a reference to CalVet, the state Department of Veteran's Affairs, and 4) reference pretrial diversion offering treatment as an alternative to trial, conviction, and incarceration under Penal Code section 1001.80. The Family and Juvenile Law Advisory Committee is also recommending revisions to the form to comply with SB 1182 (Stats. 2022, ch. 385), which added new statutory provisions regarding considerations for veterans in family court.

Family and Juvenile Law Advisory Committee: Item 2 SB 1182 (Eggman) Family Law (Ch. 385. Stats. of 2022) Requires, effective January 1, 2024, a family court to provide referrals to resources for self-identified veterans appearing before the court, including how to contact the local Department of Veterans Affairs (CalVet); requires, when a self-identified veteran files their status on the Judicial Council's military service form, that the court transmit a copy of the form to the CalVet, and for CalVet to contact the veteran within a reasonable time; and requires, when a family court that finds the effects of a parent's, legal guardian's, or relative's mental illness are a factor in determining the best interest of the child for purposes of custody or visitation, to put its reasons for the finding on the record and provide the affected parent, legal guardian, or relative with a list of local resources for mental health treatment.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

The Family and Juvenile Law Advisory Committee originally considered circulating this proposal in the regular spring 2023 rules cycle to implement both Family Code sections 211.5 and 3040(d) under SB 1182. However, the committee decided that the Criminal Law Advisory Committee needed to provide input on form MIL-100, so that it would better comply with current requirements of Penal Code section 858. To allow time for the Criminal Law Advisory Committee to consider changes to form MIL-100 in a joint proposal, the Family and Juvenile Law Advisory Committee withdrew the invitation to comment from the spring 2023 rules cycle. Because the proposed form would not take effect before January 1, 2024, the Center for Families, Children & the Courts issued a memorandum to presiding judges and court executive officers of the superior courts to inform them about the obligations the courts have under SB 1182, effective January 1, 2024 relating Family Code sections 211.5 and 3040(d).

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-18

Title

Criminal Law and Family Law: Changes to Form MIL-100

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise form MIL-100

Proposed Effective Date

January 1, 2025

Proposed by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair
Hon. Lisa Rodriguez, Vice-Chair

Contact

Sarah Fleischer-Ihn, 415-865-7702
sarah.fleischer-ihn@jud.ca.gov

Gabrielle D. Selden, 415-865-8085
gabrielle.selden@jud.ca.gov

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee and Criminal Law Advisory Committee propose revising form MIL-100, effective January 1, 2025. The Family and Juvenile Law Advisory Committee proposes revising form MIL-100 to implement the requirements of Family Code section 211.5, which was added by Senate Bill 1182 (Stats. 2022, ch. 385). The proposed changes would allow the court to comply with section 211.5 when the form is filed in a family law case involving a person who has military, veteran, reserve, or active status. The Criminal Law Advisory Committee proposes additional revisions to form MIL-100 to clarify procedures under Penal Code section 858 when the form is filed in a criminal case, and to reference treatment options for pretrial diversion under Penal Code section 1001.80. The committees also propose updating and reformatting the information on the back of the form for improved readability.

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.

Background

SB 1182 added section 211.5 to the Family Code to provide the following:

(a)(1) Commencing January 1, 2024, in proceedings under this code, a court shall provide self-identified veterans with a list of resources for veterans, including information about how to contact the local office of the Department of Veterans Affairs.

(2) The veteran may, at their discretion, provide the information about their veteran status on the Judicial Council military service form, file the form with the court, and serve it on the other parties to the action.

(b)(1) When a person files a form identifying the person as a veteran pursuant to paragraph (2) of subdivision (a), the court shall transmit a copy of the form to the Department of Veterans Affairs.

(2) Upon receipt of a copy of the form, the Department of Veterans Affairs shall, within a reasonable time, contact the person using the information provided on the form.

(c) On or before January 1, 2024, the Judicial Council may amend or develop the rules and forms necessary to implement this section.

According to legislative analysis, the above procedures will provide veterans navigating a family law case with the same access to resources and care through the California Department of Veterans Affairs (CalVet) that are available to veterans who have a criminal case. These services can be invaluable to veterans who are dealing with post-traumatic stress disorder, traumatic brain injuries, or a service-linked mental health issue.¹ Further, the new procedures will increase cultural competency, consistency, and flexibility among family court professionals about the needs of veterans in family court.²

In criminal cases, a defendant may acknowledge active duty or veteran status to the court by filing form MIL-100.³ The form includes information about rights related to criminal defendants who have active duty or veteran status.

The Proposal

Notification of Military/Veteran/Reserve/Active Status (form MIL-100) is an optional form that the Judicial Council initially adopted, effective January 1, 2014,⁴ as recommended by the Collaborative Justice Courts Advisory Committee. Its purpose is to inform the court that a party is a current or former member of the armed services or reserves, so that courts may address legal

¹ Sen. Floor Analysis, to Sen. Bill 1182 (2021–2022 Reg. Sess.) Aug. 5, 2022, p. 5 (Link A).

² *Ibid.*

³ Pen. Code, § 858(d), (e).

⁴ The Judicial Council report regarding the adoption of form MIL-100 may be found at: <https://www.courts.ca.gov/documents/jc-20131025-itemA32.pdf>.

issues when military status is relevant, comply with sentencing requirements under the Penal Code, if relevant, and identify when outside resources are available to military and former military court users.⁵

The current form helps a veteran self-identify in any type of legal case and provides for situations in which another person completes the form. For this reason, item 3 in the current form requires that the person completing the form self-identify as either (1) “the person listed in 1,” (2) “an attorney in the above-entitled case,” or (3) “other (*specify*):[.]”

This form has been revised three times since its adoption to comply with changes in the law—most recently, effective January 1, 2021.⁶

To reflect each committee’s respective subject matter expertise, the Criminal Law Advisory Committee led the development of the proposed changes to the form that relate to criminal cases. The Family and Juvenile Law Advisory Committee led the development of the proposed changes to the form relating to family law cases under Family Code section 211.5.

This form would be revised to include the following:

- A revised item 3 for the person completing the form to specify the type of case (a criminal law, family law, or another type of case) and whether the person is filing on their own behalf or is the attorney of record for the person;
- For the criminal law section of item 3, changing the description for the attorney check box to “an attorney representing the person listed in 1 in the above-entitled action” and deleting the entry for “other (*specify*):” to align with Penal Code section 858;
- For the family law and other civil cases section of item 3, removing the “Other (*specify*):” checkboxes that currently allow a person other than the party or their attorney to complete and file the form on behalf of a veteran;
- A reformatted notice box at the bottom of the form to specify the requirements for sending the form to veteran agencies;
- A change in the notice box to more accurately indicate that the form is being “filed” instead of “submitted” in the criminal law or family law case;
- A reference to Family Code sections 211.5 in the footer and second page;
- A reference to pretrial diversion offering treatment as an alternative to trial, conviction, and incarceration under Penal Code section 1001.80; and

⁵ The Judicial Council report regarding the form adopted effective January 1, 2015, may be found at: <https://www.courts.ca.gov/documents/jc-20141212-itemA2.pdf>.

⁶ The Judicial Council report regarding revisions to form MIL-100, effective January 1, 2021, may be found at <https://jcc.legistar.com/View.ashx?M=F&ID=8771183&GUID=20C61B6B-54AB-434A-9EE2-41FADF6632AD>.

- Reorganizing and reformatting the information on page two to make the form easier to read.

Notice requirements under Family Code section 211.5

Under section 211.5(b), “[w]hen a person files a form identifying the person as a veteran pursuant to paragraph (2) of subdivision (a), the court shall transmit a copy of the form to the Department of Veterans Affairs. (2) Upon receipt of a copy of the form, the Department of Veterans Affairs shall, within a reasonable time, contact the person using the information provided on the form.”

The committees propose that the notice box include a new check box titled “Family Law Case,” and that it be written in plain language the same as the criminal law notice rather than use the exact language of the statute. Because the legislative history of SB 1182 uses the term “Department of Veterans Affairs (CalVet),” the committees propose that the notice box include this same reference to “(CalVet).” The family law notice would read as follows:

If this form is filed in a family law case, the court will send a copy of the form to the California Department of Veterans Affairs (CalVet).

CalVet will, in a reasonable time, contact the person using the information provided in this form.

Requirements under Penal Code section 858

Penal Code section 858 contemplates that the defendant or defendant’s counsel, with the defendant’s consent, would file form MIL-100.⁷ Accordingly, the committees propose specifying in item 3 that in a criminal case, either the defendant or defendant’s counsel is filing the form.

In a criminal case, the court is required to send a copy of the form to the county veterans service officer to confirm the defendant’s military service. (Pen. Code, § 858(e).) However, the current form does not mention this confirmation requirement. To better communicate this requirement, the committees propose revising the form to state that the court will send a copy of the form to the county veteran’s service office “to confirm the person’s military status.”

In criminal cases, courts are required to send a copy of the form to the Department of Veterans Affairs. (Pen. Code, § 858(e).) The form includes a notice box about this requirement. As noted, the committees propose using the term “Department of Veterans Affairs (CalVet)” in the family law notice due to the legislative history of SB 1182. For consistency, the committees recommend adding a similar reference to CalVet to the criminal law notice.

⁷ “The court shall advise the defendant that the defendant should consult with counsel prior to submitting the form and that the defendant may, without penalty, decline to provide this information to the court.” (Pen. Code, § 858(d).) “If the defendant acknowledges active duty or veteran status and submits the Judicial Council military service form to the court, the defendant shall file the form with the court and serve the form on the prosecuting attorney and defense counsel.” (Pen. Code, § 858(e).)

Other changes

The committees propose reorganizing and reformatting page two of the form so that the content is easier to read. To this end, the “Noncriminal cases”⁸ and “Criminal cases” content would be reformatted in two side-by-side columns below an introductory paragraph and above a section that lists and describes the statutes noted in the form. In addition, a short sentence below the “Noncriminal” heading is proposed to define its meaning, and a brief description of Family Code section 211.5 would be listed in the lower third section of the page.

Alternatives Considered

Form proposal

The Family and Juvenile Law Advisory Committee considered not proposing changes to form MIL-100 because SB 1182 does not specifically mandate that the Judicial Council amend form MIL-100. However, the committee determined that revisions were needed to the notice box at the bottom of page one of the form because the language in the Family Code about the transmission of the form by the family court to the California Department of Veterans Affairs differs from the requirements in criminal cases.

Discussion about other persons completing the form on behalf of an active military service member, reserve member, or veteran

In proposing revisions to current item 3 of form MIL-100, the committees considered whether the entries for “3b. Family Law Case” and “3c. Other civil or juvenile cases” should include a check box for “Other (*specify*):” to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form.

The committees were concerned that this could be a sensitive issue for some active military service members, reserve members, or veterans. For example, some active members or veterans may not want another person to be able to file this form to disclose their status. The committees understand that legal authority supports excluding the checkbox for criminal cases; however, additional research would be needed before the committees can make a recommendation to the Judicial Council on this issue relating to family, other civil, and juvenile cases. To this end, the committees decided to circulate a form without the “Other (*specify*):” checkboxes and seek comment about the proposed revision.

Consultation with the Collaborative Justice Courts Advisory Committee

The committees consulted with the Collaborative Justice Courts Advisory Committee on the proposed amendments to form MIL-100, as that advisory committee originally proposed the form and amendments to the form over the years. The Collaborative Justice Courts Advisory Committee reviewed the proposed changes to the form. This collaboration produced a form that would comply with the relevant law and provide a better user experience by reorganizing and reformatting the instructions and information on the second page.

⁸ “Noncriminal cases” is used to describe civil cases, such as family law cases, and cases that are not considered civil cases, such as juvenile law cases.

Local resource list

The committees also considered whether to propose developing the list of local resources for mental health treatment that is described in Family Code section 211.5 but decided that the local veterans service office or the superior courts, not the Judicial Council, would be in the best position to create the local resources list that is described in the statutes.

Fiscal and Operational Impacts

The impact to the courts includes the cost to educate judicial officers and court staff about the changes in the law and procedures to implement the law. In addition, court clerks would be required to take additional steps to send copies of form MIL-100 to the California Department of Veterans Affairs (CalVet) in family law cases, and courts would be required to provide the parties with a list of local resources for mental health treatment.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- *For family courts:* Please state the reason for your response to the following: Regarding item 3b, should the check box for the attorney follow the current language stating “an attorney in the above-entitled case” or should it be changed to the language proposed for 3a in criminal cases: “an attorney representing the person listed in item 1 in the above-entitled case”?
- Should items 3b. and 3c. include a check box to allow a person other than an active military service member, reserve member, or veteran (or their attorney) to complete the form? (*If you are aware of a statute that supports your answer, please include it in your comments.*)
- 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. Form MIL-100, at pages 8–9
2. Link A: Senate Floor Analyses, August 5, 2022,
https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB1182
3. Link B: current form MIL-100, <https://www.courts.ca.gov/documents/mil100.pdf>
4. Link C: Senate Bill 1182,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1182

PERSON COMPLETING THIS FORM: NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: STATE BAR NUMBER (IF APPLICABLE):	FOR COURT USE ONLY DRAFT - NOT APPROVED BY THE JUDICIAL COUNCIL v. 3/08/24
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTIFICATION OF MILITARY/VETERAN/RESERVE/ACTIVE STATUS	CASE NUMBER:

1. This form is about (name): _____ who is a party in this case.

2. The person listed in item 1 is:

a. A current member of the state or federal armed services or reserves.

b. A veteran of the state or federal armed services or reserves.
 Discharge date (specify if applicable): _____

3. This form can be filed in any case type.
(Specify below the type of case in which the form is filed, and identify the person completing this form):

- a. Criminal law case.
 I am (check one): the person listed in item 1. an attorney representing the person listed in item 1 in the above entitled case.
- b. Family law case.
 I am (check one): the person listed in item 1. an attorney in the above entitled case.
- c. Other civil or juvenile law case (specify): _____
 I am (check one): the person listed in item 1. an attorney in the above entitled case.

4. I am providing this notification to the court based on information and belief.

Date: _____

(TYPE OR PRINT NAME OF PERSON FILING THIS FORM)
(SIGNATURE)

Notice	
<p style="text-align: center;">Criminal Law Case</p> <p>If this form is filed in a criminal law case, the court will send a copy of the form to the county veterans service officer to confirm the person's military status and the California Department of Veterans Affairs (CalVet).</p> <p>Local County Veterans Services Office Information (to be provided by local court):</p>	<p style="text-align: center;">Family Law Case</p> <p>If this form is filed in a family law case, the court will send a copy of the form to the California Department of Veterans Affairs (CalVet).</p> <p>The California Department of Veterans Affairs (CalVet) will, in a reasonable time, contact the person using the information provided in this form.</p>
For court use only	

No Filing Fee

No filing fee or court costs are to be charged for this form.

YOU SHOULD TALK WITH YOUR ATTORNEY (IF YOU HAVE ONE) ABOUT THE FOLLOWING INFORMATION

If you are a current or former member of the state or federal armed services or reserves, you may be entitled to certain rights under the law. Filling out form MIL-100 is a way you can let the court know about your military experience. This information may help the court consider possible benefits and protections in your case. This form can be used for any type of case and can be filled out at any time. Giving this information to the court is voluntary. The MIL-100 only needs to be filled out with the court one time per case.

NONCRIMINAL CASES

Noncriminal cases are cases filed in other courts, such as civil, family, or juvenile court.

If you are a party to a noncriminal case be sure to complete all the appropriate forms needed for your case. For example, filing this form does not substitute for the filing of other required forms or petitions in cases where you are filing:

- For relief from financial obligation during military service;
- A notification of military deployment and request to modify a support order; or
- For other relief under the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901–4043).

Examples of required forms are:

- (1) *Notice of Petition and Petition for Relief From Financial Obligation During Military Service* (form MIL-010); and
- (2) *Notice of Activation of Military Service and Deployment and Request to Modify a Support Order* (form FL-398).

CRIMINAL CASES

If you are a party to a criminal case, you are not required to have an honorable discharge, to have combat service, or to be accepted into or involved in a Veterans Court to be eligible for the possible rights and protections under the law.

If you are a current or former member of the state or federal armed services or reserves who may be suffering from sexual trauma, also known as military sexual trauma (MST), traumatic brain injury (TBI), posttraumatic stress disorder (PTSD), substance abuse, or mental health issues as a result of your military service, and charged with a crime, you may be eligible for certain rights under the law.

Some examples of benefits of a defendant in a criminal case who is a veteran or is on active duty or in the reserves include possible consideration for alternative sentencing, restoration relief such as sealing your record, and diversion in misdemeanor cases.

If you submit this form in a criminal case, you must file it with the court and serve a copy of it on the prosecuting attorney and defense counsel.

Below is a brief description of possible rights and protections under the following California laws:

Family Code section 211.5

- Filing this form in a family law case may help you receive information from CalVet and learn about available mental health resources.

Penal Code section 1001.80

- Pretrial diversion program offering treatment instead of trial and potential conviction and incarceration;
- Dismissal of eligible criminal charges following satisfactory performance in program;
- Arrest deemed to have "never occurred" as part of restoration of rights following successful completion of program.

Penal Code section 1170.9

- Treatment instead of prison or jail time for certain crimes;
- Felonies reduced to misdemeanors;
- Restoration of rights, dismissal of penalties, and/or setting aside of conviction for certain crimes;
- A greater chance of receiving probation;
- Conditions of probation deemed satisfied early, other than any victim restitution ordered.

Penal Code section 1170.91

- The court must consider circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could result in a more lenient sentence.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 03/28/2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Juvenile Law: Harm or Removal

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Amend Cal. Rules of Court, rules 5.674, 5.676, and 5.678; revise form JV-410

Committee or other entity submitting the proposal:
 Family & Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Daniel Richardson, 415-865-7619, daniel.richardson@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): 10/26/2023

Project description from annual agenda: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will act only where necessary to allow courts to implement the legislation efficiently.

SB 578 (Ashby) Juvenile court: dependents: removal (Stats. of 2023, Ch. 618) Requires a social worker to include, in their report for a detention hearing in a dependency case, information about potential harms a child may experience if removed from their parent or guardian's home, and requires a court to consider the short-term and long-term harms to the child that may result from the continued removal. If the court finds removal is necessary, requires the court to, in a written order or on the record, document the basis for its findings, the evidence it relied on, the child's placement and the basis for determining that it is the least disruptive alternative for the child, and any other measures to be taken to alleviate disruption and minimize the harms to the child.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

The proposal implements recent legislation creating new factors to be considered by the juvenile court at a detention hearing. Senate Bill 578 Juvenile court: dependents: removal (Ashby; Stats. 2023, ch. 618) amended Welfare and Institutions Code section 319 to require the court to consider the impact on the child when being separated from their parent or guardian at a detention hearing. The proposal would update rules and a form related to the detention hearing to address the new reporting requirements and clarify the court's role in mitigating harm to the child related to removal from their home. Of note, the committee interpreted language in the bill as requiring a new finding related to the child's placement (see § 319((c)(2)(B)(ii), rule 5.678(d)(2), JV-410 item 15(o).)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-19

Title

Juvenile Law: Harm of Removal

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 5.674, 5.676, and 5.678; revise form JV-410

Proposed Effective Date

January 1, 2025

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Contact

Daniel Richardson, 415-865-7619
daniel.richardson@jud.ca.gov

Executive Summary and Origin

To implement recent legislation creating new factors to be considered by the juvenile court at a detention hearing, the Family and Juvenile Law Advisory Committee proposes amending three rules and revising one Judicial Council form, effective January 1, 2025. Senate Bill 578 (Ashby; Stats. 2023, ch. 618) amended Welfare and Institutions Code section 319 to require the court to consider the impact on the child when being separated from their parent or guardian at a detention hearing. The proposal would amend rules and revise a form related to the detention hearing to address the new reporting requirements and clarify the court's role in mitigating harm to the child related to removal from their home.

Background

The detention hearing is the first hearing addressing a child's removal from their parent or guardian for abuse or neglect. The hearing must be held no later than one judicial day after the filing of the Welfare and Institutions Code section 300¹ petition, which must be filed within 48 hours of the child's removal.² The court must order the release of the child unless there is a

¹ All unspecified statutory references are to the Welfare and Institutions Code.

² §§ 313, 315.

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.

prima facie showing that the child comes within the description of section 300,³ that continuance in the home is contrary to the child’s welfare, and that one of the circumstances in section 319(c)(1)(A)–(D) is found to exist, which addresses various factors related to the child’s safety.

Senate Bill 578 creates new responsibilities for the placing agency and for the court at a detention hearing related to mitigating harm to the child due to their removal from their parent or guardian. According to the bill analysis: “There is no disputing that children suffer harm when they are separated from their parents. The highly traumatic experience of family separation can cause irreparable harm, disrupting a child’s brain architecture and affecting their short- and long-term health.”⁴

The bill seeks to ameliorate the impact of removal by creating new reporting requirements addressing the impact on the child from removal, and by requiring the court to determine whether less disruptive alternatives to removal were considered by the placing agency. In a written order or on the record, the court must also set forth all the following if it finds that removal is necessary (§ 319(c)(2)(B)):

- (i) The basis for its findings and the evidence relied on.
- (ii) Its determination regarding the child’s placement, including whether it complies with the placement preferences set forth in Section 361.31 (if an Indian child is involved) and less disruptive alternatives.
- (iii) Any orders necessary to alleviate any disruption or harm to the child resulting from removal.

SB 578 also added language to section 319 that requires the court to consider the report from the social worker described in subdivision (b). And subdivision (b) was updated to include new reporting requirements addressing any short-term or long-term harms—or *both* short-term and long-term harms—to the child that may result from their removal from the custody of their parent, guardian, or Indian custodian, and measures that may be available to alleviate disruption and minimize the harms of removal.

The bill did not disturb the basic requirements for removal at a detention hearing discussed above. The bill clarified in new subdivision (c)(2)(C) of section 319 that, “Nothing in this paragraph permits a child to be released to a parent, legal guardian, or Indian custodian, or to be placed in an unsafe placement, due solely to the court determining the child was not offered less

³ Section 300 subdivisions (a) through (j) are the grounds for the court’s jurisdiction of a child who has suffered, or is in substantial risk of suffering, serious harm, due to factors related to, *inter alia*, abuse, neglect, relinquishment, or the absence of provisions for support. The petition must state the facts sufficient to show that the child comes within one of the section 300 provisions. (§ 332.) The determination whether the child is a person described by section 300 is addressed at the jurisdiction hearing, which must be set within 15 judicial days after the detention hearing if the child is in custody at the time the petition is filed. (§§ 334, 355(a).)

⁴ Sen. Rules Com., Analysis of Sen. Bill 578 (2023–2024 Reg. Sess.), Sept. 14, 2023, p. 6. Available online at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240SB578.

disruptive alternatives.” The bill addresses mitigating the harm of removal after the decision to remove has been made.

The Proposal

The proposal would amend three rules and revise one form to reflect changes to the detention hearing discussed above made by SB 578.

Rule amendments

The committee recommends amending three rules to reflect the changes made to section 319 by SB 578.

Rule 5.674. Conduct of hearing; admission, no contest, submission

A minor amendment is proposed to subdivision (b) to reflect new language created by SB 578 requiring the court to review the report for the hearing described in section 319(b). There was some ambiguity prior to SB 578 whether a report from the social worker was required for the hearing.⁵ Section 319 now requires that the court consider the report described in section 319(b), and the rule should reflect this change because the rule addresses evidence the court must consider at the detention hearing.

Rule 5.676. Requirements for detention

There are recommended amendments to this rule that relate to the updated reporting requirements and to reducing statutory redundancy.

The requirements for removal of the child from the home stated in subdivision (a) are a restatement of the requirements in section 319(c)(1). The committee elected to maintain this language in the rule with one edit. Subdivision (a)(3) of the rule conditions detention by requiring that, “One or more of the grounds for detention in rule 5.678 is found.” Previous versions of rule 5.678 included the grounds for detention, but they have since been removed from the rule. The committee therefore proposes changing the reference to section 319(c)(1)(A)–(D) instead of rule 5.678.

The committee also proposes that subdivision (c) be amended to mandate the report information required in section 319(b) when describing the information in reports relied on by the court, for the same reasons discussed above.

Subdivision (c) also permits the court to “rely *solely* on written police reports, probation or social worker reports, or other documents” (*italics added*) when determining whether the child must be removed. It is recommended that this language remain in the rule because, as discussed above,

⁵ The previous version of section 319 required only that the social worker report to the court on certain matters without a specific reference to a social worker report. Subdivision (a) required the court “to examine the child’s parents, guardians, Indian custodian, or other persons having relevant knowledge and hear the relevant evidence as the child, the child’s parents or guardians, the child’s Indian custodian, the petitioner, the Indian child’s tribe, or their counsel desires to present.” SB 574 added language to this sentence that the court must also “review the report described in subdivision (b)...”

SB 578 does not modify the legal requirements for removal but instead addresses factors related to the child’s well-being after that decision has been made. The committee therefore elected to maintain this language.

In addition, current subdivision (c) includes two items that are already included in section 319:

- (1) A statement of the reasons the child was removed from the parent’s custody; and
- (4) Identification of the need, if any, for the child to remain in custody.

Both these reporting requirements are restatements of requirements stated in section 319(b). The committee therefore proposes deleting these items to reduce the redundancy of the rule.

Subdivision (d) of the rule also restates statutory requirements related to reporting requirements addressing an Indian child. The subdivision is a restatement of the items in section 319(b)(1)–(9). This restatement however was a deliberate decision by the committee when it implemented AB 3176 (Waldron; Stats. 2018, ch. 833) in 2019.⁶ At the time, the committee considered it important to have these requirements restated in the rule because they were significant changes in practice, and because Indian Child Welfare Act requirements are often overlooked. The committee maintains this position and elects to retain the statutory requirements in the rule. An additional requirement was added to this list by SB 578 as section 319(b)(10), and this new subdivision has been included in the rule as well.

Rule 5.678. Findings in support of detention; factors to consider; reasonable efforts; active efforts; detention alternatives

Proposed amendments to this rule address minor technical updates to references of subdivision numbers in section 319 renumbered by SB 578. In addition, clarification of a new determination on the child’s placement created by SB 578 is proposed.

SB 578 added language to section 319 that requires the court to make a determination on the child’s placement:

“[The court’s] determination regarding the child’s placement, including whether it complies with the placement preferences set forth in Section 361.31 and less disruptive alternatives.” (§ 319(c)(2)(B)(ii).)

New subdivisions (d)(1) and (d)(2) are proposed to clarify this new determination. For the placement to comply with “less disruptive alternatives,” the committee reasoned that this means the court should make a finding whether the placement is the least disruptive alternative to return to the parent, guardian, or Indian custodian.⁷ The committee is asking for comments on this

⁶ Proposal can be found here: www.courts.ca.gov/documents/spr19-42.pdf.

⁷ The requirement that the placement comply with section 361.31 was a preexisting requirement at detention found in section 319(h)(1)(C), and the committee did not believe further clarification was needed in the rule. The finding already exists on *Findings and Orders After Detention Hearing* (form JV-410) in item 16(d).

point. Information addressing this proposed finding is required by SB 578 to be included in the social worker report. The bill updated section 319(b) to require that the social worker include information in the report addressing “the placement options, including an assessment of the *least disruptive alternatives to returning the child to the custody of their parent, guardian, or Indian custodian...*” (italics added.)

In addition, to address mitigating the impact of removal, subdivision (d)(1) would also require the court, in its order, to consider whether measures are available to alleviate disruption to the child and minimize the impact of removal and whether those measures have been utilized. Information on this issue is also required by SB 578 to be addressed in the social worker report.

Finally, new subdivision (d)(2) includes a list of additional factors (beyond those in the statute) related to least disruptive alternatives and the impact of removal that the court may consider in addition to the factors listed in section 319(c)(2)(A)(i)–(iv). The committee listed those it concluded were important, but is seeking comments as to whether there are others it should consider recommending be added to the rule.

JV-410: Findings and Orders After Detention Hearing

There are several recommended revisions to the form addressing the detention hearing.

Less disruptive alternatives

The bill requires the court to determine whether less disruptive alternatives to removal and the impact of removal were considered by the placing agency. Two items have been added to the form to address these new findings as items 15(m) and 15(n). The committee elected to also include the factors listed in section 319(c)(2)(A)(i)–(iv) on the form, to ensure that courts identify which factors related to the harm of removal were considered by the placing agency.

Determination regarding the child’s placement

As discussed above, section 319(c)(2)(B)(ii) requires a new finding if the court orders the child’s removal from the home. Based on this language and the proposed amendments to rule 5.678 discussed above, it is recommended that the following finding be included on the form in item 15:

“o. The child’s placement is the least disruptive alternative to return to the parent, guardian, or Indian custodian.”

A finding that the placement complies with section 361.31 already exists on the form in item 16(d). It is recommended that item 16(d) be revised to indicate the placement is the least disruptive alternative to return to the parent.

Other changes

Item 15(e) and (f) are both recommended to be revised to address the update in section 319(c)(2)(B)(i), which requires the court—on the record or in its written order—to set forth its basis for its findings and evidence relied on. And a new subdivision (p) would be added to item

15 to address section 319(c)(2)(B)(iii) that the court include any orders necessary to alleviate any disruption or harm to the child resulting from removal.

Alternatives Considered

The committee never considered not recommending revisions to *Findings and Orders After Detention Hearing* (form JV-410) because SB 578 created new findings that the court must make at the detention hearing. The committee did consider whether statutory redundancies should be removed from the rules in this proposal. It elected to remove some restatements of statutory provisions but left in others related to the Indian Child Welfare Act because these requirements are often overlooked, and it was deemed important to restate them in the rule for that reason.

The committee also considered whether a new subdivision was needed in rule 5.678 addressing the court's new determination of the child's placement in section 317(c)(2)(B)(ii), discussed above. The committee considered not including a new subdivision and letting courts implement this provision based on their own reading of the language. The committee elected, however, to propose a new subdivision to clarify this finding because the committee believed courts may benefit from further clarity on what determination related to the placement is required.

Fiscal and Operational Impacts

New considerations required at the detention hearing are not likely to impact fiscal and operational impacts on courts. Any impact is likely to be negligible and will relate more to the implementation of SB 578 than it does to this rules and forms proposal. The proposed amended rules and revised form will provide greater clarity and uniformity for the proceedings for courts when implementing these new requirements, thus potentially easing fiscal and operational impacts that courts would face had the proposal not been offered.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should rule 5.678 include the proposed subdivision (d)(1) addressing the court’s determination regarding the child’s placement and that it “is the least disruptive alternative to return to the parent, guardian, or Indian custodian”? Is this finding appropriate to describe the court’s determination regarding the child’s placement required in section 319(c)(2)(B)(ii)?
- Should rule 5.678 include the additional factors listed in subdivision (d)(2)(A)–(D) that the court may consider when addressing the impact of removal and least disruptive alternatives? Are there other factors that should be considered as well?

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 an effective date of January 1, 2025, 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. Cal. Rules of Court, rules 5.674, 5.676, and 5.678, at pages 8–11
2. Form JV-410, at pages 12–17
3. Link A: Senate Bill 578 (Ashby; Stats. 2023, ch. 618),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB578

Rules 5.674, 5.676, and 5.678 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 5.674. Conduct of hearing; admission, no contest, submission**

2
3 (a) * * *

4
5 (b) **Detention hearing; general conduct (§ 319; 42 U.S.C. § 600 et seq.)**

6
7 (1) The court must read, consider, and reference any reports submitted by the
8 social worker, the required report described in section 319(b), and any
9 relevant evidence submitted by any party or counsel. All detention findings
10 and orders must appear in the written orders of the court.

11
12 (2) * * *

13
14 (c)–(e) * * *

15
16 **Rule 5.676. Requirements for detention**

17
18 (a) **Requirements for detention (§ 319)**

19
20 No child may be ordered detained by the court unless the court finds that:

21
22 (1) A prima facie showing has been made that the child is described by section
23 300;

24
25 (2) Continuance in the home of the parent, Indian custodian, or guardian is
26 contrary to the child’s welfare; and

27
28 (3) One or more of the grounds for detention in section 319(c)(1)(A)–(D) ~~rule~~
29 5.678 is present found.

30
31 (b) * * *

32
33 (c) **Evidence required at detention hearing**

34
35 In making the findings required to support an order of detention, the court may rely
36 solely on written police reports, probation or social worker reports, or other
37 documents.

38
39 The reports relied on must include the required information in section 319(b), and:

40
41 (1) ~~A statement of the reasons the child was removed from the parent’s custody;~~

1 (1)(2)A description of the services that have been provided, including those under
2 section 306, and of any available services or safety plans that would prevent
3 or eliminate the need for the child to remain in custody;
4

5 (2)(3)If a parent is enrolled in a certified substance abuse treatment facility that
6 allows a dependent child to reside with his or her parent, information and a
7 recommendation regarding whether the child can be returned to the custody
8 of that parent;
9

10 (4) — ~~Identification of the need, if any, for the child to remain in custody;~~ and
11

12 (3)(5)If continued detention is recommended, information about any parent or
13 guardian of the child with whom the child was not residing at the time the
14 child was taken into custody and about any relative or nonrelative extended
15 family member as defined under section 362.7 with whom the child may be
16 detained.
17

18 **(d) Additional evidence required at detention hearing for Indian child**
19

20 If it is known, or there is reason to know the child is an Indian child, the reports
21 relied on must also include:
22

- 23 (1) A statement of the risk of imminent physical damage or harm to the Indian
24 child and any evidence that the emergency removal or placement continues to
25 be necessary to prevent the imminent physical damage or harm to the child;
26
- 27 (2) The steps taken to provide notice to the child’s parents, Indian custodian, and
28 tribe about the hearing under section 224.3;
29
- 30 (3) If the child’s parents and Indian custodian are unknown, a detailed
31 explanation of what efforts have been made to locate and contact them,
32 including contact with the appropriate Bureau of Indian Affairs regional
33 director;
34
- 35 (4) The residence and the domicile of the Indian child;
36
- 37 (5) If either the residence or the domicile of the Indian child is believed to be on
38 a reservation or in an Alaska Native village, the name of the tribe affiliated
39 with that reservation or village;
40
- 41 (6) The tribal affiliation of the child and of the parents or Indian custodian;
42

- 1 (7) A specific and detailed account of the circumstances that caused the Indian
2 child to be taken into temporary custody;
3
4 (8) If the child is believed to reside or be domiciled on a reservation in which the
5 tribe exercises exclusive jurisdiction over child custody matters, a statement
6 of efforts that have been made and that are being made to contact the tribe
7 and transfer the child to the tribe’s jurisdiction; and
8
9 (9) A statement of the efforts that have been taken to assist the parents or Indian
10 custodian so the Indian child may safely be returned to their custody.
11
12 (10) The steps taken to consult and collaborate with the tribe and the outcome of
13 that consultation and collaboration.
14

15 **Rule 5.678. Findings in support of detention; factors to consider; reasonable efforts;**
16 **active efforts; detention alternatives**

17
18 **(a) Findings in support of detention (§ 319; 42 U.S.C. § 672)**

19
20 The court must order the child released from custody unless the court makes the
21 findings specified in section 319(c)(1), and where it is known, or there is reason to
22 know the child is an Indian child, the additional finding specified in section 319(d).
23

24 **(b) * * ***

25
26 **(c) * * ***

27
28 **(d) Orders of the court (§ 319; 42 U.S.C. § 672)**

29
30 If the court orders the child detained, the court must order that temporary care and
31 custody of the child be vested with the county welfare department pending
32 disposition or further order of the court and must make the other findings and
33 orders specified in section 319(c)(2), (e), and (f)(3).
34

35 (1) When making the finding in section 319(c)(2)(B)(ii), the court must
36 determine whether the placement is the least disruptive alternative to return to
37 the parent, guardian, or Indian custodian. The court must also consider
38 whether measures are available to alleviate disruption to the child and
39 minimize the impact of removal and whether those measures have been
40 utilized.
41

42 (2) When making that finding, in addition to considering the factors listed in
43 section 319(c)(2)(A)(i) to (iv) related to the impact of removal and least

1 disruptive alternatives, the court may consider factors that include, but are not
2 limited to whether a placement:

3
4 (A) Can accommodate the proposed visitation schedule.

5
6 (B) Will disrupt the child's extracurricular activities and their services,
7 including but not limited to medical, dental, mental health, and
8 educational services.

9
10 (C) Will allow the child to observe their religious or cultural practices.

11
12 (D) Can accommodate the child's special needs.

13
14 (e) * * *

15

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-410.v7.022224.jh
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER DETENTION HEARING (Welf. & Inst. Code, § 319)	CASE NUMBER:

1. This matter came before the court on the
 original petition subsequent petition supplemental petition other (specify):
 filed on (date):

2. Detention hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

h. Party (name):	Present	Attorney (name):	Present	Appointed today
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

3. The court has read and considered and admits the following into evidence:

- a. Report of social worker dated:
- b. Report of CASA volunteer dated:
- c. Other (specify):
- d. Other (specify):

CHILD'S NAME:	CASE NUMBER:
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BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

4. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For a child 10 years of age or older who is not present**
- (1) The child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
- (2) The child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing or the child wished to be present and was not given an opportunity to be present and
- (a) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (b) it is in the best interest of the child not to continue the hearing.
5. The attorney appointed to represent the child as the child's attorney of record is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.
6. a. The child will not benefit from representation by an attorney and, for the reasons stated on the record, the court finds
- (1) the child understands the nature of the proceedings;
- (2) the child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and
- (3) under the circumstances of the case, the child would not gain any benefit from being represented by counsel.
- b. A Court Appointed Special Advocate volunteer is appointed for the child, and that person is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.
7. A Court Appointed Special Advocate volunteer is appointed for the child.
8. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):
9. **ICWA Inquiry**
- On the record, the court has
- a. asked each participant present at the hearing
- whether the participant is aware of any information indicating that the child is a member or citizen or eligible for membership or citizenship in an Indian tribe or Alaska Native village and if yes, the name of the tribe or village;
 - whether the residence or domicile of the child, either of the child's parents, or Indian custodian is on a reservation or in an Alaska Native village and if yes, the name of the tribe or village;
 - whether the child is or was ever a ward of a tribal court, and if yes, the name of the tribe or village; and
 - if the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native village, and if so, the name of the tribe or village.
- b. instructed the participants to inform the court if they receive any information indicating that the child is a member or citizen or eligible for membership or citizenship in a tribe or Alaska Native village.
10. **ICWA Status**
- a. The court finds there is no reason to believe or reason to know the child is an Indian child and ICWA does not apply; or
- b. The court finds there is reason to believe the child is an Indian child; and

CHILD'S NAME:	CASE NUMBER:
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10. b. (1) the agency has completed further inquiry as required by Welf. & Inst. Code, § 224.2(e), and there is no reason to know that the child is an Indian child. ICWA does not apply; or
- (2) the agency is ordered to complete further inquiry as required by Welf. & Inst. Code, § 224.2(e) and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs, the California Department of Social Services, and/or others.
- c. The court finds that there is reason to know that the child is an Indian child, and
- (1) the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status; or
- (2) the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status and provide notice in accordance with Welf. & Inst. Code, § 224.3 and file proof of due diligence and notice with the court; and
- (3) notice has been provided as required by law; and
- (4) the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
- d. The court finds that the child is an Indian child and a member of the _____ tribe.

11. ICWA Jurisdiction

- a. It is known or there is reason to know that the child is an Indian child. The court finds (*select one*)
- (1) that it has jurisdiction over the proceeding because
- (a) the court finds that the residence and domicile of the child are not on a reservation where the tribe exercises exclusive jurisdiction; and
- (b) the court finds that the child is not already under the jurisdiction of a tribal court; or
- (2) the court finds that it does not have jurisdiction because the child is under the exclusive jurisdiction of the tribal court; or
- (3) the court finds that the child is under the exclusive jurisdiction of the tribal court, but that there is a basis for emergency jurisdiction in accordance with section 1922 of title 25 of the United States Code.

Advisements and waivers

12. The court has informed and advised the

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*):
- Other (*specify*):

of the following:

- a. The right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.
- b. The right to be informed by the court of the following:
- The contents of the petition;
 - The nature of and possible consequences of juvenile court proceedings;
 - The reasons for the initial detention and the purpose and scope of the detention hearing if the child is detained;
 - The right to have a child who is detained immediately returned to the home of the parent, legal guardian, or Indian custodian if the petition is not sustained;
 - That if the petition is sustained and the child is removed from the care of the parent, legal guardian, or Indian custodian, the time for services will commence on the date the petition is sustained or 60 days from the date of the initial removal, whichever is earlier;
 - That the time for services will not exceed 12 months for a child aged three years or over at the time of the initial removal; and
 - That the time for services will not exceed 6 months for a child under the age of three years at the time of the initial removal or for the member of a sibling group that includes such a child if the parent, legal guardian, or Indian custodian fails to participate regularly and make substantive progress in any court-ordered treatment program.

CHILD'S NAME:	CASE NUMBER:
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- 12. c. The right to a hearing by the court on the issues presented by the petition.
- d. The right to assert the privilege against self-incrimination; to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian, or Indian custodian; to subpoena witnesses; and to present evidence on their own behalf.

13. The mother biological father legal guardian child
 presumed father alleged father Indian custodian
 Other (specify):
 Other (specify):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on one's own behalf.

14. **CHILD NOT DETAINED**

- a. Services that would prevent the need for further detention, including those set forth in item 17, are available.
- b. The child is returned to the custody of
 mother biological father legal guardian Other (specify):
 presumed father alleged father Indian custodian Other (specify):

15. **CHILD DETAINED**

- a. Services that would prevent the need for further detention are not available.
- b. A prima facie showing has been made that the child comes within Welf. & Inst. Code, § 300.
- c. Continuance in the parent's or legal guardian's home is contrary to the child's welfare **AND (select at least one)**
 - (1) there is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the physical custody of the parent or legal guardian.
 - (2) there is substantial evidence that a parent, legal guardian, or custodian of the child is likely to flee the jurisdiction of the court, and in the case of an Indian child, fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.
 - (3) the child has left a placement in which they were placed by the juvenile court.
 - (4) the child has been physically abused by a person residing in the home and is unwilling to return home.
 - (5) the child has been sexually abused by a person residing in the home and is unwilling to return home.
- d. The child is detained, and temporary placement and care of the child is vested with the county child and family services agency pending the hearing under Welf. & Inst. Code, § 355 or further order of the court.
- e. The initial removal of the child from the home was necessary for the reasons **stated here or the reasons** stated on the record:
- f. The facts on which the court bases its decision to order the child detained are stated **here or were stated** on the record:
- g. The child is placed in
 - (1) the approved home of a relative.
 - (2) an emergency shelter.
 - (3) other suitable licensed place.
 - (4) a place exempt from licensure designated by the juvenile court.
 - (5) the approved home of a nonrelative extended family member as defined in Welf. & Inst. Code, § 362.7.
 - (6) a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 361.22 is set for (date):
- h. Services, including those set forth in item 17, are to be provided to the family as soon as possible to reunify the child with their family.

CHILD'S NAME:	CASE NUMBER:
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- 15. i. Reasonable efforts were made to prevent or eliminate the need for removal from the home.
- j. Reasonable efforts were not made to prevent or eliminate the need for removal from the home.
- k. There is a relative who is able, approved, and willing to care for the child.
- l. A relative who is able, approved, and willing to care for the child is not available. This is a temporary finding and does not preclude later placement with a relative under Welf. & Inst. Code, § 361.3.
- m. Less disruptive alternatives to removal were considered by the agency.
- n. The impact of removal on the child was considered by the agency, including:
 - (1) the relationship between the child and their parents, guardians, or Indian custodians, based on the child's perspective.
 - (2) the child's response to removal and, where developmentally appropriate, their perspective on removal.
 - (3) the relationship between the child and any siblings.
 - (4) the relationship between the child and other members of the household.
 - (5) any disruption to the child's schooling, social relationships, and physical or emotional health that may result from placement out of the home, and in the case of an Indian child, any impact on the child's connection to their tribe, extended family members, and tribal community.
 - (6) Other (*specify*):
- o. The child's placement is the least disruptive alternative to return to the parent, guardian, or Indian custodian.
- p. Orders necessary to alleviate any disruption or harm to the child resulting from removal were stated on the record or are stated here:

16. **CHILD DETAINED AND THERE IS REASON TO KNOW CHILD IS AN INDIAN CHILD**

- a. The evidence includes all of the requirements of Welf. & Inst. Code, § 319(b).
- b. As detailed in the record, the agency has made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and these efforts have proved successful or unsuccessful;
 the agency has not made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; the agency is ordered to initiate or continue active efforts.
- c. For the reasons stated on the record, detention is necessary to prevent imminent physical damage or harm to the child.
- d. The child's placement complies with the placement preferences set forth in Welf. & Inst. Code, § 361.31, and is the least disruptive alternative to return to the parent, guardian, or Indian custodian. The child is placed
 - with a member of the child's extended family;
 - in a foster home licensed, approved, or specified by the child's tribe;
 - in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

OR

 for the reasons stated on the record, the court finds by clear and convincing evidence that there is good cause not to follow the placement preferences.

17. The services below will be provided pending further proceedings:

Service	Mother	Presumed father	Biological father	Legal guardian	Indian custodian	Other (<i>specify</i>):
a. <input type="checkbox"/> Alcohol and drug testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. <input type="checkbox"/> Substance abuse treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. <input type="checkbox"/> Parenting education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. <input type="checkbox"/> (<i>Specify</i>):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. <input type="checkbox"/> (<i>Specify</i>):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. <input type="checkbox"/> (<i>Specify</i>):	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CHILD'S NAME:	CASE NUMBER:
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18. **Contact with the child is ordered as stated in** (check appropriate boxes and attach indicated forms)
- a. Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person (form JV-400).
 - b. Visitation Attachment: Sibling (form JV-401).
 - c. Visitation Attachment: Grandparent (form JV-402).

19. The mother biological father legal guardian
 presumed father alleged father Indian custodian
 Other (specify):
 Other (specify):

must disclose to the county agency social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.

20. The mother biological father legal guardian
 presumed father alleged father Indian custodian
 Other (specify):
 Other (specify):

must complete *Your Child's Health and Education* (form JV-225) or provide the necessary information for the county agency social worker to complete the form.

21. There is reason to know the child is an Indian child, and the county agency must provide notice under Welf. & Inst. Code, § 224.3 for any hearings that may result in the removal or foster care placement of the child, termination of parental rights, preadoptive placement, or adoptive placement. Proof of such notice must be filed with this court.

22. **Other findings and orders**

- a. See attached.
- b. (Specify):

23. The parents, legal guardians, and Indian custodians must keep the court, the agency, and their attorneys advised of their current addresses and telephone numbers and provide written notification of any changes to their mailing addresses. The parents, legal guardians, and Indian custodians present during the hearing who had not previously submitted a *Notification of Mailing Address* (form JV-140) or its equivalent were provided with and ordered to complete the form or its equivalent and to submit it to the court before leaving the courthouse today.

24. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. Jurisdictional hearing
- b. Dispositional hearing
- c. Settlement conference
- d. Mediation
- e. Other (specify):

25. **All prior orders not in conflict with this order remain in full force and effect.**

26. Number of pages attached: _____

Date: _____

Judicial Officer

Countersignature for detention orders (if necessary):

Date: _____

Judge

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt Cal. Rules of Court, rule 5.551, amend rules 5.510, 5.552, and 5.553; adopt form JV-576; and revise forms JV-569, JV-570, JV-571, JV 572, JV 573, and JV-574

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Staff contact (name, phone and e-mail): **Stephanie Lacambra, 415-865-7564; stephanie.lacambra@jud.ca.gov;**

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: 1(j)

As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will act only where necessary to allow courts to implement the legislation efficiently.

(j) AB 1756 (Committee on Judiciary) Committee on Judiciary: judiciary omnibus (Stats. of 2023, Ch. 478) Allows a juvenile court to retain jurisdiction of a case when a minor or dependent adult in foster care dies in order to receive documents and information related to the death.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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INVITATION TO COMMENT

SPR24-20

Title

Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 5.551; amend rules 5.510, 5.552, and 5.553; adopt form JV-576; revise forms JV-569, JV-570, JV-571, JV-572, JV-573, and JV-574

Proposed by

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Contact

Stephanie Lacambra, 415-865-7564
stephanie.lacambra@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending one rule of court to implement Assembly Bill 1756 (Stats. 2023, ch. 478, § 62), which amended Welfare and Institutions Code section 10850.4 to extend the juvenile court's jurisdiction in cases involving the death of a child or nonminor dependent. The committee also proposes adopting one rule of court, amending two rules of court, adopting a new form, and revising six forms to clarify the different legal standards for petitions seeking disclosure of a living child's juvenile case file under section 827(a)(3) and a deceased child's juvenile case file under section 827(a)(2).

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.

Background

AB 1756 and Welfare and Institutions Code section 10850.4(q)

Effective January 1, 2024, AB 1756 amended Welfare and Institutions Code¹ section 10850.4(q), which governs the release of juvenile records in dependency cases in which a child or nonminor dependent dies while subject to the jurisdiction of the juvenile court and there is a reasonable suspicion that the fatality was caused by abuse or neglect. The statutory amendments provide that the court may retain jurisdiction for the purpose of receiving documents and information related to the circumstances of the death. Rule 5.510 of the California Rules of Court² should be amended accordingly to incorporate the revised language in section 10850.4(q).

Different standards for release of juvenile records of living versus deceased children

Access to juvenile court records is governed by section 827, which restricts access to specific individuals and organizations enumerated in subdivision (a)(1). Any party not statutorily entitled to access under that subdivision must petition the juvenile court for access to and/or disclosure of juvenile court records.

Subdivision (a)(3) applies to requests for records of a living child; subdivision (a)(2) applies to requests for records of a deceased child. The different requests are subject to different legal standards. Petitioners seeking the files of living children under subdivision (a)(3) must establish good cause and demonstrate that disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a living child who is directly or indirectly connected to the juvenile case that is the subject of the petition. When reviewing the petition for access or disclosure of the juvenile court records of a living child, the court must balance the interests of the living child and other parties to the juvenile court proceedings, the interests of the petitioner, and the interests of the public, as well as consider several factors enumerated in rule 5.552(d).

In contrast, petitioners seeking the juvenile case files of deceased children under subdivision (a)(2) are statutorily entitled to release of the records because there is a presumptive public right of access to such records.³ The presumption is only overcome if the objecting party shows, by a preponderance of the evidence, that release of the juvenile case file, or any portion thereof, is detrimental to the safety, protection, or physical or emotional well-being of a surviving child or nonminor dependent who is directly or indirectly connected to the juvenile case that is the subject of the petition. The Legislature intended to promote prompt access to the records of children who die while in the custody of the state and recognized that delays in accessing the

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² All further unspecified rule references are to the California Rules of Court.

³ See § 827(a)(2): “(A) [J]uvenile case files . . . that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. (B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist. (C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.”

juvenile case files of deceased children reduce the likelihood that disclosure of those files will bring public attention to problems in the juvenile court system and result in corresponding reforms.⁴

Rules 5.552 and 5.553 address the confidentiality of juvenile court records for living and deceased children, respectively, and provide guidance on requests for access to and release of juvenile case files. Currently, the rules as written do not explicitly set forth the main difference in the two standards for release—namely the presumptive public right of access for the juvenile case files of deceased children.

In addition to addressing changes necessitated by AB 1756, the committee also considered and addressed input received from dependency practitioners and academic institutions that these rules do not sufficiently distinguish between the two different types of requests and their different procedures. Likewise, the forms for use in juvenile case file requests under section 827 do not reflect the presumptive public right of access to the juvenile case files of deceased children.

The Proposal

The Family and Juvenile Law Advisory Committee proposes adopting rule 5.551, amending rules 5.510, 5.552, and 5.553, adopting one new form, and revising the existing forms used in juvenile case file requests, to implement AB 1756 in cases in which the death of a child or nonminor dependent occurred while subject to the jurisdiction of the court. The changes would also clarify the legal standards for petitions seeking disclosure of a living child’s juvenile case file under section 827(a)(3) and a deceased child’s juvenile case file under section 827(a)(2). The proposed amendments would benefit the judicial branch, justice partners, attorneys, and litigants by clarifying the presumptive public right of access to juvenile case files of deceased children consistent with legislative intent to further governmental transparency and accountability.

Rule 5.510

The committee proposes adding a new subdivision (d) to rule 5.510 to incorporate AB 1756’s discretionary extension of the juvenile court’s jurisdiction for the limited purpose of receiving documents and information related to the circumstances of the death of a child while under the jurisdiction of the juvenile court. If the court chooses to retain jurisdiction, subdivision (d) would require that the case be kept open until the court receives the documents and information related to the circumstances of death, and terminate jurisdiction upon receipt.

Clarifying the different standards for release of juvenile case records

To clarify the differences between the process for release of juvenile case file records for living children and deceased children, particularly the presumption in favor of release of documents

⁴ Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill 199 (1999–2000 Reg. Sess.), as amended May 6, 1999, p. 5 (stating a delay in the process harms the statute’s purpose because “the community’s reaction would have died down, and the opportunity to effect positive change may have passed”).

when a child is deceased, the committee proposes the following changes to the rules of court and accompanying Judicial Council forms.

Rule 5.551

Rule 5.551 would be adopted to set forth the general definition of a “juvenile case file” and applicability of other laws to the confidentiality of juvenile case files for both living and deceased children, since these subdivisions apply equally to both classes of children. The committee proposes moving the definition of a juvenile case file from rule 5.552(a) to the newly adopted rule 5.551(a), and re-lettering the remainder of rule 5.552 accordingly. In addition, the committee proposes moving the applicability of other confidentiality laws from rule 5.552(g) to the newly adopted rule 5.551(b).

Rule 5.552

Rule 5.552 sets forth the process for petitioning for release of the juvenile case file of living children. The committee proposes adding specific language to clarify that the rule only applies to petitions requesting the juvenile case files of *living* children by adding the words “of a living child” to subdivisions (b), (d)(1), and (d)(3)–(8), which will be re-lettered.

Rule 5.553

Rule 5.553 governs the process for petitioning for release of the juvenile case files of deceased children. The committee proposes amending the rule to add the presumption of public access to and procedural timelines for petitions requesting the juvenile case files of *deceased* children under section 827(a)(2). The committee also proposes adding language to clarify that the rule specifically applies to the disclosure of the juvenile case file for deceased children and expanding the rule to mirror the applicable timelines and procedures set forth in rule 5.552.

In addition, the committee proposes the following changes to rule 5.553:

- New subdivision (a) (Petition for requesting a deceased child’s juvenile case file) would retain the language of current rule 5.553(1) and (2), but clarify that a person or agency seeking to inspect or obtain juvenile case files of deceased children, who is not otherwise entitled to inspect records under sections 827(a)(1) or 16502.5, must petition the presiding judge of the juvenile court for authorization.
- New subdivision (b) (Notice of petition requesting a deceased child’s juvenile case file) would instruct petitioners seeking the juvenile case file of a deceased child on the proper procedure for filing and serving the petition and instruct the custodian of records on the proper procedure for serving interested parties. Parties responsible for the maintenance of the deceased child’s juvenile case file or with a privacy interest in and standing to object to the release of a deceased child’s juvenile case file would be served with a blank *Objection to Release of Juvenile Case File* (form JV-572) under subdivision (b)(1). Other parties without a privacy interest in the deceased child’s juvenile case file would be served with the new proposed *Input on Release of Juvenile Case File* (form JV-576) because they lack standing to object to the release of a deceased child’s juvenile case file.

- New subdivision (c) (Procedure for requesting a deceased child’s juvenile case file) would instruct the juvenile court on the timing of objections, input forms, replies, and hearings, and the different legal standard for releasing juvenile case files of deceased children, including the presumption of the public right of access to these records. Objections filed by form JV-572 would trigger the need for the juvenile court to hold a hearing no more than 60 calendar days from the date the petition is served on the custodian of records. However, input presented by proposed new form JV-576 by parties lacking standing to object, would not trigger the need for a formal hearing. If an objection is not filed to the petition, the court would only need to review the petition and issue its decision within 10 calendar days of the final day for filing an objection.

Forms for access to and disclosure of juvenile records

The committee proposes revising the forms that are used in requests for juvenile case files to clarify the different standards for requesting the juvenile case file of a living and a deceased child. In addition, the committee proposes modifying the titles of these forms to reflect that they are for use in filing petitions requesting juvenile case file information that include requests for the juvenile case file of a living child and for disclosure of the juvenile case files of deceased children to the public.

Proof of Service–Petition for Access to Juvenile Case File (JV-569)

Form JV-569 would be retitled *Proof of Service—Petition Requesting Juvenile Case File*. Item 2 would be revised to add option k: “Any surviving child, sibling, or nonminor dependent who is directly or indirectly connected to, or may be identified by, information in the juvenile case that is the subject of the petition.”

Petition for Access to Juvenile Case File (JV-570)

Form JV-570 would be retitled *Petition Requesting Juvenile Case File*. Item 6 would be revised to add option g: “Presumptive public right of access to the file of a deceased child.” Item 7 would be revised to state, “I need the records of a living child because (*describe in detail; attach more pages if you need more space*).” And the instructions for a member of the public requesting the juvenile case file of a deceased child would be renumbered accordingly to include items 1-6 and 8.

Notice of Petition for Access to Juvenile Case File (JV-571)

Form JV-571 would be retitled *Notice of Petition Requesting Juvenile Case File*. The first sentence would be revised to state: “For a living child, you must provide notice to all those listed in item 2 on *Proof of Service—Petition Requesting Juvenile Case File* (form JV-569).”

Objection to Release of Juvenile Case File (JV-572)

Form JV-572 would be revised to reflect the retitled form JV-570.

Order on Petition for Access to Juvenile Case File (JV-573)

Form JV-573 would be retitled *Order on Petition Requesting Juvenile Case File*. Subheadings for “Orders relating to records of living children” would be added before item 1, “Orders relating

to records of deceased children” would be added before item 4, and “Additional orders” would be added before item 6. Item 4 would be revised to state: “The child is deceased, an objection to the request has been filed, and the court sets a hearing on the request within 60 calendar days from the date the petition was served on the custodian of records.” Item 5 would be revised to state: “The child is deceased and the court will conduct a review of the juvenile case file without a hearing because no objections were filed.”

Order After Judicial Review on Petition for Access to Juvenile Case File (JV-574)

Form JV-574 would be retitled *Order After Judicial Review on Petition Requesting Juvenile Case File*. Items 2 and 3 would be revised to state, “After review of the juvenile case file of a living child” Item 4b would be revised to replace “child who is the subject of the juvenile case file and the interests of other children” with “surviving children, sibling(s), and nonminor dependents.” Items 6-7 would be moved up between items 3 and 4 and renumbered to consolidate all the orders relating to the records of living children together. Subheadings for “Orders relating to records of living children” would be added before item 1, and “Orders relating to records of deceased children” would be added before renumbered item 6.

Input on Release of Deceased Child’s Juvenile Case File (JV-576)

New optional form JV-576 would be adopted to permit parties listed in rule 5.553(b)(4), who lack a privacy interest in the release of the deceased child’s juvenile case file and thus standing to object, to inform the court of any input regarding the petition requesting a deceased child’s juvenile case file, without triggering the need for a formal hearing. The committee considered providing the *Objection to Release of Juvenile Case File (JV-572)* to all the same parties listed in rule 5.552, however not all the listed parties have standing to assert an objection to the release of a *deceased* child’s juvenile case file. The difference between noticed parties in rule 5.552 and rule 5.553 is that only living children whose identity or information may be revealed by disclosure retain a privacy interest and standing to object to the release of a deceased child’s juvenile case file. The right to privacy that gives standing to object to the release of a juvenile case file expires upon the death of the child.⁵ For this reason, the committee developed a new form to give parties without standing to object, a method to provide input to the court regarding the petition requesting release of the deceased child’s juvenile case file.

Alternatives Considered

The Juvenile and Family Law Advisory Committee considered proposing amendments only to rule 5.510 to implement AB 1756. However, the committee noted that there is confusion around the different standards governing requests for access to the juvenile case file of a living child and requests for disclosure of a juvenile case file of a deceased child. Thus, it concluded that the additional proposed amendments to the rules and revisions to forms would be helpful to courts, litigants, and the public by providing clarification and better guidance on the proper standards and procedure for access to and disclosure of juvenile case files. The committee considered proposing a separate form for petitions requesting a deceased child’s juvenile case file, but

⁵ See Flynn v. Higham (1983) 149 Cal.App.3d 677 (Finding the right to privacy does not survive, but dies with the person). The deceased, their estates, and their representatives have no cognizable privacy interests to assert.

decided to revise the existing forms to include both standards for release and instead solicit public comment about the clarity of the revised forms and whether a separate form was necessary. The committee rejected the alternative of taking no action because amendments to rule 5.510 are legislatively mandated.

Fiscal and Operational Impacts

Implementation of AB 1756 and clarification of the standards and process for disclosure of the juvenile case files of deceased children may create additional costs for courts to update their case management systems to track relevant information and hearing and decision deadlines.

Education or training on the legal standard and procedural requirements for the disclosure of the juvenile case files of deceased children may be required for courts, social welfare agencies, probation departments, county counsel, prosecutors, and defense counsel.

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?
- Should there be a separate form for petitions requesting a deceased child’s juvenile case file?
- Are all relevant, interested parties afforded proper notice under rule 5.553(b)? If not, who should also receive notice and why?

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, rules 5.510, 5.551, 5.552 and 5.553, at pages 8–16;
2. Forms JV-569, JV-570, JV-571, JV-572, JV-573, JV-574, and JV-576, at pages 17–28;
3. Link A: Welf. & Inst. Code, § 10850.4,
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240AB1756&showamends=false

Rules 5.510, 5.552, and 5.553 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 5.510. Proper court; determination of child’s residence; ~~exclusive~~ jurisdiction**

2
3 (a)–(c) * * *

4
5 **(d) Retention of jurisdiction (§ 10850.4(q)(1))**

- 6
7 (1) If the death of a child or nonminor dependent occurs while the child or
8 nonminor dependent is subject to the jurisdiction of the court, whether or not
9 a section 332 dependency petition has been filed, the court may retain
10 jurisdiction on its own motion, or at the request of a party, for the limited
11 purpose of receiving documents and information related to the circumstances
12 of the death, including but not limited to medical records, police reports, and
13 autopsy reports.
- 14
15 (2) If the court retains jurisdiction, the case must remain open until the court
16 receives the documents and information. The court may order the placing
17 agency to request the documents and information related to the circumstances
18 of death be sent to the court.
- 19
20 (3) The court must terminate jurisdiction upon receipt of the documents and
21 information.

22
23 **Rule 5.551. Confidentiality of juvenile records (§ 827(a))**

24
25 The following apply to the confidentiality of juvenile records generally, for the purposes
26 of this rule and rules 5.552 and 5.553, which govern the confidentiality of living and
27 deceased children, respectively.

28
29 **(a) Definition of a “Juvenile case file” includes:**

- 30
31 (1) All documents filed in a juvenile court case;
- 32
33 (2) Reports to the court by probation officers, social workers of child welfare
34 services programs, and CASA volunteers;
- 35
36 (3) Documents made available to probation officers, social workers of child
37 welfare services programs, and CASA volunteers in preparation of reports to
38 the court;
- 39
40 (4) Documents relating to a child concerning whom a petition has been filed in
41 juvenile court that are maintained in the office files of probation officers,
42 social workers of child welfare services programs, and CASA volunteers;

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- (5) Transcripts, records, or reports relating to matters prepared or released by the court, probation department, or child welfare services program; and
- (6) Documents, video or audio tapes, photographs, and exhibits admitted into evidence at juvenile court hearings.

(b) Other applicable statutes law

- Under no circumstances must ~~this~~ rules 5.551 through 5.553, inclusive, or any section thereof, be interpreted to permit access to or release of records protected under any other federal or state law, including Penal Code section 11165 et seq., except as provided in those statutes, or to limit access to or release of records permitted under any other federal or state statute.

Rule 5.552. Procedure for requesting a living child’s juvenile case file (§§ 827(a)(3), 827.12, 828)

(a) Petition requesting a living child’s juvenile case file

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

- (1) The specific files sought of a living child must be identified based on knowledge, information, and belief that such files exist and are relevant to the purpose for which they are being sought.
- (2) Petitioner must describe in detail the reasons the files of a living child are being sought and their relevancy to the proceeding or purpose for which petitioner wishes to inspect or obtain the files.

1 (b) **Notice of petition ~~for access~~ requesting a living child’s juvenile case file**

2
3 (1) At least 10 days before the petition is submitted to the court, the petitioner
4 must personally or by first-class mail serve *Petition ~~for Access to~~ Requesting*
5 *Juvenile Case File* (form JV-570), *Notice of Petition ~~for Access to~~ Requesting*
6 *Juvenile Case File* (form JV-571), and a blank copy of *Objection to Release*
7 *of Juvenile Case File* (form JV-572) on the following:
8

9 (A) The county counsel, city attorney, or any other attorney representing
10 the petitioning agency in a dependency action if the child’s petition was
11 filed under section 300;
12

13 (B) The district attorney if the child’s petition was filed under section 601
14 or 602;
15

16 (C) The child if the child is 10 years of age or older;
17

18 (D) The attorney of record for the child who remains a ward or dependent
19 of the court;
20

21 (E) The parents of the child if:
22

23 (i) The child is under 18 years of age; or
24

25 (ii) The child’s petition was filed under section 300;
26

27 (F) The guardians of the child if:
28

29 (i) The child is under 18 years of age; or
30

31 (ii) The child’s petition was filed under section 300;
32

33 (G) The probation department or child welfare agency, or both, if
34 applicable;
35

36 (H) The Indian child’s tribe; and
37

38 (I) The child’s CASA volunteer.
39

40 (2) The petitioner must complete *Proof of Service—~~Petition for Access to~~*
41 *Requesting Juvenile Case File* (form JV-569) and file it with the court.
42

1 (3) If the petitioner or the petitioner’s counsel does not know or cannot
2 reasonably determine the identity or address of any of the parties in (e**b**)(1)
3 above, the clerk must:

4
5 (A) Serve personally or by first-class mail to the last known address a copy
6 of *Petition ~~for Access to~~ Requesting Juvenile Case File* (form JV-570),
7 *Notice of Petition ~~for Access to~~ Requesting Juvenile Case File* (form
8 JV-571), and a blank copy of *Objection to Release of Juvenile Case*
9 *File* (form JV-572); and

10
11 (B) Complete *Proof of Service—Petition ~~for Access to~~ Requesting Juvenile*
12 *Case File* (form JV-569) and file it with the court.

13
14 (4) For good cause, the court may, on the motion of the person seeking the order
15 or on its own motion, shorten the time for service of the petition ~~for access~~
16 requesting a juvenile case file.

17
18 (c) **Procedure for requesting a living child’s juvenile case file**

19
20 (1) The court must review the petition requesting a living child’s case file and, if
21 petitioner does not show good cause, deny it summarily.

22
23 (2) If petitioner shows good cause, the court may set a hearing. The clerk must
24 notice the hearing to the persons and entities listed in (e**b**)(1) above.

25
26 (3) Whether or not the court holds a hearing, if the court determines that there
27 may be information or documents in the records sought to which the
28 petitioner may be entitled, the juvenile court judicial officer must conduct an
29 in camera review of the juvenile case file of the living child and any
30 objections and assume that all legal claims of privilege are asserted.

31
32 (4) In determining whether to authorize inspection or release of juvenile case
33 files of a living child, in whole or in part, the court must balance the interests
34 of the living child and other parties to the juvenile court proceedings, the
35 interests of the petitioner, and the interests of the public.

36
37 (5) If the court grants the petition, the court must find that the need for access
38 outweighs the policy considerations favoring confidentiality of juvenile case
39 files of a living child. The confidentiality of juvenile case files of a living
40 child is intended to protect the privacy rights of the living child.

41
42 (6) The court may permit access to juvenile case files of a living child only
43 insofar as is necessary, and only if petitioner shows by a preponderance of

1 the evidence that the records requested are necessary and have substantial
2 relevance to the legitimate need of the petitioner.

3
4 (7) If, after in camera review and review of any objections, the court determines
5 that all or a portion of the juvenile case file of a living child may be accessed,
6 the court must make appropriate orders, specifying the information that may
7 be accessed or disclosed and the procedure for providing access to or
8 disclosure of it.

9
10 (8) The court may issue protective orders to accompany authorized disclosure,
11 discovery, or access to the juvenile case file of a living child.

12
13 **(d) Release of a living child's case file information for research (§ 872.12(a)(2))**

14
15 The court may authorize a chief probation officer to access and provide data
16 contained in juvenile delinquency case files of a living child and related juvenile
17 records in the possession of the probation department for the purpose of data
18 sharing or conducting or facilitating research on juvenile justice populations,
19 practices, policies, or trends if the court finds the following:

20
21 (1) The research, evaluation, or study includes a sound method for the
22 appropriate protection of the confidentiality of ~~an~~ a living individual whose
23 juvenile delinquency case file is accessed for this purpose. In considering
24 whether a method is sound, the court must have information on:

25
26 (A) The names and qualifications of any nonprobation personnel who will
27 have access to personally identifying information as defined in Civil
28 Code section 1798.79.8(b);

29
30 (B) Procedures to mask personally identifying information that is shared
31 electronically; and

32
33 (C) Data security protocols to ensure that access to the information is
34 limited to those people authorized by the court.

35
36 (2) No further release, dissemination, or publication of personally identifying
37 information by the probation department or a program evaluator, researcher,
38 or research organization that is retained by the probation department will take
39 place for research or evaluation purposes.

40
41 (3) The disclosure requirements of section 10850 are met if any dependency
42 information in a delinquency file may be disclosed.

43

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

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

17 (e) **Reports of law enforcement agencies (§ 828)**
18

19 Except as authorized under section 828, all others seeking to inspect or obtain
20 information gathered and retained by a law enforcement agency regarding the
21 taking of a living child into custody must petition the juvenile court for
22 authorization using *Petition to Obtain Report of Law Enforcement Agency* (form
23 JV-575).
24
25

26 **Rule 5.553. Procedure for requesting a deceased child’s juvenile case file (§§**
27 **827(a)(2), 16502.5)**
28

29 (a) **Petition for requesting a deceased child’s juvenile case file**
30

31 Juvenile case files of a deceased child may be disclosed under sections 827(a)(2)
32 and 16502.5. They may not be obtained by civil or criminal subpoena. Every
33 person or agency seeking to inspect or obtain juvenile case files of deceased
34 children who is not otherwise entitled to inspect records under sections 827(a)(1) or
35 16502.5 must petition the presiding judge of the juvenile court for authorization
36 using *Petition Requesting Juvenile Case File* (form JV-570). When the juvenile
37 case file of a deceased child is sought, the court must proceed as follows:
38

- 39 (1) Under section 827(a)(2) if the request is made by a member of the public; or
40
41 (2) Under section 16502.5 if the request is made by a county board of
42 supervisors.
43

1 **(b) Notice of petition requesting a deceased child’s juvenile case file**

2
3 (1) At least 10 days before the petition is submitted to the court, the petitioner
4 must personally or by first-class mail serve *Petition Requesting Juvenile Case*
5 *File* (form JV-570), *Notice of Petition Requesting Juvenile Case File* (form
6 JV-571), and a blank copy of *Objection to Release of Juvenile Case File*
7 (form JV-572) on the following:

8
9 (A) The county counsel, city attorney, or any other attorney representing
10 the petitioning agency in a dependency action if the deceased child’s
11 petition was filed under section 300;

12
13 (B) The custodian of records of the agency in possession of the requested
14 records;

15
16 (C) The attorney of record for the deceased child; and

17
18 (D) Any surviving adult sibling, any surviving child or sibling who is 10
19 years of age or older, and the guardian, tribe, and legal representative
20 for any surviving child, sibling, or nonminor dependent whose
21 information is directly or indirectly included in the deceased child’s
22 juvenile case file or who may be identified by information in the
23 deceased child’s juvenile case file.

24
25 (2) The petitioner must complete *Proof of Service—Petition Requesting Juvenile*
26 *Case File* (form JV-569) and file it with the court.

27
28 (3) If the petitioner or the petitioner’s counsel does not know or cannot
29 reasonably determine the identity or address of any of the parties in (b)(1)
30 above, the custodian of records must within 10 days of receipt of the petition:

31
32 (A) Serve personally or by first-class mail to the last known address a copy
33 of *Petition Requesting Juvenile Case File* (JV-570), *Notice of Petition*
34 *Requesting Juvenile Case File* (JV-571), and; and

35
36 (B) Complete *Proof of Service—Petition Requesting Juvenile Case File*
37 (form JV-569) and file it with the court.

38
39 (4) Within 10 days of receipt of the petition, the custodian of records must also
40 serve *Petition Requesting Juvenile Case File* (form JV-570), *Notice of*
41 *Petition Requesting Juvenile Case File* (form JV-571), and a blank copy of
42 *Input on Release of Juvenile Case File* (form JV-576) on the following
43 parties:

1
2 (A) The district attorney if the deceased child’s petition was filed under
3 section 601 or 602;

4
5 (B) The parents of the deceased child if:

6
7 (i) The deceased child died under 18 years of age; or

8
9 (ii) The deceased child’s petition was filed under section 300;

10
11 (C) The guardians of the deceased child if:

12
13 (i) The deceased child died under 18 years of age; or

14
15 (ii) The deceased child’s petition was filed under section 300;

16
17 (D) The probation department or child welfare agency handling the
18 deceased child’s case, or both, if applicable;

19
20 (E) The deceased Indian child’s tribe; and

21
22 (F) The deceased child’s CASA volunteer.

23
24 **(c) Procedure for requesting a deceased child’s juvenile case file**

25
26 (1) If a served party objects to the petition requesting a deceased child’s juvenile
27 case file, the objecting party must file its objection or input form and serve
28 the petitioning party no later than 15 calendar days after the service of the
29 petition. The petitioning party must file a reply within 10 calendar days.

30
31 (2) Whether or not the court holds a hearing, if the court determines that there
32 may be information or documents in the records sought to which the
33 petitioner may be entitled, the juvenile court judicial officer must conduct an
34 in camera review of the deceased child’s juvenile case file and any objections
35 or input forms and assume that all legal claims of privilege are asserted.

36
37 (3) If an objection is filed, the juvenile court must set the matter for hearing no
38 more than 60 calendar days from the date the petition is served on the
39 custodian of records. The court must render its decision within 30 days of the
40 hearing. If an objection is not filed to the petition, the court must review the
41 petition and any input filed and issue its decision within 10 calendar days of
42 the final day for filing an objection.

- 1 (4) The matter must be decided solely on the basis of the petition and supporting
2 exhibits or declarations, if any, the objections and input forms and any
3 supporting exhibits or declarations, if any, and the reply and any supporting
4 declarations or exhibits thereto, and argument at hearing. The court may,
5 solely on its own motion, order the appearance of witnesses.
6
- 7 (5) A presumption exists in favor of the release of documents when a child is
8 deceased unless statutory reasons for confidentiality are shown to exist. The
9 presiding judge of the juvenile court may issue an order prohibiting or
10 limiting access to the juvenile case file or any portion thereof of a deceased
11 child only upon a preponderance of evidence that release of the juvenile case
12 file of the deceased child or any portion thereof is detrimental to the safety,
13 protection, or physical or emotional well-being of another surviving child,
14 sibling, or nonminor dependent who is directly or indirectly connected to the
15 juvenile case that is the subject of the petition. No weighing or balancing of
16 interests other than those of a surviving child, sibling, or nonminor dependent
17 is permitted.
18
- 19 (6) If, after in camera review and review of any objections or input forms, the
20 court determines that all or a portion of the juvenile case file of a deceased
21 child may be disclosed, the court must make appropriate orders specifying
22 the portions of the juvenile case file to be disclosed to the petitioner and the
23 public, and the procedure for providing access to and disclosure of it.
24
- 25 (7) Any information relating to another surviving child, sibling or nonminor
26 dependent, or that could identify another surviving child, sibling, or
27 nonminor dependent, except for information about the deceased, must be
28 redacted from the juvenile case file before release, unless a specific order is
29 made by the juvenile court to the contrary.
30

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-569.v3.020724.am**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known.

Case Number:

1 Your name: _____
Relationship to child (if any): _____
Street address: _____
City: _____ State: _____ Zip: _____
Telephone number: _____
Lawyer (if any) (name, address, telephone numbers, and State Bar number): _____

- 2 I was not able to provide notice of this petition to the following because I did not know their names or addresses. If this is a request for the case file of a living child, the clerk must serve a copy of the petition. If this is a request for the case file of a deceased child, the custodian of records must serve a copy of the petition.
- a. County counsel or other attorney representing the child welfare agency if petition filed under section 300
 - b. District attorney if petition filed under section 601 or 602
 - c. Child
 - d. Attorney of record for the child
 - e. Child's parent
 - f. Child's legal guardian
 - g. Probation department if petition filed under section 601 or 602
 - h. Child welfare agency/custodian of records if petition filed under section 300
 - i. Child's identified Indian tribe
 - j. Child's CASA volunteer
 - k. Any surviving child, sibling, or non-minor dependent who is directly or indirectly connected to, or may be identified by, information in the juvenile case that is the subject of the petition.

3 If you checked box 2a, 2b, 2g, or 2h, describe the efforts made to locate those addresses and explain why you are unable to locate the addresses:

- 4 Copies of *Petition Requesting Juvenile Case File* (JV-570), *Notice of Petition Requesting Juvenile Case File* (JV-571), and a blank *Objection to Release of Juvenile Case File* (JV-572) have been served personally or placed in a sealed envelope with postage paid and deposited in the United States mail addressed to the following:
- a. County counsel or other attorney representing the child welfare agency if petition filed under section 300 (name and address): _____

- Date mailed: _____ or Personally served on (date): _____



Your name: _____

4 b. District attorney if petition filed under section 601 or 602 (name and address): _____

Date mailed: _____ or Personally served on (date): _____

c. Child (name and address): _____

Date mailed: _____ or Personally served on (date): _____

d. Attorney of record for the child (name and address): _____

Date mailed: _____ or Personally served on (date): _____

e. Child's parent (name and address): _____

Date mailed: _____ or Personally served on (date): _____

f. Child's parent (name and address): _____

Date mailed: _____ or Personally served on (date): _____

g. Child's legal guardian (name and address): _____

Date mailed: _____ or Personally served on (date): _____

h. Probation department if petition filed under section 601 or 602 (name and address): _____

Date mailed: _____ or Personally served on (date): _____



Case Number:

Your name: _____

- 4 i. Child welfare agency/custodian of records if petition filed under section 300 (*name and address*):

 Date mailed: _____ or Personally served on (*date*): _____
- j. The Indian child's tribal representative (*name and address*): _____

 Date mailed: _____ or Personally served on (*date*): _____
- k. The child's CASA volunteer (*name and address*): _____

 Date mailed: _____ or Personally served on (*date*): _____

5 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I may be guilty of a crime.

Date:

Type or print your name

▲
Sign your name

Clerk stamps date here when form is filed.

DRAFT
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the Judicial Council
JV-570.v2.020724.am

If you are requesting a court order to obtain access to the juvenile case file of a child who is alive, fill out all items on this form, and file it with the juvenile court. You must also fill out and file Proof of Service—Petition Requesting Juvenile Case File (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

- a. Fill out items 1–6 and 8 on this form and file it with the juvenile court. You must then provide a copy of this form to the custodian of records of the county child welfare agency, who will then provide notice of this petition. **Or**
- b. Do not complete the form, and instead request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 10850.4.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number, if known:

Case Number:

① Your name: _____
 Relationship to child (if any): _____
 Street address: _____
 City: _____ State: _____ Zip: _____
 Telephone number: _____
 Email: _____
 Lawyer (if any) (name, address, telephone numbers, and State Bar number): _____

② Name of child: _____

③ Child's date of birth (if known): _____

④ a. A petition regarding the child in ② has been filed under
 Welfare and Institutions Code section 300
 Welfare and Institutions Code section 601
 Welfare and Institutions Code section 602 or

b. I believe the child in ② died as a result of abuse or neglect. Approximate date of death: _____

⑤ The records I want are: (Describe in detail. Attach more pages if you need more space. If you are involved in a pending proceeding in an appellate court or you are preparing to participate in such a proceeding, you should describe here the transcripts, reports, and any other evidence considered by the juvenile court at hearings related to the subject of the appeal or writ proceeding. For example, you should describe a report by providing its title (such as "status review report," "jurisdiction/disposition report," or "CASA report") and the date of the hearing when the document was considered.)

Continued on Attachment 5.



Your name: _____

Case Number: _____

- 6 The reasons for this petition are:
- a. Civil court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - b. Criminal court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - c. Juvenile court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - d. Family law court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - e. Writ or appeal case pending in *(name of district)*: _____
Case number *(if available)*: _____
Hearing dates related to the juvenile court order being challenged or to be challenged on appeal or by writ:

 - f. Other *(specify)*: _____
Case number: _____ Hearing date: _____
 - g. Presumptive public right of access to the file of a deceased child.


7 I need the records of a living child because *(describe in detail; attach more pages if you need more space)*:

Continued on Attachment 7.

8 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I am guilty of a crime.

Date:

Type or print your name

 _____
Sign your name

Note: You must provide a copy of this completed form to all interested parties if you know their names and addresses.

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-571.v2.020724.am**

**RE: Release of Juvenile Case File and Right to File
an Objection**

*For a living child, you must provide notice to all those listed in item 2 on Proof
of Service—Petition Requesting Juvenile Case File (form JV-569).*

TO (names):

Fill in court name and street address:

Superior Court of California, County of

① Child's name: _____

② Information relating to the child named in item ① is being sought by
(name): _____

Court fills in case number when form is filed.


Case Number:

③ The requested information is described in the attached
Petition Requesting Juvenile Case File (form JV-570).

④ If you object to the release of these records and information, you must fill out *Objection to Release of Juvenile Case
File* (form JV-572) and return it to the court listed at the address above within 10 days of the date you received this
notice.

Date:

Type or print your name

 _____
Sign your name

Warning: If you do not object, the court may grant access to the child's case file.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-572.v2.020724.am

Objections to the release of information and records described in the attached Petition **Requesting** Juvenile Case File (form JV-570) must be filed with the juvenile court.

① Name of child: _____

② My relationship to the child, if any, is: _____

③ I object to the release of information and records relating to the child named in item ①

④ I do not want the juvenile court to release the records because (describe in detail, attach additional pages if necessary):

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

Date:

Type or print your name



Sign your name

Warning: If you do not object, the court may grant access to the child's case file.

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-573.v3.031824.jh**

The Court finds and orders:

Orders relating to records of living children:

- 1 The child is alive and the request is denied.
 - a. Petitioner has not shown good cause for the release of the requested records.
 - b. Petitioner has not met the notice requirements of rule 5.552(c) of the California Rules of Court.
 - c. Request for records is overbroad or records sought are insufficiently identified.
 - d. Other: _____

- 2 The child is alive and the court sets a hearing on the request. Applicant has shown good cause for release of the juvenile case file, but the court must balance the interests of the applicant, the child, other parties to the juvenile court proceedings, and the public. Clerk to send notice under rule 5.552 of the California Rules of Court.
Date of hearing: _____
Time of hearing: _____
Location: _____

- 3 The child is alive and the court will conduct a review of the juvenile case file and any filed objections.

Orders relating to records of deceased children:

- 4 The child is deceased, an objection to the request has been filed, and the court sets a hearing on the request within 60 calendar days from the date the petition was served on the custodian of records.
Date of hearing: _____
Time of hearing: _____
Location: _____

- 5 The child is deceased and the court will conduct a review of the juvenile case file without a hearing because no objections were filed.

Additional orders:

- 6 Other: _____

Date: _____

Judicial Officer

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Court fills in case number when form is filed.

Case Number:

**Order After Judicial Review on
Petition Requesting Juvenile
Case File**

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-574.v4.031824.jh**

① Name of petitioner: _____

The court finds and orders:

Orders relating to records of living children:

② After a review of the juvenile case file of a living child and any filed objections and a noticed hearing, the court denies the request.

Reason(s) for denial:

- a. Access is not in the child’s best interests.
- b. The need for access does not outweigh the privacy rights of the child and the policy considerations favoring confidentiality of the juvenile case file.
- c. Petitioner has not shown by a preponderance of the evidence that the records requested are necessary and have substantial relevance to the legitimate need of the petitioner.
- d. There are no responsive records.
- e. Other: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Court fills in case number when form is filed.

Case Number:

③ After a review of the juvenile case file of a living child and any filed objections and a noticed hearing, the court grants the request. The petitioner has shown by a preponderance of the evidence that access to records is necessary and that records have substantial relevance to the legitimate needs of the petitioner. The court has balanced these needs with the child’s best interest. The court finds that the need for access outweighs the policy considerations favoring confidentiality of juvenile records.

a. The following records may be disclosed: with redactions

b. The procedure for providing access is:

c. See attached.



Case Number: _____

Your name: _____

- 4 a. Petitioner may not disseminate the information to anyone who is not specified in Welfare and Institutions Code section 827 or 827.10.
- b. Petitioner may disseminate the disclosed records listed in item 3a only to: _____
 as redacted subject to protective order additional orders attached

- 5 Disclosure subject to protective order (*list orders*): _____

Orders relating to records of deceased children:

- 6 This child is deceased, and the request is granted.
 - a. The court has read and considered the following:

 - b. There is a presumption under Welfare and Institutions Code section 827(a)(2)(B) in favor of the release of the documents unless a statutory reason for confidentiality is shown to exist. The court has balanced only the interests of the surviving children, siblings, and nonminor dependents who may be named in the file with the deceased child.
 - c. The following records may be disclosed: with redactions

 - d. The procedure for providing access is:

 - e. Any information that relates to another child or could identify another child, except for information about the deceased, must be redacted.
 - f. See attached.



Case Number:

Your name: _____

- 7** The child is deceased and the request is denied. The court finds by a preponderance of the evidence that access to the juvenile case file or of any portion of it is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the request.

Additional orders:

- 8** Other:

- 9** See attached.

Date:

Judicial Officer

**Input on Release of Deceased
Child's Juvenile Case File***Clerk stamps date here when form is filed.***DRAFT
Not approved by
the Judicial Council
JV-576.v2.020724.am**

Use this form if you do not agree with the release of a deceased child's juvenile case file. If the petitioner is asking for the court to approve the release of the deceased child's juvenile case file without a hearing, you must file this form within 15 calendar days of service of the petition requesting the juvenile case file. **The court may approve the release of the deceased child's juvenile case file without a hearing even if you file this form within 15 calendar days of service of the petition.** If you have a lawyer, talk to your lawyer right away. You can also use this form if you want to give any input about the release of the deceased child's juvenile case file.

*Fill in court name and street address:***Superior Court of California, County of***Fill in child's/nonminor's name and date of birth:***Child's/Nonminor's name:****Child's/Nonminor's date of birth:***Court fills in case number when form is filed.***Case Number:****1 Your contact information (if confidential, use form JV-287):**

- a. Name: _____
 b. Address: _____
 c. City/State/Zip: _____
 d. Phone: _____
 e. Email: _____

2 Your relationship to the deceased child or nonminor dependent:

- a. Parent or legal guardian of the deceased child or nonminor dependent
 b. Indian custodian for the deceased child or nonminor dependent
 c. Lawyer for parent, legal guardian, or Indian custodian of the deceased child or nonminor dependent
 d. Representative of Indian tribe of the deceased child or nonminor dependent
 e. The district attorney, if the deceased child or nonminor dependent was a ward of the juvenile court
 f. The probation department, child welfare agency, or CASA volunteer handling the deceased child's or nonminor dependent's case
 g. Other (give relationship): _____

3 Date when the child or nonminor dependent died, if you know: _____**4** Did you receive a copy of the petition requesting juvenile case file explaining the reasons for release?

- Yes (date you received petition): _____
 No

5 Why are you completing this form? (check one):

- I do not agree to the release of the deceased child's or nonminor dependent's juvenile case file.
 I want to provide my input on the release of the deceased child's or nonminor dependent's juvenile case file.



Item deferred
Move to the April 4 meeting.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Family Law: Adoption Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt form ADOPT-203; revise forms ADOPT-050-INFO, ADOPT-200, ADOPT-210, ADOPT-215, ADOPT-230, and ADOPT-310

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Kerry Doyle, 415-865-8791, kerry.doyle@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda:

Item 1(e)

As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will act only where necessary to allow courts to implement the legislation efficiently.

AB 1650 (Patterson) Family law proceedings: custody, parentage, and adoption (Stats. of 2023, Ch. 851)

Requires, in an adoption proceeding, each petitioner to inform the court in writing using specified Judicial Council forms, whether the petitioner has entered, or has agreed to enter, into a postadoption contact agreement with any person or persons.

Item 5. Revision of Adoption Forms. Revisions to adoption forms will be required if AB 1650 and AB 20 are signed by the Governor (see pending legislation above, items 1e and 1h). The committee has prioritized developing a separate form for stepparent adoptions because these adoptions have different requirements and the current single form for all adoption types is confusing. The committee also plans to develop an information sheet to provide guidance on understanding and using the different adoption forms.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

- This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-23

Title

Family Law: Adoption Forms

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt form ADOPT-203; revise forms ADOPT-050-INFO, ADOPT-200, ADOPT-210, ADOPT-215, ADOPT-230, and ADOPT-310

Proposed Effective Date

January 1, 2025

Contact

Kelly Beck, Consulting Attorney
Kerry Doyle, Attorney
415-865-8791
kerry.doyle@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends adopting one new form and revising six forms to simplify the process for all adopting parents, and their counsel if represented. The committee further recommends revising the adoption request form to conform to a portion of Assembly Bill 1650 (Patterson; Stats. 2023, ch. 76) which requires that the petitioner inform the court, in writing, whether the petitioner has entered, or has agreed to enter, into a postadoption contact agreement.

Background

California law sets forth the procedures for four categories of adoptions. Within each category, there are subcategories of adoption types, each of which has unique requirements. They are as follows:

- Agency Adoptions (Fam. Code, § 8700 et seq.)
 - Nondependent child
 - Relative
 - Nonrelative

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.

- Dependent child or nonminor dependent
- Independent Adoptions (Fam. Code, § 8900 et seq.)
 - Relative
 - Nonrelative
- Intercountry Adoptions (Fam. Code, § 8900 et seq.)
 - International
 - Re-adoption of child adopted outside of the U.S.
- Stepparent Adoptions (Fam. Code, § 9000 et seq.)
 - Adoption of spouse/domestic partner's child
 - Adoption to confirm parentage (Fam. Code, § 9000.5)

In addition to the above specific statutory requirements, there are general requirements that apply to all types of adoption action filed with the court (Fam. Code, § 8600 et seq.) as well as certain nonmandatory, voluntary processes (i.e., postadoption contact agreement). The Judicial Council has adopted a series of forms for use in various types of adoption actions. Although the Judicial Council has made minor changes and additions to the forms, there has not been a comprehensive review of these forms in over 20 years.

The Proposal

The Judicial Council adopted a series of forms for use in all the various types of adoption actions beginning in October 1998. This proposal would revise these forms to conform to recent statutory requirements relating to contact after adoption agreements¹ and, more extensively, to improve usability. The proposal will remove unnecessary language from the forms and provide directives and information about the requirements for all types of adoptions. The proposal seeks to adhere to specific statutory requirements to obtain correct and necessary documentation from those who may have parental rights and who may or may not be participating in the adoption process. The advisory committee developed this proposal with the input of staff attorneys at court Self-Help Centers, the Academy of California Adoption Lawyers (ACAL), court clerks, judicial officers beyond those on the committee, and the California Department of Social Services (CDSS). The Self-Help Centers identified stepparent adoptions as both the most common adoption type they assisted with and the ones having the most confusing processes for

¹AB 1650 outlined several changes to family law proceedings, including custody, parentage and adoption. One part of this bill pertains to the contact after adoption agreement, and requires that the petitioner inform the court, in writing, whether a contact after adoption agreement has or will be entered into. It further requires that prior to the finalization of the adoption, the petitioner must file the agreement with the court and provide a file-marked copy of the form to all signatories of the agreement within 30 days of receipt of the filed-marked copy.

self-represented litigants. The current *Adoption Request* (form ADOPT-200) is an all-inclusive form used for all adoption types and includes language and requirements that are not needed for stepparent adoptions. This proposal includes a new standalone *Stepparent Adoption Request* (form ADOPT-203) to be used only for stepparent adoptions.

The Self-Help Centers and court clerks also discussed the numerous continuances required when self-help litigants arrived at court without the statutorily required pleadings and documents depending on the status of the birth parent. The committee is proposing extensive changes to *How to Adopt a Child in California* (form ADOPT-050-INFO) to help inform self-represented litigants of all the necessary requirements to proceed with an adoption request. These changes are detailed below.

Judicial Council forms

The committee proposes the following revisions to existing forms, and a new form, to respond to concerns expressed by self-help attorneys, adoption attorneys, and other court partners, as well as to implement the recent statutory requirement that a petitioner inform the court, in writing, whether the petitioner has entered, or has agreed to enter, into a postadoption contact agreement.

***How to Adopt a Child in California* (form ADOPT-050-INFO)**

The committee proposes adding to the information sheet the specific procedures necessary for obtaining an adoption beyond filling out Judicial Council forms and adding additional links to the California Courts Self-Help Guide for more assistance. The revisions would also add references to the CDSS website, which also has forms that must be filed with the court as required by statute. The new instructions, on the first page of the form, under General Information on Adoptions, include preparing for an adoption, determining who will provide the home-study or investigation, and locating an Adoption Service Provider for infant adoptions.

Also new in the General Information section will be information that documents in addition to the Judicial Council adoption forms may be required and further procedures followed if a person who may have parental rights has not participated in the adoption. References are made to different types of petitions or motions that might need to be filed and the parties are directed to the California Courts Self-Help Guide. This guide provides a detailed description of how to determine the status of a parent and how to proceed with an adoption.

In the section on Stepparent or Domestic Partner Adoptions, the forms list is being revised to include the new *Stepparent Adoption Request*. The committee proposes removing the check boxes from this form because it is not intended to be a checklist, but rather a list of required forms. In addition, a reference to a “social worker’s” report for a stepparent adoption has been removed (page 3). An investigation is the only report needed and is either conducted by a court-ordered investigator or other professional as identified in Family Code section 9001.

Some revisions are also being proposed in the section on Independent or Agency Adoptions to clarify existing law. In an agency adoption of a dependent child, the court hearing the adoption matter will accept a prior court's order indicating that the Indian Child Welfare Act (ICWA) does not apply. This can be sufficient and provided in lieu of Judicial Council ICWA forms.

The following text would to be added: "...for Welfare and Institutions Code adoptions, other evidence, including court orders regarding ICWA may be necessary." In addition, a new item is being added to the instruction in this section, to remind parties that documents in addition to the listed council forms may be needed relating to another parent.

To clarify terminology, the committee is proposing that information be added in the section on Inquiry and Notice Under the Indian Child Welfare Act (ICWA), to define the meaning of "extended family" and "reason to know" the child is an Indian child. Information as to the voluntary nature of a Post Adoption Contact Agreement would be added as well, as would a definition of "birth relatives" that includes the Indian child's tribal members.²

Adoption Request (form ADOPT-200)

The committee is proposing to delete questions about procedures for obtaining consent and termination of parental rights (item 15 on the current form), and to replace these questions with information in a box at the top of the form and at the end of the request that will assist many self-represented adoptive parents in preparing the correct and necessary paperwork and documentation for a parent who is not participating in the adoption process itself.

Due to the proposed new stepparent adoption form, the instructions at the top of the request form would be changed to include: "This request must be completed for agency, independent, intercountry, and Tribal Customary Adoptions. For a stepparent adoption or a stepparent adoption to confirm parentage, use *Stepparent Adoption Request* (form ADOPT-203)." Other information has also been added to the instructions to inform those filing for adoption that they will most likely need to provide additional paperwork to the court regarding others with parental rights. There is also a link provided to the information form and the Judicial Council website for more detailed instructions.

Additional proposed changes are as follows:

- Removing the hearing box on page one since clerks do not use this form to set a hearing for adoption, nor is it ever filled out at the time of filing the adoption request or anytime thereafter. It is not necessary in any adoption situation to send this notice if there is no hearing set until all necessary paperwork is actually filed with the court, including the homestudy or investigation.

² Judicial Council staff consulted with the chairs of the Tribal Court-State Court Forum regarding the proposed changes pertaining to ICWA on form ADOPT-50-INFO and the chairs agree with these proposed changes.

- Moving the assertions of the adopting parents from the back of the form to new item 2 underneath the identifying information of the adopting parents.
- Removing the names of the birth parents and the child’s new name as the statute does not require that the request include those names.³
- At item 5(a), add the following language: “... or dependent child’s adoption by a relative.” This will bring this item into compliance with the requirement in Family Code section 8714.5 that the child’s name before the adoption should be included in the body of the petition.
- At item 7(a), include the following language: “For adoptions under the Welfare and Institutions Code, other evidence, including court orders regarding ICWA may be necessary.”
- At item 10, Independent adoption information:
 - At subitem b, add yes or no boxes at the end of the statement (instead of having a checkbox at the front). This will help to streamline the form and its requirements and make it easier to fill out for self-represented litigants.
 - Add subitem d, add yes or no boxes (instead of a checkbox) and add another optional subitem that can be checked if the answer to the question of whether there is another parent is “yes” : “the following person(s) with existing parental rights agree to this adoption and will maintain their existing parental rights: Name: _____ Relationship to child: _____.” This new subitem is necessary to address a situation where only one parent is maintaining their parental rights, and the other parent signs a consent and is not maintaining their parental rights.
- At item 12, Contact after adoption:

Rearrange the subitems as to whether and when a *Contact After Adoption Agreement* (form ADOPT 310) will be filed, and include the following new options:

 - Is attached pursuant to Family Code section 8714.50 dependent child agency adoption.
 - Will be completed as required in Welfare and Institutions Code, section 16002 between siblings and filed before adoption hearing/order.
 - Will be filed before the adoption hearing.

The item has also been revised to eliminate references that the form be filed 30 days prior to the hearing, which is no longer necessary. Under current law, the agreement only needs to be filed prior to the adoption hearing.

³ See Fam. Code §§ 8714, 8802, 8912

- Adding a box entitled “Additional Information Needed” to ensure the adoptive parents file all the necessary paperwork with the court before the final hearing. The box contains information about the need to ensure documentation or proceedings have been brought regarding the person who may or may not have parental rights. Reference is made to the Judicial Council website for further instructions and procedures, and a list of possible procedures and documents is listed.

Stepparent Adoption Request (form ADOPT-203)

The committee proposes adopting this new form. As discussed above, the Self-Help Centers identified stepparent adoptions as both the most common adoption type, they assisted with and the ones having the most confusing processes for self-represented litigants. The current *Adoption Request* (form ADOPT-200) is an all-inclusive form used for all adoption types and includes language and requirements that are not needed for stepparent adoptions. This proposal includes a new standalone *Stepparent Adoption Request* (form ADOPT-203) to be used only for stepparent adoptions.

Adoption Agreement (form ADOPT-210)

There is confusion about where an adopting stepparent should sign the current form. To avoid confusion, the committee proposes adding a reference to a stepparent to the instructions in item 4, which is for when there is only one adopting parent, to clarify that this is the section where a stepparent should sign. The committee also proposes reorganizing the item for agreements by the adopting parent’s spouse—so there is now a discrete item for single parent adoptions (item 5) as well as the existing one for stepparent-only adoptions (to be renumbered as item 6).

In item 9, regarding the execution of the agreement, the committee proposes adding the following language to address situations where the adopting parents were allowed by the court to appear remotely, or appearance is waived:

- At the end of the parenthetical in subitem a, regarding signing outside of a hearing, add: “or if the court waived appearance under Family Code, § 8613 or 8613.5).”
- Add subitem c: “This form was signed while the adopting parent or parents were attending a remote hearing and was acknowledged by the judicial officer.” This subitem implements the recent addition of subdivision (i) to the Code of Civil Procedure section 367.75, expressly authorizing remote appearances in adoption cases.

Adoption Order (form ADOPT-215)

Under item 6, the following was added:

- a. “Proper notice to all persons with actual or possible parental rights has been provided and their voluntary or nonvoluntary participation is documented in the court file.”

This item was added as it was contained within the current version of the form.

Under item 12, revise the current language to:

“The following persons with existing parental rights agree to this adoption and will maintain their existing parental rights: Name: _____ Relationship to child: _____.” This language is necessary to address a situation where only one parent is maintaining their parental rights, and the other parent signs a consent and is not maintaining their parental rights.

Adoption Expenses (form ADOPT-230)

This form is used to provide the accounting required by Family Code section 8610. To address the specific requirements of Family Code section 8610 that require the adopting parents, in an adoption proceeding other than a stepparent adoption, to itemize in detail the services they paid for or that were paid for on their behalf relating to the adoption or placement of the child, form ADOPT-230 would be changed to allow identification of more than one of the same type of professional and more than one date of payment for the same type of professional. The itemization required by the statute must include the services received along with (1) dates of each payment; (2) names and addresses of each attorney, physician and surgeon, hospital, licensed adoption agency, or any other person or organization that provided services and received payment. The current form provides, at item 3, a list of likely services, with blanks for the name of service provider, along with the dates and amount of payments, to be completed by the adopting parent. However, the form only allows for one line for each of type of service. In practice, there could be more than one professional or type of service in each of the categories on the current form. The proposed revision would eliminate the pre-defined service on each subitem, replacing it with a blank line. This change will more easily allow the itemization of each service or professional when the accounting includes multiple providers of the same type of service, such as two different hospitals or two different attorneys.

To ensure that the parties will understand what information is to be added to item 3, the instructions of the item have been expanded to include a list of the type of services to include on the form.

Contact After Adoption Agreement (form ADOPT-310)

California Rules of Court, rule 5.451(a)(1)(2) was previously amended to include “birth relatives” including siblings, as parties who may enter into a contact after adoption agreement. Such an agreement must be memorialized on form ADOPT-310. To continue to ensure siblings are able to stay connected in the event the parties do not adhere to the ADOPT-310 in the future, the siblings can complete a *Waiver of Confidentiality* form (a CDSS form).

To reflect this change in the rules, item 3 of the form would be revised to add: “birth relatives” and “Sibling information: Include minor siblings, siblings who are dependents, and nonminor and adult siblings. Consider completion of California Department of Social Service waiver forms AD 904A or AD 904B. See: <https://cdss.ca.gov/inforesources/forms-brochures/forms-alphabetic-list/a-d>.”

In addition, to implement AB 1650, the following instructions would be added to the form: This form must be filed with the court before the finalization or order of the court. A file-marked copy of this agreement must be provided, within 30 days of filing, to all adult parties to this agreement, and any licensed agency that placed the child or consented to the adoption and the child, if over the age of 12.

Alternatives Considered

The committee considered creating a new information sheet specific to stepparent adoptions, but instead added significant new material and clarifications to the current ADOPT-050-INFO so that all the information would be contained on one form. The committee also considered adding information to the ADOP-050-INFO form regarding remote hearings to finalize adoptions, but concluded that it would be too confusing to include information about remote hearings, while also ensuring self-represented litigants bring the required documents to the court hearing when it is held in-person.

The committee considered not creating a new separate stepparent adoption form. However, the committee concluded that the new form would be of assistance to parties, the courts, and Self-Help Centers by simplifying the process of a frequent adoption request. For the reasons discussed above in this invitation to comment, the committee decided it was best to create a new stepparent adoption form.

Fiscal and Operational Impacts

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly adopted and revised forms. Courts will also incur costs to incorporate the forms into the paper or electronic processes.

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 ADOPT-050-INFO, ADOPT-200, ADOPT-203, ADOPT-210, ADOPT-215, ADOPT-230, and ADOPT-310, at pages 10–34
2. Link A: Assembly Bill 1650
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1650

General Information on Adoptions

Before you begin

Seek legal advice about your family's options before beginning any adoption. Every family is different and adoption may not be necessary for some families. Visit the Self-Help Guide to the California Courts adoption page to get copies of adoption forms, look for organizations that provide legal help with adoptions, and learn how to complete the adoption process on your own if you do not have a lawyer: www.courts.ca.gov/selfhelp-adoption.htm. You can also get copies of adoption forms at your local court clerk's office.

What type of adoption you will be filing? In California there are several kinds of adoptions. This information sheet provides steps for the following types:

- Stepparent and domestic partnership
- Stepparent and domestic partnership confirmation of parentage
- Independent
- Agency (within the United States) and includes:
 - Agency placement and/or agency joinder
- Intercountry

For more information and definitions on these types of adoptions: selfhelp.courts.ca.gov/adoptions

What Department or Agency will be handling your home-study or investigation?

In most adoptions a home study or an investigation will be necessary.

- For independent adoptions
 - A regional office of the department of social services (DSS).
 - An adoption agency.
 - For an independent adoption of a newborn, you must also choose an adoption services provider (ASP).

The ASP is an individual or an adoption agency personnel who is licensed and certified by the State of California. The role of this person is to explain to the birth parent their rights in the adoption process (before "placing" the child with you) and will witness the signing of documents and consent.

There is a listing of all providers who have been licensed as an ASP on the California Department of Social Services website. You can see the list by agency or the list by individual. The ASP will charge a fee. You must pay the fee as the adoptive parent.

- For more information on a home study or ASP see: selfhelp.courts.ca.gov/independent-adoption/placed
- For Stepparent Adoptions -the court investigator or a privately hired licensed clinical social worker or other appropriate licensed individual
(See selfhelp.courts.ca.gov/stepparent-adoption)

If you need more information about what office or agency can conduct your home study, you can visit the California Department of Social Services website.

Find out what paperwork they will need from you and when it must be sent to them once you file your *Adoption Request*.

Documents needed in addition to the *Adoption Request*

For most adoptions, the adopting parent, their legal representative, or the agency will be required to obtain additional signed forms or certified documents. These documents can include:

- Consent or relinquishment for adoption
- Death certificate (if applies)
- Other court orders
- Waiver of Notice or Denial of parentage



ADOPT-050-INFO How to Adopt a Child in California

In certain situations additional court proceedings may be necessary. These may include:

- Petition freeing the child from parental custody and control and an order (Note: This is a separate court action.)
- Petition to terminate parental rights of an alleged parent and an order (Note: This can be filed within the adoption process.)

Each of the above are specific procedures which must be followed based on the determination of the status of the parent. If this is an agency adoption, the agency will obtain the above information for the court.

This paperwork is needed to complete your adoption home-study or investigation.

The status of a parent is based on the relationship of that parent to the child and other factors. For definitions and more information about status of parent and what additional involvement or paperwork is needed, go to

selfhelp.courts.ca.gov/adoptions.

Stepparent/Domestic Partner Adoptions

If you wish to adopt the child of your spouse or domestic partner, you may be eligible for a stepparent adoption. There are two types of stepparent adoptions. Answer these questions to figure out which process is right for you:

- Were you in a union with the child's legal parent **at the time the child was born** and are you **still in a union** with the legal parent? (A "union" means a marriage, a California registered domestic partnership, or a registered domestic partnership or civil union from another state that is legally equivalent to a marriage.)
- Did your **spouse or domestic partner give birth to the child** or was the child born through a **gestational surrogacy process** brought about by one or both of you?

If you answered no to **either** question, complete the items below for a **stepparent/domestic partner adoption**.

If you answered yes to **both** questions, complete the items below for a **stepparent adoption to confirm parentage**.

1 Fill out court forms

- | | | |
|---------------|---|--|
| • ADOPT-203 | <i>Stepparent Adoption Request</i> | This tells the judge about you and the child you are adopting. |
| • ADOPT-210 | <i>Adoption Agreement</i> | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| • ADOPT-215 | <i>Adoption Order</i> | The judge signs this form if your adoption is approved. |
| • ICWA-010(A) | <i>Indian Child Inquiry Attachment</i> | This lets the judge know that you have asked whether the child may be an Indian child. |
| • ICWA-020 | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status. |

Additional Forms for Stepparent Adoption to Confirm Parentage

- | | | |
|--|---|--|
| • ADOPT-205 (or an equivalent declaration) | <i>Declaration Confirming Parentage in Stepparent Adoption</i> | This tells the court how you conceived your child and whether there are any other parents. Only use this if you are seeking a stepparent adoption to confirm parentage. See above for more information on this type of adoption. Both the birth parent and the adopting parent must complete a separate declaration. |
| -OR- | | |
| • ADOPT-206 (or an equivalent declaration) | <i>Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy</i> | This tells the court how you conceived your child and whether there are any other parents. Only use this if you are seeking a stepparent adoption to confirm parentage because the child was conceived through a gestational surrogate and was born outside of California, and the state where the child was born only allowed one intended parent to be named as a legal parent on the child's birth certificate. |

ADOPT-050-INFO, Page 2 of 6



2 Take your forms to court

Take the completed forms to the court clerk in the county where you live. The court will charge a small filing fee. Or take the forms to your lawyer or adoption agency, if you are using one. If there is no hearing, form ADOPT-210 must be signed in front of the court clerk or a notary.

Note: In a stepparent adoption to confirm parentage, no home investigation or hearing is required unless ordered by the court for good cause. Sign form ADOPT-210 in front of a notary or the court clerk when you file the forms and a judge will review your request. If the paperwork is complete and you meet the requirements, the judge will sign the *Adoption Order* and the adoption is complete. If the judge orders an investigation and hearing, go to the next steps.

3 An investigation is completed

In most stepparent adoptions an investigation or a report must be completed before the final hearing. This will be completed by either someone you identified in the request or who was ordered by the court. To begin the investigation you will be required to send the *Adoption Request* and supporting documentation to the investigator. A home visit may also be required.

4 Go to court on the date of your hearing

Bring:

- The child you are adopting;
- Form ADOPT-210;
- Form ADOPT-215;
- A camera, if you want a photo of you and your child with the judge (*optional*); and
- Friends/relatives (*optional*).

Independent or Agency Adoptions in the United States

If this is an independent or agency adoption in the United States, complete items 1 through 4 below.

Note: The rights of the existing parents usually terminate with adoptions. In an independent adoption, if the existing and adopting parents agree, the rights of the existing parents do not have to be terminated. See Family Code section 8617(b).

1 Fill out court forms

- | | | |
|----------------|---|--|
| • ADOPT-200 | <i>Adoption Request</i> | This tells the judge about you and the child you are adopting. |
| • ADOPT-210 | <i>Adoption Agreement</i> | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| • ADOPT-215 | <i>Adoption Order</i> | The judge signs this form if your adoption is approved. |
| • ADOPT-230 | <i>Adoption Expenses</i> | This lets the judge know what payments were made that relate to the child you are adopting. |
| • ICWA-010(A)* | <i>Indian Child Inquiry Attachment</i> | This lets the judge know that the required questions have been asked to determine whether the child may be an Indian child. |
| • ICWA-020* | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status. |

*The agency or adoption service provider is responsible for getting these forms completed and making them part of the adoption file for adoptions under the Welfare and Institutions Code; other evidence, including court orders regarding ICWA may be necessary.



2 Take your forms to court

Take the completed forms to the court clerk in the county where you live. The court will charge a filing fee. Or take the forms to your lawyer or adoption agency, if you are using one.

3 The social worker writes a report

In most adoptions, a social worker writes a report. This report gives important information to the judge about the adopting parents and the child. The social worker will ask you questions. You may have to fill out forms. You may be required to pay a fee for this report. The social worker will file the report with the court and send you a copy. When you get the report, ask the clerk for a date for your adoption hearing.

4 Go to court on the date of your hearing

Bring:

- The child you are adopting;
- Form ADOPT-210;
- Form ADOPT-215;
- Form ADOPT-230;
- A camera, if you want a photo of you and your child with the judge (*optional*); and
- Friends/relatives (*optional*).

Intercountry Adoptions

If this is an intercountry (international) adoption, complete items 1 through 6 below.

Note: You must follow this process to adopt your child under California law, even if the adoption was previously finalized in a foreign country. If the child's adoption was finalized in a foreign country, you must file the *Adoption Request* within the earlier of 60 days of the child's entry to the United States, or the child's 16th birthday.

1 Fill out court forms

- | | | |
|---------------|---|--|
| • ADOPT-200 | <i>Adoption Request</i> | This tells the judge about you and the child you are adopting. |
| • ADOPT-210 | <i>Adoption Agreement</i> | This tells the judge that you and the child, if over 12, agree to the adoption. Fill it out, but do not sign it until the judge asks you to sign it. |
| • ADOPT-215 | <i>Adoption Order</i> | The judge signs this form if your adoption is approved. |
| • ADOPT-230 | <i>Adoption Expenses</i> | This lets the judge know what payments were made that relate to the child you are adopting. |
| • ICWA-010(A) | <i>Indian Child Inquiry Attachment</i> | This lets the judge know that you have asked whether the child may be an Indian child. |
| • ICWA-020 | <i>Parental Notification of Indian Status</i> | One form is required for each birth parent. This shows that the child's parents have been asked about potential Indian status. |

2 Postadoption or postplacement visits and reports

If the child's adoption was finalized in a foreign country, there will be at least one postadoption visit provided by the international adoption agency. The report of this visit must be submitted to the court as described below. If the child was born in a foreign country and placed with a California family for adoption in this state, the adoption agency must provide postplacement supervision with up to four visits. These reports are also provided to the court.

3 Attach documentation

If the child's adoption was finalized in a foreign country, you must attach the following documents to your *Adoption Request*:

- A certified or otherwise official copy of the foreign decree, order, or certification of adoption that reflects finalization of the adoption in the foreign country;
- A certified or otherwise official copy of the child's foreign birth certificate;
- A certified translation of all required documents that are not written in English;
- Proof that the child was granted lawful entry into the United States as an immediate relative of the adoptive parent or parents;
- A report from at least one postplacement home visit by an intercountry adoption agency or a contractor of that agency licensed to provide intercountry adoption services in the state of California; and
- A copy of the home study report previously completed for the international finalized adoption by an adoption agency authorized to provide intercountry adoption services, in accordance with Family Code section 8900.

4 Take your forms to court

Take the completed forms and any required documents to the court clerk in the county where you live. The court will charge a filing fee. Or take the forms to your lawyer or adoption agency, if you are using one.

5 Provide a copy of the forms and documents

If the child's adoption was finalized in a foreign country, provide a copy of the forms and documentation you filed with the court to any adoption agency that provided services to you for your international adoption.

6 Go to court on the date of your hearing

Bring:

- The child you are adopting;
- Form ADOPT-210;
- Form ADOPT-215;
- Form ADOPT-230;
- A camera, if you want a photo of you and your child with the judge (*optional*); and
- Friends/relatives (*optional*).

Inquiry and Notice Under the Indian Child Welfare Act (ICWA)

- The child and other people in the child's life (parents and extended family members, see definition below) must be asked specific questions in order to determine whether the child may be an Indian child. The *Indian Child Inquiry Attachment* (form [ICWA-010\(A\)](#)) should be attached to the *Adoption Request*. In agency adoptions, it is the responsibility of the agency to ensure that this inquiry is conducted and that the form is made part of the adoption file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible. For more information about the duty of inquiry, see form [ICWA-005-INFO](#).
- Extended family member is defined by law or custom of the Indian child's tribe or, if no law or custom, must be a person who is 18 years or older and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin or stepparent. (25 U.S.C. § 1903(2)(2).)
- A completed version of *Parental Notification of Indian Status* (form [ICWA-020](#)) for each birth parent should be attached to the *Adoption Request*, OR it should be shown that a good faith attempt was made to provide the form to each birth parent, the Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court. In agency adoptions, it is the responsibility of the agency to ensure that this form is provided to the birth parents and made part of the adoption file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.

ADOPT-050-INFO How to Adopt a Child in California

- If there is **reason to believe** that the child is or may be an Indian child, additional inquiry is required. For more information about the duty of inquiry, see form [ICWA-005-INFO](#).
- If, at any time during the proceeding, there is **reason to know** that the child is an Indian child, notice must be provided of the adoption request to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form [ICWA-030](#)). This form must be served by registered or certified mail, with return receipt requested.
 - Reason to know a child is an Indian child means that (1) a person having an interest in the child, including the child, informs the court the child is an Indian child, or (2) the child, the child's parents, or Indian custodian lives on a reservation or in an Alaska Native village; or (3) any person, tribe, or organization informs the court that it has discovered information indicating that the child is an Indian child. The court must proceed per rule 5.481(b)(3) of the California Rules of Court.
- If it is determined that the child is an **Indian child** or this is a tribal customary adoption, see Adoption of an Indian Child, below.

Adoption of an Indian Child

If you are adopting an Indian child, fill out and bring to court the following additional forms:

- Adoption of Indian Child* (form ADOPT-220); and
- Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225).

If this is a tribal customary adoption, a copy of the tribal customary adoption order must be attached to the petition (form ADOPT-200) and the order (form ADOPT-215).

Note: An Indian child who has reached the age of 18 and who was placed for adoption, may apply to the court which entered the final order or decree. That court shall inform that child of their tribal affiliation, if any, of the child's biological parents and provide such other information as may be necessary to protect any rights flowing from the child's tribal relationship. [USC 25, Chpt.21,Section 1917]

“Open” Adoption and use of *Contact After Adoption Agreement* [Family Code Section 8616.5]

If you want your child to have contact with their birth relatives after the adoption, you can use *Contact After Adoption Agreement* (form ADOPT-310). This form describes the kind of contact the birth relatives will have with your child after the adoption is finalized. If you use this form, fill it out and file this form with the court before the finalization hearing or order of the court. A file-marked copy of this agreement must be provided within 30 days of filing, to all adult parties to this agreement, and any licensed agency that placed the child or consented to the adoption and the child, if over the age of 12.

Important: This is a voluntary agreement and is not required for the finalization of the adoption. If you chose to use this form, it will become part of the adoption file and will be enforceable by the court.

The adoptive parents, the child, and the child's birth relatives can agree to continuing contact without using this form, but unless that agreement is in writing and attached to the *Contact After Adoption Agreement* (form ADOPT-310) it may not be enforced by the court if it is not followed.

Birth relatives are birth parents, siblings, and other birth relatives. For Indian children, this can also include the child's Indian tribe.

Clerk stamps date here when form is filed.

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Not approved by
the Judicial Council
ADOPT-200.v17.032024.jh

Instructions

This request must be completed for agency, independent, intercountry, and Tribal Customary Adoptions. For a stepparent adoption or a stepparent adoption to confirm parentage, use *Stepparent Adoption Request (form ADOPT-203)*. Fill out one adoption request for each child to be adopted.

You may also need to provide additional forms, certified documents, or other paperwork to inform the judge of the status of a parent or possible parent who may have parental rights in these proceedings and how that parent will or will not participate in these proceedings.

For more information on the different types of adoptions and how to determine the status of a parent and the documentation that may be required, see form *ADOPT-050- INFO*, selfhelp.courts.ca.gov/adoptions, or visit your local county court Self-Help Center before filing out this form.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**1 Adopting parent**

- a. Name: _____
- b. Name: _____
- c. Street address: _____
 City: _____ State: _____ Zip: _____
 Telephone number: _____
- d. Relationship to child: _____
- e. Lawyer (if any) (name, address, telephone numbers, email address, and State Bar number): _____

2 Each adopting parent:

- a. Is at least 10 years older than the child or meets the criteria in Family Code Section 8601(b);
- b. Will treat the child as their own;
- c. Will support and care for the child;
- d. Has a suitable home for the child; *and*
- e. Agrees to adopt the child.

3 County of filing

This *Adoption Request* is filed in this court because (check all that apply):

- a. An adopting parent lives in this county;
- b. The child was born in or the child now lives in this county;
- c. An office of the agency that placed the child or is filing the request for adoption is located in this county;
- d. An office of the department or public adoption agency that is investigating the request is located in this county;
- e. A placing birth parent lived in this county when the adoptive placement agreement, consent, or relinquishment was signed;



Name of adopting parent: _____

- 3 f. A placing birth parent lived in this county when the request was filed;
 g. The child was freed for adoption in this county.

(Note: If the child is a dependent of the court (in foster care), this *Adoption Request* must be filed in the county where the child was freed for adoption or the county where the adopting parents reside. See Family Code, §§ 8714 and 8714.5). For more information on dependent children, selfhelp.courts.ca.gov/juvenile-dependency.

4 **Type of adoption**

Check one of the following:

- a. Agency (name): _____ Relative Nonrelative
 Tribal customary adoption (*attach tribal customary adoption order*)
 b. Independent: Relative Nonrelative Additional Parent
 c. Intercountry (name of agency): _____

5 **Information about the child**

- a. Child's name before adoption (only for independent, intercountry, tribal customary adoption or dependent child's adoption by a relative (Family Code § 8714.5):

 b. Gender: Female Male Nonbinary
 c. Date of birth: _____
 d. Child's address (if different from address of adopting parent or parents):
 Street: _____ City: _____ State: _____ Zip: _____
 e. Place of birth (if known): City: _____ State: _____ Country: _____
 f. If the child is 12 or older, does the child agree to the adoption? Yes No
 g. Date child was placed in the physical care of the adopting parent: _____
 h. The child was conceived by assisted reproduction in compliance with Family Code § 7613. Yes No
 i. The child is a dependent of the court. Yes No (If yes, add Juvenile Case No. and County)
 Juvenile Case No. _____ County: _____

6 **Legal guardian**

Does the child have a legal guardian? Yes No (If yes, attach *Letters of Guardianship* or fill out below.)

- a. Date guardianship ordered: _____
 b. County: _____
 c. Case number: _____

7 **Inquiry and notice under the Indian Child Welfare Act [ICWA]**

- a. The inquiry required under law to determine whether the child may be an Indian child has been made, and a completed *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
 Note: In agency adoptions, it is the responsibility of the agency to ensure that this inquiry is conducted and the form is made part of the file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible. For Welfare and Institutions Code adoptions, other evidence, including court orders regarding ICWA, may be necessary.



Name of adopting parent: _____

- 7 b. A completed version of *Parental Notification of Indian Status* (form ICWA-020) is attached OR a good faith attempt has been made to provide the form to the parents, Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court.
 Note: In agency adoptions, it is the responsibility of the agency to ensure that these forms are made part of the file. In independent adoptions, the adoption service provider, CDSS Regional Office, or delegated county adoption agency is responsible.
- c. There is **reason to know** that this child is an Indian child. Notice of the adoption request will be provided to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030).

For more information on these requirements and for definitions: See form ADOPT-050-INFO.

8 Adoption of an Indian child

- a. This is an adoption of an Indian child. The adopting parents have filled out and attached *Adoption of Indian Child* (form ADOPT-220) and will bring *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225) to the hearing.
- b. This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption.

9 Agency adoption information

- a. The adopting parent has received information about the Adoption Assistance Program, the Regional Center, mental health services available through Medi-Cal or other programs, and federal and state tax credits that may be available.
- b. Joinder is being filed at same time as this *Adoption Request*.
- c. Joinder will be filed.

10 Independent adoption information

- a. The adopting parent will file promptly with the department or delegated county adoption agency the information required by the department in the investigation of the proposed adoption.
- b. A copy of the *Independent Adoption Placement Agreement* from the California Department of Social Services is attached. (This is required in most independent adoptions; see Family Code section 8802.) Yes No
- c. All persons with parental rights agree to the adoption and have signed the *Independent Adoptive Placement Agreement* or consent on the appropriate California Department of Social Services form. Yes No
 (If no, list the name and relationship to child of each person who has not signed the agreement form):

- d. This is an independent adoption involving additional parent: Yes No If yes,

The following person with existing parental rights agree to this adoption and will maintain their existing parental rights: Name: _____ Relationship to child: _____

An agreement waiving termination of parental rights, signed by both the existing parents and the adopting parent is attached.

Note: If a person who may have parental rights has not signed a consent or relinquishment, the adopting parent or parents must obtain other signed documents or file for termination of parental rights or other action.



Name of adopting parent: _____

11 Intercountry and California re-adoption adoption questions

- a. This adoption may be subject to the Hague Adoption Convention (*form [ADOPT-216](#) must be filed with this request*).
- b. This is an adoption conducted under the requirements of the Hague Adoption Convention and the child has already moved with the adopting parents to another Hague Convention member country or will be moving at the conclusion of this adoption.

Child will be moving or has moved to (name of country): _____

Adopting parent: seek(s) a California adoption will be petitioning for a Hague Adoption Certificate
 will be seeking a Hague Custody Declaration.

- c. This is an intercountry re-adoption adoption that was finalized in another country before the child entered the United States with the adopting parents.

Date the child entered the United States: _____

See form [ADOPT-050-INFO](#) for a list of documents to attach to this *Adoption Request*.**12 Contact after adoption (optional)***Contact After Adoption Agreement* ([form ADOPT-310](#)) (Family Code § 8616.5)

- a. is attached.
- b. is attached Family Code section 8714.50 dependent child agency adoption.
- c. will be completed as required in Welfare and Institutions Code, § 16002 between siblings and filed before to adoption hearing/order.
- d. will be filed before the adoption hearing
- e. This is a tribal customary adoption. Postadoption contact is governed by the attached tribal customary adoption order.

For more information: Form [ADOPT-050-INFO](#)**Additional Information Needed**

If there are any other persons who are or may be the child's parent, you will be required to obtain additional forms, submit specified paperwork and possibly participate in additional court proceedings. Other paperwork or additional court proceedings may be necessary. During the adoption process, you must provide additional documents to the court or the department or agency handling your home study. These documents can include:

- Consent or relinquishment for adoption—properly signed and accepted by court.
- Death certificates, prior court orders, or pending court orders.
- Waiver or Denial of parentage—properly signed and accepted by court.

Additional court proceedings can include:

- Filing a petition and Order Freeing the child from parental custody and control. This is a separate action.
- Filing a petition and Order terminating parental rights of an alleged father. This action can be filed within the adoption process.

Important: Seek the advice of an attorney. Refer to form [ADOPT-050-INFO](#), <https://selfhelp.courts.ca.gov/adoptions>, or visit your local county court self-help for more information.



Name of adopting parent: _____

Case Number: _____


13 Requests to court

- a. The adopting parent asks the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.
- b. The adopting parent asks the court to date its order approving the adoption as of an earlier (date): _____ for the following reason (Family Code, § 8601.5):


(Enter a date no earlier than the date parental rights were ended.)

- c. This is a tribal customary adoption. The adopting parents ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all of the rights and duties stated in the attached tribal customary adoption order and in accordance with Welfare and Institutions Code section 366.24.

14 If a lawyer is representing you in this case, the lawyer must sign here:

Date: _____  _____
Type or print lawyer's name *Signature of lawyer for adopting parents*

15 I declare under penalty of perjury under the laws of the State of California that the information in this form and all its attachments is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime.

Date: _____  _____
Type or print your name *Signature of adopting parent*

Date: _____  _____
Type or print your name *Signature of adopting parent*

NOTICE—ACCESS TO AFFORDABLE HEALTH INSURANCE: Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay toward high-quality affordable health care. For more information, visit www.coveredca.com, or call Covered California at 1-800-300-1506 (English) or 1-800-300-0213 (Spanish).

ADOPT-203 Stepparent Adoption Request

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
ADOPT-203.v10.032024.jh

Use this form for a stepparent adoption or a stepparent adoption to confirm parentage. If you are adopting more than one child, fill out an adoption request for each child.

For more information on stepparent adoption and how to fill out this form, see form ADOPT-050-INFO and selfhelp.courts.ca.gov/stepparent-adoption.

If there are any other persons who are or may be the child's parent, you will be required to obtain additional forms, submit specified paperwork, and possibly participate in additional court proceedings. You will be required to provide all documentation to the court or the investigator during the adoption process.

For more information, see Stepparent adoption in California selfhelp.courts.ca.gov/stepparent-adoption.

Fill in court name and street address:
Superior Court of California, County of

Court fills in case number when form is filed.
Case Number:

1 Adopting parent

- a. Name: _____
- b. Street address: _____
City: _____ State: _____ Zip: _____
Telephone number: _____
- c. Lawyer (if any) (Name, State Bar number, address, telephone numbers, email): _____

2 The adopting parent

- a. Will treat the child as their own;
- b. Will support and care for the child;
- c. Has a suitable home for the child; *and*
- d. Agrees to adopt the child.

3 County of filing

This *Stepparent Adoption Request* is filed in this court because (check all that apply):

- a. The adopting parent live in this county;
- b. The child was born in or the child now lives in this county;
- c. An office of the department or public adoption agency that is investigating the request is located in this county;
- d. A placing birth parent lived in this county when the consent, or relinquishment was signed;
- e. A birth parent who will be retaining custody lived in this county when the request was filed;
- f. The child was freed for adoption in this county.



Name of adopting parent: _____

Case Number: _____

4 Type of stepparent adoption (check all that apply):

- a. The adopting parent is married to or in a registered domestic partnership with the legal parent of a child I am seeking to adopt. (*Attach proof of the marriage or domestic partnership.*)
The adopting parent married or entered into a registered domestic partnership with the legal parent on (date): _____
(*For court use only. There is no waiting period.*)
- b. The adopting parent is seeking a stepparent adoption to confirm my parentage. At the time the child was born, the adopting parent was married to or in a state-registered domestic partnership with the parent who gave birth or whose parentage was established through a gestational surrogacy process, and we remain in that union. See attached:
 - (1) Form ADOPT-205, *Declaration Confirming Parentage in Stepparent Adoption*
 - (2) Form ADOPT-206, *Declaration Confirming Parentage in Stepparent Adoption: Gestational Surrogacy*
 - (3) Declaration describing the circumstances of the child's conception.
- c. This is a stepparent adoption involving an additional parent.
 - (1) All persons with existing parental rights agree to this adoption and will maintain their existing parental rights.
 - (2) An agreement waiving termination of parental rights, signed by both the existing parents and the adopting parent, is attached.

5 Information about the child

- a. Name before adoption: _____
- b. Gender: Female Male Nonbinary
- c. Date of birth: _____
- d. Address (*if different from address of adopting parent*)
Street: _____ City: _____ State: _____ Zip: _____
- e. Place of birth (*if known*): City: _____ State: _____ Country: _____
- f. If the child is 12 or older, does the child agree to the adoption? Yes No
- g. The child was conceived by assisted reproduction in compliance with Family Code section 7613.

6 Legal guardian

- Does the child have a court-ordered guardian appointed? Yes No
(If yes, attach *Letters of Guardianship* or fill out below.)
- a. Date guardianship ordered: _____ b. County: _____ c. Case number: _____

7 Inquiry and notice under the Indian Child Welfare Act

- a. The inquiry required under law to determine whether the child may be an Indian child has been made, and a completed *Indian Child Inquiry Attachment* (form ICWA-010(A)) is attached.
- b. A completed version of *Parental Notification of Indian Status* (form ICWA-020) is attached OR a good faith attempt has been made to provide the form to the parents, Indian custodian, or guardian of the child and inform them that they are required to complete and submit the form to the court.



Name of adopting parent: _____

Case Number:

- 7 c. There is **reason to know** that this child is an Indian child. Notice of the adoption request will be provided to the child's tribe or tribes, parents, Indian custodian, and the Bureau of Indian Affairs, using *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030).

8 **Adoption of an Indian child**

- a. This is an adoption of an Indian child. The adopting parents have filled out and attached *Adoption of Indian Child* (form ADOPT-220) and will bring *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225) to the hearing.
- b. This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption.

9 **Contact after adoption (check any that apply):**

Contact After Adoption Agreement ([form ADOPT-310](#)) is attached will be filed before the final adoption hearing.

For more information: See form ADOPT-050-INFO; Family Code, § 8616.5

10 **Investigation or written report (check one):**

The investigation or written report will be completed as follows:

- a. I will choose someone to do an investigation or written report and will pay them directly. I understand that this person must be a licensed clinical social worker, a licensed marriage and family therapist, or work for a licensed private adoption agency.
- b. I would like the court to choose someone to do an investigation. I understand that the court can charge me money for this investigation.
- c. This is an adoption to confirm parentage. No investigation is required unless court-ordered for good cause.

Additional Information Needed

If there are any other persons who are or may be the child's parent, you will be required to obtain additional forms, submit specified paperwork and possibly participate in additional court proceedings. You must provide additional documents to the court or the investigator during the adoption process. These documents can include:

- Consent or relinquishment for adoption—properly signed and accepted by court.
- Death certificates, prior court orders, or pending court orders.
- Waiver or Denial of parentage—properly signed and accepted by court.

Additional court proceedings can include:

- Filing a petition and Order Freeing the child from parental custody and control. This is a separate action.
- Filing a petition and Order terminating parental rights of an alleged father. This action can be filed within the adoption process.

For more information, see Stepparent Adoption Guide: selfhelp.courts.ca.gov/stepparent-adoption.



Name of adopting parent: _____


Case Number: _____

11 Requests to court

- a. I ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.
- b. I ask the court to date its order approving the adoption as of an earlier date (date): _____
for the following reason (Family Code, § 8601.5):

(Enter a date no earlier than the date parental rights were ended.)

12 If a lawyer is representing you in this case, the lawyer must sign here:

Date: _____ *Type or print lawyer's name*  _____ *Signature of lawyer for adopting parent*

13 I declare under penalty of perjury under the laws of the State of California that the information in this form and all its attachments is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime.

Date: _____ *Type or print your name*  _____ *Signature of adopting parent*

NOTICE—ACCESS TO AFFORDABLE HEALTH INSURANCE: Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay toward high-quality affordable health care. For more information, visit www.coveredca.com, or call Covered California at 1-800-300-1506 (English) or 1-800-300-0213 (Spanish).

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
ADOPT-210.v8.030824.jh

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Adopting parents

a. Name: _____

b. Name: _____

Relationship to child: _____

Address (skip this if you have a lawyer): _____

City: _____ State: _____ Zip: _____

Telephone number: _____

Lawyer (if any) (name, address, telephone numbers, e-mail address, and State Bar number): _____

2 Information about the child

Child's name before adoption: _____

Child's name after adoption: _____

Date of birth: _____ Age: _____

Signing this form:

- Adoptions usually require a hearing where most signatures on this form must be completed in front of a judge.
- Item **5** may be signed before the hearing.
- If this is a stepparent adoption to confirm parentage involving a spouse or registered domestic partner who gave birth to the child or established parentage over a child born through gestational surrogacy during the union, usually no hearing is required and you may sign this form in front of a proper witness. See item 8a for instructions on having your signature properly witnessed. If the court orders a hearing in this case, you must sign this form at the hearing in front of the judge.
- All other signatures must be signed at a hearing, in front of a judge, unless waived by the judge for good cause.

3 I am the child listed in **2** and I agree to the adoption. (Not required in the case of a tribal customary adoption under Welf. & Inst. Code, § 366.24.)

Date: _____
Type or print your name

Signature of child (child must sign if 12 or older; optional if child is under 12)

4 If there is **one** adopting parent (including stepparent) read and sign:

I am the adopting parent listed in **1**, and I agree that the child will:

- a. Be adopted and treated as my legal child (Family Code, § 8612(b)) and
- b. Have the same rights as a natural child born to me, including the right to inherit my estate.

Date: _____
Type or print your name

Signature of adopting parent



Name of adopting parents: _____

5 If the adopting parent is married and not separated, the consent of their spouse is required (Family Code, § 8603). Spouse must sign here:

I am married to, or am the registered domestic partner of, the adopting parent listed in (1), and I am not a party to this adoption. I agree to the adoption of the child by the adopting parent listed in (1).

Date: _____ Type or print your name Signature of spouse or registered domestic partner (may be signed before hearing)

6 For stepparent adoptions only: If you are the legal parent of the child listed in (2), read and sign below.

I am the legal parent of the child and am the spouse or registered domestic partner of the adopting parent listed in (1). I agree to the adoption of my child by the adopting parent listed in (1).

Date: _____ Type or print your name Signature of legal parent

7 If there are two adopting parents, read and sign below. We are the adopting parents listed in (1), and we agree that the child will:

- a. Be adopted and treated as our legal child (Family Code, § 8612(b)); and
b. Have the same rights as a natural child born to us, including the right to inherit our estate.

I agree to the other parent's adoption of the child.

Date: _____ Type or print your name Signature of adopting parent

I agree to the other parent's adoption of the child.

Date: _____ Type or print your name Signature of adopting parent

8 If this is a tribal customary adoption, read and sign below.

I/we are the adopting parents listed in (1), and I/we agree that the child will:

- a. Be adopted and treated as my/our legal child (Family Code, § 8612(b)) and
b. Have the same rights and duties stated in the tribal customary adoption order dated _____ (copy attached).

If two adopting parents, we agree to the other parent's adoption of the child.

Date: _____ Type or print your name Signature of adopting parent

Date: _____ Type or print your name Signature of adopting parent



Name of adopting parents: _____

Case Number: _____

9 Executed (check one):

a. This form was signed outside of a hearing. (Select this option for either a stepparent adoption to confirm parentage under Family Code § 9000.5, where the court did not order a hearing for good cause, or if the court waived appearance under Family Code, § 8613 or 8613.5.)

(1) This form was signed **in** California.

This form was signed in front of the following type of witness (check one):

- Notary public (the notary acknowledgment is attached)
- Court clerk
- Probation officer
- Qualified court investigator
- Authorized representative of a licensed adoption agency
- County welfare department staff member

(2) This form was signed **outside** of California.

This form was signed in front of the following type of witness (check one):

- Notary public (the notary acknowledgment is attached)
- Other person authorized to perform notarial acts (proof of notarization is attached)
- Authorized representative of an adoption agency that is licensed in the state or country where this form was signed

(3) Witness information

This form was signed in: (county) _____ (state) _____ (country) _____

Name of witness: _____

Agency witness works for (if applicable): _____

Date: _____

Witness signature:  _____

b. This form was signed at a hearing in front of a judicial officer. (The judge will date and sign the form below.)

c. This form was signed while the adopting parent or parents were attending a remote hearing and was acknowledged by the judicial officer.

Date: _____

Judge (or Judicial Officer)

ADOPT-215 Adoption Order

Clerk stamps date here when form is filed.

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Not approved by
the Judicial Council
ADOPT-215.v9.031524.jh

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Adopting parents

a. Name: _____

b. Name: _____

Relationship to child: _____

Street address: _____

City: _____ State: _____ Zip: _____

Daytime telephone number: _____

Lawyer (if any) (name, address, telephone number, email address, and State Bar number): _____

2 Information about the child

Child's name after adoption: _____

First name: _____

Middle name: _____

Last name: _____

Date of birth: _____ Age: _____

Place of birth (if known): _____

City: _____ State: _____ Country: _____

3 Name of adoption agency (if any): _____

4 Hearing details

Hearing date: _____ Dept.: _____ Div.: _____ Rm.: _____

Judicial officer: _____ Clerk's office telephone number: _____

People present at the hearing:

Adopting parent Lawyer for adopting parent

Child Child's lawyer

Parent keeping parental rights: _____

Other people present (list each name and relationship to child):

a. _____

b. _____

Check here if there are more names. Attach a sheet of paper, write "ADOPT-215, Item 4" at the top, and list the additional names and each person's relationship to child. You may use form MC-025, Attachment.

The hearing is waived pursuant to Family Code section 9000.5 (Check this box only if this is an adoption confirming parentage of a parent who was married to or in a state-registered domestic partnership, including a registered domestic partnership or civil union from another jurisdiction, with the legal parent at the time the child was born.)



Name of adopting parents: _____

Case Number: _____

Judge will fill out section below.

- 5 The judge finds that the child (*check all that apply*):
- a. Is 12 or older and agrees to the adoption
 - b. Is under 12
 - c. Is not required to consent because this is a tribal customary adoption.
- 6 The judge has reviewed the report and other documents and evidence and finds that:
- a. Proper notice to all persons with actual or possible parental rights has been provided and their voluntary or nonvoluntary participation is documented in the court file.
 - b. Each adopting parent:
 - (1) Is at least 10 years older than the child or meets the criteria in Family Code section 8601(b);
 - (2) Will treat the child as their own;
 - (3) Will support and care for the child;
 - (4) Has a suitable home for the child; *and*
 - (5) Agrees to adopt the child.
- 7 Child's name before adoption
- Complete for nonrelative agency, independent, intercountry, or stepparent adoption.
If this is an adoption of a dependent child by a relative filed under Family Code section 8714.5, complete only if requested by the adopting relative or by the child being adopted, if 12 years of age or older.*
- First name: _____ Middle name: _____ Last name: _____
- 8 The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act or that there is good cause to give preference to these adopting parents. The clerk will fill out 13 below.
- 9 The judge approves the *Contact After Adoption Agreement* (form [ADOPT-310](#))
- As submitted
 - As amended on form ADOPT-310
- 10 This is a tribal customary adoption. The tribal customary adoption order of the _____ tribe dated _____ containing _____ pages and attached hereto is fully incorporated into this order of adoption.
- 11 This is an adoption under the Hague Adoption Convention. *Verification of Compliance with Hague Adoption Convention Attachment* (form ADOPT-216) is attached and fully incorporated into this order.
- 12 This is an adoption involving and addition parent. The following persons with existing parental rights agree to this adoption and will maintain their existing parental rights:
- a. Name: _____ Relationship to child: _____
Name: _____ Relationship to child: _____
 - b. An agreement waiving termination of parental rights, signed by both the existing parents and the adoptive parent, was filed with the court.



Name of adopting parents: _____

Case Number: _____

13 The judge believes the adoption is in the child’s best interest and orders this adoption. The child’s name after adoption will be:

First name: _____ Middle name: _____ Last name: _____

The adopting parent or parents and the child are now parent and child under the law, with all the rights and duties of the parent-child relationship or, in the case of a tribal customary adoption, all the rights and duties set out in the tribal customary adoption order and Welfare and Institutions Code section 366.24.

The judge believes it will serve public policy and the best interest of the child to grant the request of the adopting parent or parents for the court to make this order effective as of (date): _____.

Date: _____
(Date of Signature)

Judge (or Judicial Officer)

Clerk will fill out section below.

14 **Clerk’s Certificate of Mailing**

For the adoption of an Indian child, the clerk certifies:

I am not a party to this adoption. I placed a filed copy of:

- Adoption Request (form ADOPT-200) Adoption of Indian Child (form ADOPT-220)
- Adoption Order (form ADOPT-215) Contact After Adoption Agreement (form ADOPT-310)

in a sealed envelope, marked “Confidential” and addressed to:

Chief, Division of Social Services
Bureau of Indian Affairs
1849 C Street, NW
Mail Stop 310-SIB
Washington, DC 20240

The envelope was mailed by U.S. mail, with full postage, from:

Place: _____ on (date): _____

Date: _____ Clerk, by: _____, Deputy

ADOPT-230

Adoption Expenses

Clerk stamps date here when form is filed.

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Not approved by
the Judicial Council
ADOPT-230.v3.030824.jh

If you are adopting your stepchild, do not fill out this form.

① Your name (adopting parent):

a. _____

b. _____

Relationship to child: _____

Address (skip this if you have a lawyer):

Street: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

Lawyer (if any): (Name, address, telephone number, and State Bar number): _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known:

Case Number:

② Name of child after adoption:

③ List services you received that were related to the adoption of the child listed in ②. Include all medical, hospital, attorney, legal fees and costs, doctors and physicians, surgeons, licensed adoption agency, or any other person or organization that received payment in connection with the birth of the child, expenses, services received by either birth parent or by the child. (Examples of other services provided: prenatal care, transportation, counseling, adoption service provider, pregnancy expenses, court filing fees, fingerprinting fees.)

Service	Name and address of service provider	How much paid, or value of service	Payment date
a.	_____	\$ _____	_____
b.	_____	\$ _____	_____
c.	_____	\$ _____	_____
d.	_____	\$ _____	_____
e.	_____	\$ _____	_____



Your name: _____

Case Number: _____

Service	Name and address of service provider	How much paid, or value of service	Payment date
f. _____	_____	\$ _____	_____
g. _____	_____	\$ _____	_____
h. _____	_____	\$ _____	_____
i. _____	_____	\$ _____	_____
j. _____	_____	\$ _____	_____
k. _____	_____	\$ _____	_____
l. _____	_____	\$ _____	_____

If you need more space, attach a sheet of paper and write "ADOPT-230, Item 3—Payment for Services" at the top.
Number of pages attached: _____

4 I declare under penalty of perjury under the laws of the State of California that I have listed all payments (or anything of value) that I have paid or agreed to pay, or that were paid on my behalf, related to the child I want to adopt. I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct, which means that if I lie on this form, I am guilty of a crime.

Date: _____
Type or print your name
Signature of adopting parent

Date: _____
Type or print your name
Signature of adopting parent

ADOPT-310

Contact After Adoption Agreement

Original Change

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
ADOPT-310.v7.032024.jh

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Adopting parents:

a. _____

b. _____

Relationship to child: _____

Your address (skip this if you have a lawyer)

Street: _____

City: _____ State: _____ Zip: _____

Your phone number: _____

Your lawyer (if you have one) (name, address, phone number, and State Bar number):

2 Information about the child

a. Child's name (after adoption): _____

b. Date of birth: _____ Age: _____

c. Is the child a dependent of Juvenile Court? No Yes

If yes, list juvenile court and juvenile case number and attach this form to your *Adoption Request* (form ADOPT-200) (Family Code, § 8714.30):

County: _____ Case number: _____

d. Child's Lawyer (If the child has a lawyer, fill out below. If item 2c is yes, child must have a lawyer. See Family Code section 8616.5(d).)

Name of child's lawyer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone number: _____ State Bar number: _____

3 The birth relatives below agree with the requesting parties in 1 about contact with the child after adoption. If the agreement is confidential, write "Confidential" instead of the person's name. Sibling information: May include minor siblings, siblings who are dependents or nonminor dependents, and adult siblings. Consider completion of waiver forms (California Department of Social Services forms AD 904A or AD 904B). See: <https://cdss.ca.gov/inforesources/forms-brochures/forms-alphabetic-list/a-d>.

If you need more space, attach a sheet of paper. Write "ADOPT-310, Item 3—Other Relatives" at the top.

Type of Contact (check all that apply):

 Visits  Phone  Email  Letter  Share Info  Other*

Name	Relationship to Child	Visits	Phone	Email	Letter	Share Info	Other*
a.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Explain type of contact on a sheet of paper. Write "ADOPT-310, Item 3—Other Types of Contact" at the top.

Number of pages attached: _____



Name of adopting parents: _____

Case Number: _____


4 If you have a signed, written agreement about Contact After Adoption, attach a copy.
Number of pages attached: _____


5 The parties have discussed the reasons for continued contact between the child and the specified relatives or other parties, considering the best interests of the child.


Notice


1. The adopting parents must file this form with the court before the finalization hearing or order of the court. A file-marked copy of this agreement must be provided within 30 days of filing, to all adult parties to this agreement, and any licensed agency that placed the child or consented to the adoption and the child, if over the age of 12.
2. After the judge signs the Adoption Order for this child, the adoption is final. It can never be canceled or changed, even if anyone who signed this agreement:
 - Does not follow the agreement, and/or
 - Files form ADOPT-315 (to change, end, or enforce this agreement).
3. Before this agreement can be changed by the court, all of the people who signed it have to try to fix any problems with it through a dispute resolution program, like mediation.


6 Everyone involved in this agreement must sign below (including the child, if 12 or older, and the child's attorney).


Date: _____ *Type or print your name and relationship to child*  _____ *Sign your name*

Date: _____ *Type or print your name and relationship to child*  _____ *Sign your name*

Date: _____ *Type or print your name and relationship to child*  _____ *Sign your name*

Date: _____ *Type or print your name and relationship to child*  _____ *Sign your name*

Date: _____ *Type or print your name and relationship to child*  _____ *Sign your name*

Date: _____ *Type or print your name and relationship to child*  _____ *Sign your name*

If more relatives need to sign, attach a sheet of paper. Write "ADOPT-310, Item 6—Signatures of Other Relatives," at the top.

Number of pages attached: _____

Date: _____

Judge (or Judicial Officer)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Family Law: Custody Forms and a Standard of Judicial Administration Under Senate Bill 599

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend Cal. Stds. Jud. Admin., standard 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Gabrielle D.Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023 (amended February 9, 2024)

Project description from annual agenda: Item 1g. Requires a court to, when making orders relating to parental custody and visitation, consider specified factors pertaining to domestic violence, the best interests of the child, and the safety of the parties, and provides that all stipulated child custody orders must be in the best interest of the child.

Additionally permits a superior court to serve as a supervised visitation and exchange location

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-26

Title

Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Stds. Jud. Admin., std. 5.20; approve form FL-311-INFO; revise forms FL-311, FL-341, and FL-355

Contact

Gabrielle D. Selden, 415-865-8085
gabrielle.selden@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulsey, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes implementing Senate Bill 599 by amending one standard of judicial administration relating to supervised visitation, approving a new information sheet to include the new statutory definition of virtual visitation, and revising three forms relating to child custody and visitation (parenting time) for cases involving allegations of a parent or parents' history of abuse or substance abuse under Family Code section 3011.

Background

Effective January 1, 2024, Senate Bill 599 (Stats. 2023, ch. 493) amended Family Code sections 3011, 3100, and 3200, which relate to child custody orders and the safety of children in child custody proceedings involving allegations of a history of abuse or substance abuse (Link A).

Family Code section 3011

SB 599 supplements amendments to Family Code section 3011 that were previously enacted by Senate Bill 654 (Stats. 2021, ch. 768) (Link B). In general, SB 654 required that the court state

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.

its reasons, in writing or on the record, that the order is in the best interest of the child if the court makes an order for sole or joint custody or unsupervised visitation to a parent in the proceeding who is alleged to have a history of abuse or habitual or continual illegal use of controlled substances under section 3011(a)(2) or (a)(4). SB 654 also provided that the requirement for the court order did not apply if the parties stipulate in writing or on the record regarding custody or visitation. In response, the Judicial Council revised forms FL-311 and FL-341, effective January 1, 2023 (Link C).

Effective January 1, 2024, SB 599 requires that court orders for child custody and visitation (parenting time) involving allegations of abuse or substance abuse under Family Code section 3011 also state that the order “protects the safety of the parties and the child.” It also provides that if the parties do stipulate about child custody or visitation, the contents of the stipulations must be in the best interest of the parties and be specific as to time, place, and manner of transfer of the child. These two amendments require revisions to forms FL-311, FL-341, as well as to form FL-355.

Family Code sections 3100 and 3200

SB 599 also amended section 3100, which relates to visitation rights of a parent. In pertinent part, the statute was amended to define “virtual visitation” and specify that virtual visitation may be used for either supervised or unsupervised visitation.

In addition, SB 599 amended section 3200 relating to the location and providers of supervised visitation and exchange services. The amended statute specifies that “[f]or the purposes of the development of [the] standards [for supervised visitation providers], the term ‘provider’ shall include . . . supervised visitation centers . . . housed in superior court locations.” Section 3200 was also amended to authorize superior courts to designate employees and contractors to provide supervised visitation and exchange services, or assistance with those services.

In response, the proposal includes updating definitions listed in standard 5.20 of the Standards of Judicial Administration and adding and defining the term “virtual visitation.”

The Proposal

California Standards of Judicial Administration, standard 5.20

To reflect the amendments to Family Code sections 3100 and 3200, the committee proposes amending standard 5.20, as follows:

- Subdivision (b)(2) would be expanded to provide that a professional provider includes those housed in superior court locations;
- Subdivision (b)(3) would be expanded to state that a provider may also include those employees designated by the superior court to provide visitation and exchange services or assist with those services;

- In subdivision (b)(4), a second sentence would be added to the definition of “supervised visitation” to specify that supervised visitation includes in-person contact, and that it also includes contact that occurs online (termed “virtual visitation,” and defined in (6));
- Subdivision (b)(6) would be added to include the term “virtual visitation” and define it as it appears in section 3100.

Child Custody and Visitation (Parenting Time) Application Attachment (form FL-311)

To align the content of form FL-311 with changes to section 3011, the committee proposes revising the instructions in items 1b(4) and 3b(4) relating to child custody and unsupervised visitation to:

- Remove the phrase “good for the children” and replace it with “in the best interest of the child”; and
- Expand the instructions to provide that the orders a party requests must be specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323 require.

In addition, the committee proposes revising item 1b(3) to respond to questions raised by court professionals. Item 1b(3) is a request: “I ask that the court NOT order sole or joint custody of the minor child to the person(s) alleged to have a history of abuse or substance abuse (*specify*).” Some expressed that how to complete the item is unclear because it does not have check boxes like in items b(1) and b(2) to select the specific party. In response, the committee proposes revising item 1b(3) to add check boxes for a party to indicate that the request relates to the petitioner, respondent, or other parent or party. This change will clarify how the party should complete the item if it applies to their situation.

The committee also proposes miscellaneous technical changes to the form to improve the user’s experience and reflect proper sentence composition. The proposed changes include adding the number of the item that carries over to the next page (at the top of pages 2 and 3); correcting specific text in items 3 and 5 so that they begin with a lower-case letter; and providing an instruction in items 2.b. about the need to specify the number of pages attached to the form.

What Are Visitation or Parenting Time Orders? (form FL-311-INFO)

The proposed optional form incorporates SB 599’s changes to Family Code section 3100. In addition, it responds to the direction of the Ad Hoc Workgroup on Post-Pandemic Initiatives that the Judicial Council develop materials to ensure that court-ordered virtual visitation works effectively when in-person visitation is unfeasible.¹

¹ Judicial Council of Cal., Advisory Com. Agenda., *Family and Juvenile Law Advisory Committee Annual Agenda—2024* (Oct. 26, 2023), item 7, www.courts.ca.gov/documents/famjuv-annual.pdf. And see footnote 2.

The proposed information sheet is intended to help educate parties and court professionals about visitation (parenting time) orders by providing examples of the four types of orders and defining *virtual visitation* and other terms.

This proposed form also includes links to current information sheets relating to child custody, *Child Custody information Sheet—Recommending Counseling* (form [FL-313-INFO](#)) and *Child Custody Information Sheet—Child Custody Mediation* (form [FL-314-INFO](#)), because the information is also essential for parties to understand to develop parenting plans or request court orders. Two additional included links are to information about supervised visits.

Finally, the proposed information sheet includes a worksheet for parents to use to help plan for virtual visits with their children, whether or not they are supervised by court order. The worksheet can support the effective use of virtual visitation in coparenting situations.²

Child Custody and Visitation (Parenting Time) Order Attachment (form FL-341)

The committee proposes revising items 7c and 9b(3) to conform to the requirements for orders in Family Code section 3011 when there are allegations of a history of abuse or substance abuse by a party in the child custody proceeding.

Item 7c would become item 7c(1), and item 7c(2) would be added, providing: “The orders for child custody are in the best interest of the child and protect the safety of the parties and the child for the reasons described below or in Attachment 7c(2).”

In addition, item 9(b)(3) would be revised to state that, “The orders for visitation (parenting time) are in the best interest of the child, protect the safety of the parties and the child for the reasons described in item 9b(2), and are specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323(c) require.”³

Stipulation and Order for Custody and/or Visitation of Children (form FL-355)

This optional form was developed to serve as the cover sheet of the parents’ agreement about child custody and visitation (parenting time). Parties could attach the agreement that they

² The committee, in a separate proposal, is also recommending approval of another version of this information sheet (form DV-105-INFO). The information sheet is also about visitation and would also include a section on virtual visits. The committee is recommending two slightly different versions of the INFO form because DV-105-INFO would *not* include a worksheet that a parent could use to help prepare for a virtual visit. Because virtual visits are less commonly ordered in domestic violence cases than other types of visitation (e.g., supervised in-person visitation), the committee does not recommend including the worksheet on DV-105-INFO. Instead, that form would include a link to the Self-Help Guide where the worksheet will be made available. The separate proposal, *Protective Orders: Changes to Domestic Violence Forms to Implement New Laws* (SPR24-25), is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

³ Because the new law impacts domestic violence orders as well as family law orders, the committee is also recommending adding the same language in domestic violence (DV) forms in a separate proposal, *Protective Orders: Changes to Domestic Violence Forms to Implement New Laws* (SPR24-25), which is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

completed on pleading paper to form FL-355. Alternatively, instead of using pleading paper, parties may attach any of the Judicial Council order forms that are included as check boxes in the form.

The proposed changes to form FL-355 would ensure that the language in the court order complies with the amendment to Family Code section 3011(a)(5)(B), which provides that “[n]othing in this paragraph eliminates the requirement that the contents of the stipulation be in the best interest of the child and be specific as to time, day, place, and manner of transfer of the child if the parties do stipulate in writing or on the record regarding custody or visitation.”

To reflect that amendment, item 4 in the “Findings and Order” section of the form would be changed to include that the order is: in the best interest of the child or children, specific as to the time, day, place, and manner of transfer of the child or children, as Family Code sections 3011 requires; adopted as the court order; and fully incorporated herein by reference.

The committee also proposes other changes to update the form, as it has not been revised since 2004. The revisions include:

- Changing the title to *Stipulation and Order for Custody and/or Visitation of Children (Parenting Time)*;
- Updating the format of the caption;
- Expanding “Other” to “Other Parent/Party” in the caption and signature lines;
- Using “visitation (parenting time)” throughout the form; and
- Reformatting, reorganizing, and renumbering items to accommodate new content and space limitations.

Alternatives Considered

Forms FL-311, FL-341, and FL-355

The committee considered not taking any action to implement SB 599 but decided that taking no action would mean that court orders for child custody and visitation involving allegations of child abuse or substance abuse would be out of compliance with Family Code section 3011.

The committee considered what forms or rules of court would need to be changed to implement the amendments to Family Code section 3011. The committee concluded that forms FL-311, FL-341, and FL-355 must be revised to include the amendments to Family Code section 3011. The committee determined that no rules of court would need to be amended to implement section 3011.

Proposed form FL-311-INFO

As another means of addressing the statutory definition of “virtual visitation,” the committee considered whether to include a new information sheet, in addition to amending standard 5.20. Because virtual visitation may be used for supervised and unsupervised visitation (parenting

time), proposing amendments to a standard applicable only to supervised visitation would not present complete and accurate information to the public.

The committee also considered revising *Child Custody Information Sheet—Recommending Counseling* (form FL-313-INFO) and *Child Custody Information Sheet—Child Custody Mediation* (form FL-314-INFO) to include more detailed information about visitation (parenting time). Because the current information sheets are so specific to child custody and the mediation process, the committee decided instead to propose a companion information sheet about visitation and parenting time that would reference both forms. A stand-alone form would include information about the kinds of visitation orders that the court can make and direct the parties to other resources specific to this topic.

On balance, the committee decided that it must develop an information sheet that includes information about virtual visitation to respond to SB 599, as well as the recommendations of the Judicial Council’s Ad Hoc Workgroup on Post-Pandemic Initiatives.⁴

Fiscal and Operational Impacts

The impact to the courts would include costs to (1) make copies of the revised forms, (2) educate judicial officers about the new specific orders included in the forms, made under section 3011 (although education will be needed as the result of legislative change whether or not this proposal is approved), (3) revise Self-Help Center packets to include updated forms, and (4) revise activities in case management systems to reflect appropriate order language and changes to form titles.

⁴ Judicial Council of Cal., Advisory Com. Rep., *Interim Report: Remote Access to Courts: Workgroup on Post-Pandemic Initiatives* (Aug. 16, 2021), www.courts.ca.gov/documents/P3-Workgroup-Remote-Access-Interim-Report-8162021.pdf.

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. Cal. Stds. Jud. Admin., std. 5.20, at page 8
2. Forms FL-311, FL-311-INFO, FL-341, and FL-355, at pages 9–19
3. Link A: Sen. Bill 599,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB599
4. Link B: Sen. Bill 654,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB654
5. Link C: Judicial Council advisory committee report (Sept. 2, 2022),
<https://jcc.legistar.com/View.ashx?M=F&ID=11204080&GUID=A2EE8E73-47E5-40A6-8441-C95EC7CE60D2>

Standard 5.20 of the California Standards of Judicial Administration would be amended, effective January 1, 2025, to read:

1 **Standard 5.20. Uniform standards of practice for providers of supervised visitation**

2
3 (a) * * *

4
5 (b) **Definition**

6
7 For purposes of this standard, the following definitions apply:

8
9 (1) * * *

10
11 (2) A “professional provider,” as defined in Family Code section 3200.5, is any
12 person who is paid for providing supervised visitation services, or an
13 independent contractor, employee, intern, or volunteer operating
14 independently or through a supervised visitation center or agency, including
15 those located in superior court facilities.

16
17 (3) A “provider,” as defined in Family Code section 3200, includes any
18 individual who functions as a visitation monitor, as well as supervised
19 visitation centers. A provider may also include those employees and
20 contractors designated by the superior court to provide supervised visitation
21 and exchange services or assistance with those services.

22
23 (4) “Supervised visitation” is contact between a noncustodial party and one or
24 more children in the presence of a neutral third person. Supervised visitation
25 includes in-person contact. It also includes contact that occurs online (termed
26 “virtual visitation,” and defined in (6)).

27
28 (5) * * *

29
30 (6) “Virtual Visitation,” as defined in Family Code section 3100(e), means use of
31 audiovisual electronic communication tools to provide contact between a
32 parent and their children as part of a parenting plan or custody order. Virtual
33 visitation may be supervised or unsupervised, based on the court’s
34 determination of what is in the best interest of the child.

35
36 (c)–(r) * * *

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CHILD CUSTODY AND VISITATION (PARENTING TIME) APPLICATION ATTACHMENT

—This is not a court order—

TO Petition Response Request for Order Responsive Declaration to Request for Order Other (specify):

1. a. Custody. Custody of the minor children of the parties is requested as follows: Attachment 1a.

<u>Child's Name</u>	<u>Date of Birth</u>	<u>Legal Custody to</u> <i>(person who decides about the child's health, education, and welfare)</i>	<u>Physical Custody to</u> <i>(person the child regularly lives with)</i>
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b. Custody with allegations of a history of abuse or substance abuse

- (1) Petitioner Respondent Other parent/party is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.
- (2) Petitioner Respondent Other parent/party is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
- (3) I ask that the court NOT order sole or joint custody of the minor child to the petitioner respondent other parent/party who is (or are) alleged to have a history of abuse or substance abuse.
- (4) Even though there are allegations, I ask that the court make the child custody orders in item 1a. *(Write the reasons why you think it would be in the best interest of the child that the party or parties be granted custody, even though there are allegations against them of a history of abuse or substance abuse. The orders that you request must also be specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323(c) require.)*
 Below: Attachment 1b. Other (specify):

2. Visitation (Parenting Time)

Note: Unless specifically ordered, a child's holiday schedule order has priority over the regular parenting time.

- a. Reasonable right of parenting time (visitation) to the party without physical custody (not appropriate in cases involving domestic violence).
- b. See the attached (specify number of pages): _____ -page document dated (specify date): _____
- c. The parties will go to child custody mediation or child custody recommending counseling at (specify date, time, and location): _____
- d. No visitation (parenting time).

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2. e. Visitation (parenting time). (Specify start and ending date and time. If applicable, check "start of" OR "after school.")

Petitioner's **Respondent's** **Other Parent's/Party's** parenting time (visitation) will be as follows:

(1) **Weekends starting (date):**

(Note: The first weekend of the month is the first weekend with a Saturday.)

1st 2nd 3rd 4th 5th weekend of the month

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(a) The parties will alternate the fifth weekends, with the petitioner respondent other parent/party having the initial fifth weekend, starting (date):

(b) The petitioner respondent other parent/party will have the fifth weekend in odd even numbered months.

(2) **Alternate weekends starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(3) **Weekdays starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(4) Other visitation (parenting time) days and restrictions are [listed in Attachment 2e\(4\)](#) as follows:

3. **Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns**

a. **Supervised visitation (parenting time)**

(1) I ask that petitioner respondent other parent/party have supervised visitation with the minor children according to the schedule in item 2 because of (specify)

(a) domestic violence, child abuse, or neglect.

(b) substance abuse: the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.

(c) other parenting concerns (specify below):

(2) The reasons why the court should make the orders are (specify)

(Write the reasons why you think unsupervised visitation (parenting time) would NOT be in the best interest of the child.)

Below [in Attachment 3a\(2\)](#) Other (specify):

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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- 3. a.** (3) I ask for the following orders about the supervised visitation provider:
- (a) Visitation (parenting time) be monitored by *(name, if known)*:
 - (i) The person or agency is a professional provider. A professional provider must meet the requirements listed in *Declaration of Supervised Visitation Provider (Professional)* ([form FL-324\(P\)](#)) and sign the declaration.
 - (ii) The person is a nonprofessional provider. That person must meet the requirements listed in *Declaration of Supervised Visitation Provider (Nonprofessional)* ([form FL-324\(NP\)](#)) and sign a declaration.
 - (iii) The provider's phone number is *(specify)*:
 - (b) Any costs of supervision be paid as follows: petitioner: _____ percent; respondent: _____ percent.
 other parent/party: _____ percent.

- b. **Unsupervised visitation (parenting time)**
(Complete 3b only if you want the court to order unsupervised visitation to a person alleged to have a history of abuse or substance abuse.)
- (1) Petitioner Respondent Other parent/party _____ is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.
 - (2) Petitioner Respondent Other parent/party _____ is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
 - (3) Even though there are allegations of a history of abuse or substance abuse, I request that the court order unsupervised visitation to *(specify)* petitioner respondent other parent/party.
 - (4) The reasons why the court should make the orders are
(write the reasons why you think it would be in the best interest of the child that the party or parties be granted unsupervised visitation (parenting time) even though there are allegations against them of a history of abuse or substance abuse; the orders that you request must also be specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323(c) require)
 below: [in Attachment 3b.](#) other *(specify)*:

4. **Transportation for visitation (parenting time) and place of exchange**
Note: In cases of domestic violence, the court must have enough information to make orders that are specific as to the time, place, and manner of transfer (exchange) of the child for custody and visitation under Family Code section 6323(c).
- a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles and must have child restraint devices properly installed, as required by law.
 - b. Transportation **to** begin the visits will be provided by *(name)*:
 - c. Transportation **from** the visits will be provided by *(name)*:
 - d. The exchange point at the beginning of the visit will be *(address)*:
 - e. The exchange point at the end of the visit will be *(address)*:
 - f. During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).
 - g. Other *(specify)*:

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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5. **Travel with children** The petitioner respondent other parent/party **must** have written permission from the other parent or party, or a court order, to take the children out of
- a. the state of California.
 - b. the following counties (*specify*):
 - c. other places (*specify*):
6. **Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. I request the orders set out on attached [form FL-312](#).
7. **Children's holiday schedule.** I request the holiday and vacation schedule set out below [on form FL-341\(C\)](#)
8. **Additional custody provisions.** I request the additional orders for custody set out below [on form FL-341\(D\)](#)
9. **Joint legal custody provisions.** I request joint legal custody and want the additional orders set out below [on form FL-341\(E\)](#)
10. **Other.** I request the following additional orders (*specify*):

FL-311-INFO What Are Visitation or Parenting Time Orders?**What is a visitation (parenting time) order?**

A visitation or parenting time order is an order for how your children will spend time with each parent that is in the best interest of your children.

For information about child custody, read:

- *Child Custody Information Sheet—Recommending Counseling* (form [FL-313-INFO](#))
- *Child Custody Information Sheet—Child Custody Mediation* (form [FL-314-INFO](#))

Four Types of Orders• **Scheduled visits**

These are orders with a set schedule of the dates and times that your children will be with each parent. The schedule can include holidays, special occasions, vacations, and other important dates for the family.

• **Reasonable**

These are open-ended orders that allow parents to work out a plan on their own. This type of plan can work if parents get along very well, can be flexible, and communicate well.

• **Supervised visits**

A judge makes these orders when there are safety concerns. A parent and child have a neutral third person watching and listening during the visit. The neutral third person can be nonprofessional or professional.

Professional provider

A professional provider is a person with special training that has passed a background check.

Professional providers charge a fee. They are also mandated reporters which means that they must report suspected child abuse to the local child welfare department (Child Protective Services). Your local court may have a list of local professional providers.

Non-professional provider

A nonprofessional provider is usually a friend or family member who does not have special training and is not paid. If it would be dangerous for your child to be alone with the other parent, this may not be the best option.

For more information about supervised visits, go to:

- selfhelp.courts.ca.gov/guide-supervised-visitation
- courts.ca.gov/cfcc-accesstovisitation.htm

• **No Visits**

The court may make this order when children visiting with a parent, even if supervised, would be physically or emotionally harmful to the children.

What are virtual visits?

California law defines “virtual visits” as use of audiovisual electronic communication tools to provide contact between a parent and their children as part of a parenting plan or custody order. This means that a parent and child must use some kind of electronic communication where they can see and hear each other (for example, Zoom, FaceTime, or WhatsApp). Virtual visits require access to the internet during the visit and may be supervised or unsupervised.

Are virtual visits a good option for us?

Virtual visits may be a good option if you have safety concerns, or if the other parent lives far away from the children. They can also be a good option if the other parent hasn’t seen the children in a long time.

Some cases may not be appropriate for virtual visits, whether supervised or unsupervised. Your child’s age may be a factor. Younger children may not be able to sit through a long virtual visitation. If virtual visitation is part of the court-approved parenting plan, or part of your supervised visits, you can use the worksheet on page 2 to help you plan for the virtual visits.

What about orders for child exchanges?

Child exchanges are when a parent picks up the children from (or drops them off to) the other parent.

If the other parent has unsupervised visits, then they will need to pick up the children from you, or someone else. You can ask for orders that would not require you to meet the other parent, like having the other parent pick up from school or daycare. Or you can ask for supervised exchanges. *Supervised exchanges* means that a neutral third person is involved and will help you with



transferring the children to the other parent so you don't have to meet with the other parent.

How do I ask the court for these orders?


If you already have a family law case, you can ask the court for child custody, visitation (parenting time), and child exchange orders by completing *Request for Order* (form FL-300) and filing it in the court where your case was started. Information about how to file this and other forms is found online at www.courts.ca.gov/documents/fl300info.pdf.

If you need to start a case in family court to ask for these orders, information is available online to help you decide which type of case to file. Go to selfhelp.courts.ca.gov/child-custody/filing-options

Where can I find free legal help?

Contact the self-help center in your court. The staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Find your local court's self-help center at www.selfhelp.courts.ca.gov/find.

What if I need an interpreter at a hearing?

 If you need an interpreter, use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one.

I have a disability. How can I get help?

You may use [form MC-410](#) to request assistance. Contact the disability or ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing.

Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Plan for Your Virtual Visits

(You can use this as a worksheet)

- **Before** your visit, make sure the program, like a mobile app or web app, works on your phone or computer. Make sure you have an internet connection and know how to use the app.
- **Before** your virtual visit or virtual supervised visit, make a plan. For example, have an activity ready, like reading a book to your child. The length of your visit should be age-appropriate. Review the court order to see how long your visit will be.

Write your plan here:

If you have virtual supervised visitation, ask the provider questions ahead of time (for example during your scheduled orientation with the provider). You can write your questions here:

Before your visit, make sure you:

- Find a quiet room or space for your virtual visits or virtual supervised visits.
- Have any games, books, or other activities ready and in front of you.
- Be ready to be flexible. Technical issues may come up that affect your visit.

During your visit, make sure you do **not**:

- Have another person participate in the visit unless a judge gave the person permission to do so.
- Talk about your court case with your child.
- For virtual supervised visitation, whisper or communicate in other ways that would not allow the provider to see or hear your interaction with the child.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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CHILD CUSTODY AND VISITATION (PARENTING TIME) ORDER ATTACHMENT

- TO **Findings and Order After Hearing (form FL-340)** **Judgment (form FL-180)** **Judgment (form FL-250)**
 Stipulation and Order for Custody and/or Visitation of Children (form FL-355)
 Other (specify):

- Jurisdiction.** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (Family Code sections 3400–3465).
- Notice and opportunity to be heard.** The responding party was given notice and an opportunity to be heard, as provided by the laws of the State of California.
- Country of habitual residence.** The country of habitual residence of the child or children in this case is
 the United States Other (specify):
- Penalties for violating this order.** If you violate this order, you may be subject to civil or criminal penalties, or both.
- Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. (*Child Abduction Prevention Order Attachment (form FL-341(B))* is attached and must be obeyed.)
- Child custody.** Custody of the minor children of the parties is awarded as follows:

		Legal custody to: <i>(person who decides about the child's health, education, and welfare)</i>	Physical custody to: <i>(person the child regularly lives with)</i>
<u>Child's Name</u>	<u>Birth Date</u>		

- Child custody orders with allegations of a history of abuse or substance abuse**
(Do not complete this section if the parties have entered, or will enter into, an agreement about child custody and/or visitation (parenting time), in writing or stated in court.)
 - Allegations have been raised in form FL-311, other documents filed in the court, or in a court hearing that
 petitioner respondent other parent/party has (or have) either
 - a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to; or
 - the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
 - The court does NOT grant sole or joint custody of the minor children to petitioner respondent other parent/party
 - (1) Even though there are allegations of a history of abuse or substance abuse, the court GRANTS sole or joint custody of the minor child as set out in item 6.
 (2) The orders for child custody are in the best interest of the child and protect the safety of the parties and the child for the reasons described below: in Attachment 7c(2)

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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8. **Visitation (Parenting Time)**

- a. Reasonable right of visitation to the party without physical custody (**not appropriate in cases involving domestic violence**)
- b. See the attached (*specify number of pages*): _____ -page document
- c. The parties will go to child custody mediation or child custody recommending counseling at (*specify date, time, and location*):

- d. No visitation (parenting time)
- e. Visitation (parenting time) for the petitioner respondent other (*name*):
will be as follows:

(1) **Weekends starting (date):**

(Note: The first weekend of the month is the first weekend with a Saturday.)

1st 2nd 3rd 4th 5th weekend of the month

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(a) The parties will alternate the fifth weekends, with the petitioner respondent other parent/party having the initial fifth weekend, starting (*date*):

(b) The petitioner respondent other parent/party will have the fifth weekend in odd even numbered months.

(2) **Alternate weekends starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(3) **Weekdays starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(4) **Other visitation (parenting time) days and restrictions are** listed in Attachment 7e(4) ([form MC-025](#) may be used for this purpose) as follows:

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9. **Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns**
- a. **Supervised visitation (parenting time)**
- (1) Until further order of the court other (*specify*): _____, the
 petitioner respondent other parent/party (*name*): _____
 will have supervised visitation (parenting time) with the minor children according to the schedule on page 2.
- (2) In addition, **Supervised Visitation Order (form FL-341(A) is attached.**
- b. **Unsupervised visitation (parenting time)**
- (Do not complete this section if the parties have entered or will enter into an agreement about child custody and/or visitation (parenting time), in writing or stated in court.)
- (1) Even though there are allegations of a history of abuse or substance abuse under Family Code section 3011, the
 petitioner respondent other parent/party (*name*): _____
 has (or have) unsupervised visitation (parenting time) with the minor children as described in 8.
- (2) The reasons for granting unsupervised visitation to the person(s) alleged to have a history of abuse or substance abuse are below: [Attachment 9b.](#)
- (3) The orders for visitation (parenting time) are in the best interest of the child, protect the safety of the parties and the child for the reasons described in item 9b(2), and are specific as to time, day, place, and manner of transfer of the child, as Family Code sections 3011 and 6323(c) require.

10. **Transportation for visitation (parenting time) and place of exchange**
- a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles, and must have child restraint devices properly installed, as required by law.
- b. Transportation **to** begin the visits will be provided by the petitioner respondent
 other (*specify*): _____
- c. Transportation **from** the visits will be provided by the petitioner respondent
 other (*specify*): _____
- d. The exchange point at the beginning of the visit will be at (*address*): _____
- e. The exchange point at the end of the visit will be at (*address*): _____
- f. During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).
- g. Other (*specify*): _____

11. **Travel with children.** The petitioner respondent other parent/party (*name*): _____
must have written permission from the other parent or a court order to take the children out of
- a. the state of California.
- b. the following counties (*specify*): _____
- c. other places (*specify*): _____

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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12. **Holiday schedule.** The children will spend holiday time as listed below in the attached schedule. (*Children's Holiday Schedule Attachment (form FL-341(C))* may be used for this purpose.)

13. **Additional custody provisions.** The parties will follow the additional custody provisions listed below in the attached schedule. (*Additional Provisions—Physical Custody Attachment (form FL-341(D))* may be used for this purpose.)

14. **Joint legal custody.** The parties will share joint legal custody as listed below in the attached schedule. (*Joint Legal Custody Attachment (form FL-341(E))* may be used for this purpose.)

15. **Access to children's records.** Both the custodial and noncustodial parent have the right to access records and information about their minor children (including medical, dental, and school records) and consult with professionals who are providing services to the children.

16. **Other (specify):**

THIS IS A COURT ORDER.

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

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PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL v. 3/05/24
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
STIPULATION AND ORDER FOR CUSTODY AND/OR VISITATION (PARENTING TIME) <input type="checkbox"/> MODIFICATION	CASE NUMBER:

The parties signing this stipulation agree that:

- The court has jurisdiction over the minor child or children because California is the child or children's home state.
- The habitual residence of the child or children is the United States of America.
- the parties stipulate that the attached document, dated (specify): _____ and consisting of (number): _____ pages is their custody and/or visitation (parenting time) agreement and request that it be made an order of the court.
- the parties stipulate that the following attached forms are their agreement for custody and/or visitation (parenting time):
 FL-341 FL-341(A) FL-341(B) FL-341(C) FL-341(D) FL-341(E)
 and request that it be made an order of the court.
- The parties acknowledge they were advised that any violation of this order may result in civil or criminal penalties, or both.**

Each party declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF PETITIONER)

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF RESPONDENT)

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF ATTORNEY FOR PETITIONER)

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF ATTORNEY FOR RESPONDENT)

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF OTHER PARENT/PARTY)

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF ATTORNEY FOR OTHER PARENT/PARTY)

FINDINGS AND ORDER

THE COURT FINDS:

- This court has jurisdiction over the minor child or children because California is the child or children's home state.
- The habitual residence of the child or children is the United States of America.
- Both parties have been advised that any violation of this order may result in civil or criminal penalties, or both.

THE COURT ORDERS:

- The agreement of the parties regarding custody and/or visitation (parenting time) described in the attached:
 - document dated (specify): _____ and consisting of (number): _____ pages
 - forms FL-341 FL-341(A) FL-341(B) FL-341(C) FL-341(D) FL-341(E)
 is: in the best interest of the child or children; specific as to the time, place, and manner of transfer of the child or children, as Family Code section 3011 requires; adopted as the order of the court; and fully incorporated herein by reference.

Date: _____

 JUDICIAL OFFICER

For your protection and privacy, please press the Clear This Form button after you have printed the form.

19

Item deferred
Moved to the April 4 meeting

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Trial Courts: Standard 2.2 Diversion Reporting

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Stds. Jud. Admin., standard 2.2

Committee or other entity submitting the proposal:
Court Executives Advisory Committee

Staff contact (name, phone and e-mail): Paarth Malkan, 415-865-7588, paarth.malkan@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): Annual agenda approved by Executive and Planning Committee on December 12, 2023
Project description from annual agenda: CEAC Judicial Branch Statistical Information System Subcommittee: Implement a change to JBSIS data reporting related to standard 2.2(m) (renumbered as of January 1, 2024 from rule 2.2(n)), particularly as it relates to diversion proceedings.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-01

Title

Trial Courts: Standard 2.2 Diversion Reporting

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Stds. Jud. Admin., standard 2.2

Proposed Effective Date

January 1, 2025

Proposed by

Court Executives Advisory Committee
David Yamasaki, Chair
Judicial Branch Statistical Information System Subcommittee
Jake Chatters, Chair

Contact

Paarth Malkan, 415-865-7588,
paarth.malkan@jud.ca.gov

Executive Summary and Origin

The Court Executives Advisory Committee proposes that the Judicial Council amend standard 2.2 of the California Standards of Judicial Administration, which gives guidance to trial courts on the types of matters that remove a case from court control for purposes of calculating computation of time. The standard calls out cases in drug diversion programs under Penal Code section 1000 et seq. but is unclear as to whether other types of diversion programs should be treated similarly. The issue was raised to the committee's Judicial Branch Statistical Information System Subcommittee by a court seeking clarity on whether the time reporting guidelines for drug diversion programs under Penal Code 1000 et seq. were intended to apply to other types of diversion programs. Revising the language in the standard is intended to increase clarity and help ensure consistent data reporting.

Background

Diversion programs are “criminal justice interventions that try to address the root cause of what is driving criminal conduct and incentivize treatment and services. ... Upon successful

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.

completion of diversion, defendants can avoid criminal convictions”¹ Defendants facing felony or misdemeanor charges may enter a diversion program either pretrial or postconviction, depending on the charges and nature of the case. Charges that qualify a defendant for a diversion program, and the various diversion programs themselves, are outlined in part 2, Of Criminal Procedure, title 6, Pleadings and Proceedings Before Trial, of the Penal Code. Figure 1 outlines the Penal Code’s 10 diversion programs.

Figure 1. Diversion programs established under part 2 of title 6 of the Penal Code

	Diversion Program	Penal Code
1	Drug Diversion Program	1000–1000.65
2	Cognitive Disability Diversion Program	1001.20–1001.34
3	Individuals with Mental Disorders Diversion Program	1001.35–1001.36
4	Traffic Violators Pretrial Diversion Program	1001.40
5	Misdemeanor Offenders Diversion Program	1001.50–1001.55
6	Bad Check Diversion Program	1001.60–1001.67
7	Parental Diversion Program	1001.70–1001.75
8	Military Diversion Program	1001.80
9	Theft and Repeat Theft Crimes Diversion Program	1001.81–1001.82
10	Primary Caregiver Diversion Program	1001.83

Standard 2.2 of the California Standards of Judicial Administration provides guidance on trial court case disposition time goals that are “intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts.” (Standard 2.2(b).) Adherence to the standard is based on the computation of time elapsed for case processing and is based on calculations of when cases enter, leave, or are restored to the court’s control. The definitions contained in standard 2.2 ensure that courts are reporting time data correctly and consistently. Standard 2.2(m) outlines the matters that remove a case from the court’s control, which affects the time calculations for case processing.

The Proposal

Standard 2.2(m)(2)(C) specifies removal of a felony or misdemeanor case from the court’s control pending completion of “diversion under Penal Code section 1000 et seq.” However, it is unclear whether “section 1000 et seq.” encompasses just the drug diversion programs in sections 1000–1000.65 or all subsequent sections of the Penal Code that describe diversion programs. Insufficient clarity may lead to inconsistent interpretation and data reporting. To ensure consistent calculation of time across all diversion proceedings, the Court Executives Advisory Committee recommends amending standard 2.2(m)(2)(C) to read “Pendency of completion of

¹ San Francisco District Attorney’s Office, *Understanding Diversion* (fact sheet, undated), <https://sfdistrictattorney.org/wp-content/uploads/2022/03/Diversion-Factsheet.pdf>.

any diversion program under part 2 of title 6 of the Penal Code (commencing with section 1000);”.

Alternatives Considered

As an alternative to amending standard 2.2(m)(2)(C), the Court Executives Advisory Committee considered the implications of maintaining the current language of the standard, which reads as “Pendency of completion of diversion under Penal Code section 1000 et seq.” Maintaining the current language could be read to mean that only drug-related diversion cases are eligible for removal from the court’s control and computation of time to disposition. The committee believed that the authors of the standard did not intend to treat drug diversion cases differently than cases in other types of diversion programs and that the standard should be applied uniformly to all types of diversion programs.

Fiscal and Operational Impacts

Amendment of standard 2.2(m)(2)(C) would have no major fiscal or operational impacts. If amended, courts would need to validate their data reporting to ensure that the change is implemented.

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 implementation matters:

- 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?

Attachments and Links

1. Cal. Stds. Jud. Admin., standard 2.2, at page 4

Standard 2.2 of the California Standards of Judicial Administration would be amended, effective January 1, 2025, to read:

1 **Standard 2.2. Trial court case disposition time goals**

2

3 **(a)–(l) * * ***

4

5 **(m) Cases removed from court’s control excluded from computation of time**

6

7 If a case is removed the court’s control, the period of time until the case is restored to court
8 control should be excluded from the case disposition time goals. The matters that remove a
9 case from the court’s control for the purposes of this section include:

10

11 (1) * * *

12

13 (2) *Felony or misdemeanor cases:*

14

15 (A)–(B) * * *

16

17 (C) Pendency of completion of any diversion program under part 2 of title 6 of the
18 Penal Code (commencing with section 1000) ~~section 1000 et seq.~~;

19

20 (D)–(J) * * *

21

22 **(n) * * ***

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Probate Conservatorship: Care Plan

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Adopt form GC-355A; revise form GC-355

Committee or other entity submitting the proposal:
Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date): October 26, 2023
Project description from annual agenda: The committee will develop a recommendation for revisions to form GC-355, Determination of Conservatee's Appropriate Level of Care, to incorporate the requirements for a care plan in Probate Code sections 2351.2 (added by SB 280 [Stats. 2023, ch. 705, § 1]) and 2352.5 and to make technical and conforming changes.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-28

Title

Probate Conservatorship: Care Plan

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt form GC-355A; revise form GC-355

Proposed Effective Date

January 1, 2025

Proposed by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-Soon Lee, Chair

Contact

Corby Sturges, 415-865-4507
corby.sturges@jud.ca.gov

Executive Summary and Origin

To implement recent legislation, the Probate and Mental Health Advisory Committee proposes adopting one form and revising one form for mandatory use by a conservator of the person to prepare and file the care plan required, effective January 1, 2025, by Probate Code section 2351.2.

Background

Effective January 1, 2007, Senate Bill 1116 (Stats. 2006, ch. 490) added section 2352.5 to the Probate Code to, among other things, require a conservator of the person to determine in writing the appropriate level of care for the conservatee.¹ In the determination, the conservator must evaluate the level of care existing at the beginning of the conservatorship proceedings and then identify the measures necessary to permit the conservatee to continue living in their personal residence or, if the conservatee is not living in their personal residence, develop a plan to allow the conservatee to return to live in their personal residence. (§ 2352.5(b).) If the conservatee is unable to return to live in their personal residence in the foreseeable future, the conservator must explain the “limitations or restrictions” on such a return. (§ 2352.5(b)(2).) Section 2352.5(b) does not require the inclusion of any other elements in the determination of the conservatee’s level of care. The Judicial Council adopted *Determination of Conservatee’s Appropriate Level of*

¹ All further statutory references are to the Probate Code unless otherwise specified.

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.

Care (form GC-355), effective July 1, 2011, for mandatory use to document and file the determination in writing, as required by section 2352.5(c).² The council has never revised the form.

Senate Bill 280 (Stats. 2023, ch. 705) added section 2351.2 to the Probate Code to require a conservator of the person to file with the court a “care plan” for the conservatee for whom the conservator was appointed. A conservator of the person must prepare a confidential care plan for each conservatee for whom they are appointed and must update the plan periodically. The care plan must contain statutorily specified elements, including confidential medical information that must be protected from disclosure to some of the required recipients of the care plan. To facilitate the preparation of the care plan, section 2351.2(c) requires the Judicial Council, effective January 1, 2025, to develop and adopt a mandatory form for the conservator’s use to prepare the care plan and document the conservatee’s appropriate level of care as required by section 2352.5(b). (See also § 2352.5(c).)

The Proposal

This proposal would implement the requirements of Senate Bill 280 (Stats. 2023, ch. 705) by

- revising form GC-355 to incorporate the elements of the care plan, other than confidential medical information, required by section 2351.2(b) and retain the elements of the written determination of the conservatee’s appropriate level of care required by section 2352.5;
- adopting form GC-355A for use to describe required elements of the care plan likely to disclose confidential medical information, which must not be included in copies of the plan delivered to specified recipients; and
- adding two pages to form GC-355 to provide a proof of delivery by mail and detailed instructions to the conservator for delivering and filing.

Form GC-355

As proposed to be revised, the title of the form is changed to *Confidential Conservatorship Care Plan—Probate* to reflect its expanded scope and confidential status. A new set of instructions guides the conservator of the person in completing the plan and outlines the steps required to sign, deliver, and file the plan. (§ 2351.2(a).) The new instructions also discuss statutory exceptions to the requirement to file a plan and warn of the potential consequences of not filing a plan as required. (§ 2351.2(d) & (h).)

After the instructions, items 1 and 2 now ask for basic information such as the conservator’s name, date of appointment, the date on which the proceedings began, and, as required by section 2352.5(b)(1), an evaluation of the conservatee’s level of care on that date.³ Item 3 then asks for

² Judicial Council of Cal., Advisory Com. Rep., *Probate Conservatorship: Determining the Conservatee’s Appropriate Level of Care* (Feb. 24, 2011), www.courts.ca.gov/documents/20110429itema7.pdf.

³ The date of the commencement of the proceedings is also important because the conservatee’s permanent residence on that date is deemed the conservatee’s personal residence for purposes of the conservatorship proceedings. (See Cal. Rules of Court, rule 7.1063.)

information about the conservatee’s current living arrangement, including the address, the date the conservatee began living there, a description of the home or facility, whether the living arrangement is the least restrictive residence appropriate for the conservatee, whether the conservator plans to move the conservatee within 12 months, and whether the residence is the conservatee’s personal residence, as defined. (§ 2351.2(b)(1); see Cal. Rules of Court, rule 7.1063.)

Item 4 asks the conservator to provide information required by section 2352.5(b). Although this information is already included on existing form GC-355, the committee proposes restructuring it to integrate it into the care plan. If the conservatee is living in the personal residence, the conservator must describe the measures needed to allow the conservatee to stay in the residence. (§ 2352.5(b)(1).) If the conservatee is not living in the personal residence, the conservator must give the address of the personal residence and either describe the plan to help the conservatee return to live in the personal residence or, if the conservatee will not be able to return to live in the personal residence in the foreseeable future, explain the reasons for that inability. (§ 2352.5(b)(2).)

The balance of the form, with one exception, seeks information required by SB 280. Items 5 and 6 ask the conservator to describe the conservatee’s current care, to state whether that care is sufficient to meet the conservatee’s needs, and, if it is not, to describe the care arranged or planned to meet the conservatee’s needs. (§ 2351.2(b)(2).) Item 7 updates item 3b on the existing form, asking whether a professional has assessed the conservatee’s needs and, if so, directing the conservator to attach a copy of the evaluation with confidential medical information redacted. The conservator must then, in items 8 and 9, describe their visitation schedule with the conservatee, their actions to ensure that the conservatee is able to exercise the rights to visitation and communication with family and friends, and the conservatee’s normal social and recreational activities. (§ 2351.2(b)(4) & (5).)

In item 10, the conservator must identify any special problems raised by the court investigator, the court, or an interested person and describe how the conservator has addressed or plans to address those problems. (§ 2351.2(b)(6).) To the extent the conservator has access to the information, item 11 asks the conservator to describe the conservatee’s financial needs, giving estimated monthly expenses.⁴ (§ 2351.2(b)(7).)

Form GC-355A

To implement SB 280’s requirement that the care plan include confidential medical information (§ 2351.2(b)(3) & (8); see also § 2351.2(b)(2) & (7)) and that such information be redacted from copies of the plan delivered to the conservatee’s spouse or domestic partner and any relatives (§ 2351.2(a)(2)(B)), the committee proposes that the Judicial Council adopt a new form: *Confidential Medical Information Attachment to Confidential Conservatorship Care Plan—Probate* (form GC-355A). The conservator would use this proposed new attachment to describe

⁴ The statute lists “food, entertainment, rent or mortgage, transportation, utilities, medication, clothing, and other relevant health care and living expenses” as examples of expenses to be included. § 2351.2(b)(7).

the status of the conservatee's health, any medications currently prescribed, and any medical treatments received, supports provided, or devices used. (§ 2351.2(b)(3).) The attachment would also include the required list of all health care providers caring for the conservatee with license type and number, contact information, and a description of the treatment provided (§ 2351.2(b)(8)) as well as any other confidential medical information the conservator wishes to report. Instructions on forms GC-355 and GC-355A would emphasize that the conservator should discuss medical information exclusively on form GC-355A.

Proof of delivery and instructions

The committee proposes adding two new pages to the end of form GC-355: a proof of delivery by mail and instructions intended to assist the conservator in properly delivering forms GC-355 and GC-355A. The proposed new instructions for delivery would make clear that, on completing the plan, the conservator must deliver copies of forms GC-355 and GC-355A to the conservatee and the conservatee's attorney, any conservator of the estate, and that conservator's attorney. They would emphasize that form GC-355A is to be delivered only to these individuals.

The instructions would also state that, unless the court has determined that delivery of the plan will result in harm to the conservatee, the conservator must deliver a copy of form GC-355 *without* form GC-355A to the conservatee's spouse or registered domestic partner and each relative within the first degree (parent or child) or, if the conservatee does not have any of those, to relatives within the second degree (siblings, grandchildren, grandparents) to the greatest extent possible. (§ 2351.2(a)(2).)

Alternatives Considered

The committee did not consider taking no action, because SB 280 mandated the adoption or revision of forms for use in preparing the care plan. The committee did consider proposing that all the information required in the care plan be included in a single form, but determined that asking conservators of the person, most of whom are conservatees' family members, to identify and redact specific confidential medical information from the form would be unduly complex and burdensome. The committee has therefore proposed adoption of an attachment on which statutorily required confidential medical information would be provided.

Fiscal and Operational Impacts

Conservators of the person will need to complete and file the form. Courts may need to program their case management systems to accept filing of the form, though conservators have used form GC-355 to file the determination of level of care required by section 2352.5 since 2011. The costs associated with the proposed form result from the underlying legislative requirements.

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?
- Does the proposed division of the care plan into a primary form to be delivered to all recipients and a confidential medical information attachment to be delivered only to designated recipients appropriately address the statute's mandates to provide medical information in the plan and to maintain the confidentiality of that information?

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 GC-355 and GC-355A, at pages 6–13
2. Link A: Prob. Code, § 2351.2,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=2351.2
3. Link B: Prob. Code, § 2352.5,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=2352.5

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL 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:	
CONSERVATORSHIP OF THE PERSON <input type="checkbox"/> AND ESTATE OF (name): CONSERVATEE	CASE NUMBER:
CONFIDENTIAL CONSERVATORSHIP CARE PLAN—PROBATE <input type="checkbox"/> Initial <input type="checkbox"/> Update <input type="checkbox"/> Limited Conservatorship	
To the Conservator of the Person	
<p>You must use this form and <i>Confidential Medical Information Attachment</i> (form GC-355A) to prepare a care plan for the conservatee. You must complete each item on this form and items 1–4 on form GC-355A unless one of the following exceptions applies.</p> <ul style="list-style-type: none"> • If you are a limited conservator who is the conservatee's parent or child, you must complete items 1–4 on this form. • If you are the Director of Developmental Services or the director's designee and the conservatee has developmental disabilities and is a regional center consumer, you must complete items 1, 3a–3f, and 5–12 on this form and items 1–4 on form GC-355A. <p>Even if you are not required to complete an item, you may do so if you have the information it requests. The court might also require you to include more information in an attachment to this form. Check the court's local rules to find out what you might need to include.</p> <p>You must not discuss confidential medical information on this form. Discuss confidential medical information only on <i>Confidential Medical Information Attachment</i> (form GC-355A); deliver form GC-355A with this form only to the conservatee, the conservatee's attorney, the conservator of the estate, and that conservator's attorney as instructed on page 6.</p> <p>When you have finished the care plan, you must:</p> <ul style="list-style-type: none"> • Sign the completed care plan on page 4 of this form and page 2 of <i>Confidential Medical Information Attachment</i> (form GC-355A); • Deliver the care plan to the persons and in the manner described in the instructions on page 6; and • File the care plan, including form GC-355A, with a completed Proof of Delivery by Mail (page 5) with the court: <ul style="list-style-type: none"> ○ no later than 120 days after the date of the court order appointing you conservator (initial plan); ○ no later than 10 days before a hearing to consider whether to continue or terminate the conservatorship (updated plan); or ○ as directed by the court. <p>For more information about developing, completing, and filing a care plan, see chapters 4 and 6 of the <i>Handbook for Conservators</i>.</p> <p>WARNING: If you do not file a completed care plan by the applicable deadline, the court can remove you as conservator, order you to pay a penalty of up to \$500, and, if you are a professional fiduciary, refer you to the Professional Fiduciaries Bureau for investigation.</p>	

1. I, (name):
am the conservator of the person of the conservatee named above. I was appointed on (date of order):

2. a. These conservatorship proceedings began on (date of filing of first petition for appointment of conservator):
 b. The conservatee's care on that date was was not sufficient to meet the conservatee's needs for the reasons given below. on Attachment 2b.

3. a. The conservatee is currently living at the following address (street, city, state, and zip code; if it is a care facility, give the name):

 Telephone number: Email address:
 b. The conservatee has been living at this address since (date):

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

3. c. The home or care facility identified in item 3a is (check all that apply):
- (1) The conservatee's single family home, condominium, or apartment.
- (2) A relative's or friend's single family home, condominium, or apartment.
- (3) An acute care (a) hospital. (b) psychiatric hospital
- (4) A skilled nursing facility.
- (5) A licensed unlicensed care facility that provides (if you know)
- (a) intermediate care for adults with developmental disabilities.
- (b) residential care for older adults.
- (c) assisted-living services (with 7 or more beds).
- (d) board and care (with 6 or fewer beds).
- (6) Another residence described below. on Attachment 3c.
- d. The home or care facility described above uses a secured (locked) perimeter delayed egress system to regulate the departure of residents.
- e. The home or care facility described above is is **not** the least restrictive residence appropriate for the conservatee for the reasons given below. on Attachment 3e.
- f. I plan do **not** plan to move the conservatee or change the conservatee's residence within the next 12 months for the reasons given below. on Attachment 3f.
- g. The residence described above
- (1) **is** the conservatee's **personal residence** because the conservatee understands or believes, or appears to understand or believe, that it was their permanent residence on the date in item 2; **or** the conservatee cannot form or communicate an understanding or belief about their permanent residence, and it is the residence they last understood or believed, or appeared to understand or believe, to be their permanent residence.
- (2) **is not** the conservatee's **personal residence** because the conservatee understands or believes, or last understood or believed, that a **different** home or care facility was their permanent residence on the date in item 2.
The conservatee's personal residence is located at (street, city, state, and zip code, and, if a care facility, name):
- (3) **is not** the conservatee's **personal residence** because the conservatee does not understand or believe, and has never understood or believed, that they had a permanent residence on the date in item 2.
4. a. The conservatee is living in their personal residence. The measures necessary to allow the conservatee to stay in that residence are described (check all that apply) below. on Attachment 4a.
 in item 5. in item 6. in Confidential Medical Information Attachment (form GC-355A).
- b. (1) The conservatee is not living in their personal residence but **will** be able to return to live in that residence in the foreseeable future. My plan to help the conservatee return to live in their personal residence is described (check all that apply) below. on Attachment 4b(1). in item 5. in item 6.
 in Confidential Medical Information Attachment (form GC-355A).
- (2) The conservatee is not living in their personal residence and will **not** be able to return to live in that residence in the foreseeable future for the reasons described below. on Attachment 4b(2).

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

5. The conservatee is currently receiving the following care or assistance (check all that apply; you may provide additional information about any item in the space after "other care or assistance" or on an attachment. **Note:** Do not discuss confidential medical information on this form. Discuss that information only in Confidential Medical Information Attachment (form GC-355A)):

- a. No care or assistance.
- b. Light housekeeping help.
- c. Personal caregivers for _____ hours per day. 24-hour care.
- d. Assistance with daily living skills.
- e. Nursing care.
- f. Meal preparation assistance.
- g. Assistance with medication: Administering. Setup only.
- h. Assistance with mobility: Hands-on. Standby only.
- i. In-home hospice services.
- j. Other care or assistance, as described below. on Attachment 5j.

6. a. The conservatee's current care and treatment are sufficient to meet the conservatee's needs. I plan to continue the care and treatment described in item 5 and in *Confidential Medical Information Attachment* (form GC-355A).
- b. The conservatee's current care and treatment are **not** sufficient to meet the conservatee's needs. I have arranged or plan to arrange the care described below on Attachment 6b in item 3b of *Confidential Medical Information Attachment* (form GC-355A) to meet the conservatee's needs.
(**Note:** Do not discuss confidential medical information on this form. Discuss that information only in form GC-355A.)

7. The conservatee's care needs have been evaluated by a professional. A copy of the evaluation, including a description of the professional's qualifications, is included as Attachment 7.

IMPORTANT: If the evaluation includes confidential medical information, make sure to redact (block out so no one can read) that information from all copies except the copies delivered to the conservatee, the conservatee's attorney, the conservator of the estate, and the conservator of the estate's attorney.

A professional evaluation of the conservatee's care needs is not required, but is recommended if the circumstances and the conservatee's condition warrant it and the conservatee can afford it.

Note: Include any written evaluation by a professional fiduciary appointed as conservator or proposed for appointment.

CONSERVATORSHIP OF <i>(name):</i>	CASE NUMBER:
CONSERVATEE	

8. a. (1) I live with the conservatee.
 (2) I plan to visit the conservatee on the schedule described below. on Attachment 8a.

b. The steps that I plan to take to ensure that the conservatee is able to visit and communicate with family and friends, consistent with the conservatee's preferences, are described below. on Attachment 8b.

9. a. The conservatee engages in the social or recreational activities described, including location, below. on Attachment 9a.

b. The conservatee is not able to engage in social or recreational activities for the reasons explained below. on Attachment 9b.

10. a. Any problems brought to my attention by the court, the investigator, or an interested person and my plans to address each of those problems are described below. on Attachment 10a.

b. No specific problems have been brought to my attention.

11. a. The conservatee's estimated monthly expenses, to the extent I have access to the information needed to estimate them, in each category listed in Probate Code section 2351.2(b)(7), are stated below. on Attachment 11a.

b. Except for the expenses stated in item 11a, I do not have access to the information needed to estimate the conservatee's monthly expenses.

12. Number of pages attached: _____

Date:

 (TYPE OR PRINT NAME OF CONSERVATOR OF THE PERSON)

 (SIGNATURE OF CONSERVATOR OF THE PERSON)

CONSERVATORSHIP OF <i>(name):</i> _____	CASE NUMBER: _____
CONSERVATEE _____	

PROOF OF DELIVERY BY MAIL

1. I am over the age of 18. I am the appointed conservator of the conservatee named above, the conservator's attorney, or an employee of the conservator's attorney. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is *(specify):* _____
3. I delivered a copy of the *Confidential Conservatorship Care Plan* and *Confidential Medical Information Attachment* (form GC-355A), to each person named in items 1 to 4 below. I delivered a copy of this form but not form GC-355A to the persons named in items 5 through 8 below or on any attachment. I enclosed each copy in an envelope addressed as shown below **and**
 - a. **deposited** the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
 - b. placed the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. a. Date mailed: _____ b. Place mailed *(city, state):* _____

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

Date: _____

_____ <small>(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)</small>	_____ <small>(SIGNATURE OF PERSON COMPLETING THIS FORM)</small>
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NAME AND ADDRESS OF EACH PERSON TO WHOM A COPY OF THE PLAN WAS MAILED

<small>Name and relationship to conservatee</small>	<small>Address <i>(number, street, city, state, and zip code)</i></small>
1. _____ The conservatee	
2. _____ The conservatee's attorney	
3. _____ The conservator of the estate (if not you)	
4. _____ The attorney for the conservator of the estate	

ALERT: Do *not* deliver a copy of the care plan to any person if the court found that delivery to that person would pose a risk of harm to the conservatee. Do *not*, under any circumstances, deliver a copy of form GC-355A to anyone except the persons in 1–4.

5. _____ The conservatee's spouse or registered domestic partner	
6. _____ Relationship: _____	
7. _____ Relationship: _____	
8. _____ Relationship: _____	
9. _____ Relationship: _____	

Continued on an attachment. *(List the name, mailing address, and relationship to the conservatee of each additional person.)*

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

**INSTRUCTIONS FOR DELIVERING COPIES OF
CONFIDENTIAL CONSERVATORSHIP CARE PLAN—PROBATE BY MAIL**

You (the conservator, your attorney, or an employee of your attorney) must deliver a copy of *Confidential Conservatorship Care Plan—Probate* (this form and *Confidential Medical Information Attachment* (form GC-355A)) to each living person in item 1, below. You must also deliver a copy of *Confidential Conservatorship Care Plan—Probate* (this form) **without** form GC-355A to each living person in each applicable category in item 2, below.

You may send each copy of the care plan by mail; these instructions describe how to do that. Alternatively, you may deliver a copy to someone in person or send a copy electronically to someone who has consented to receive electronic service and provided an electronic service address on *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV).

1. **Who must receive the mailing:** You must mail a copy of *Confidential Conservatorship Care Plan—Probate* and *Confidential Medical Information Attachment* (form GC-355A) to each of the following persons:
 - a. The conservatee;
 - b. The conservatee's attorney;
 - c. The conservator of the estate (if the court appointed one); and
 - d. The attorney for the conservator of the estate.
2. You must also mail a copy of *Confidential Conservatorship Care Plan—Probate* but **not** form GC-355A to each of the persons in the following categories. If the court found that delivery of the care plan to one or more of those persons will result in harm to the conservatee, do not mail a copy of either the care plan or the attachment to that person or those persons.
 - a. The conservatee's spouse or domestic partner;
 - b. All the conservatee's relatives in the first degree (parents and children 12 years of age and older);
 - c. If the conservatee has no spouse or registered domestic partner *and* no relatives in the first degree, then all the relatives in the second degree (siblings, grandchildren 12 years of age and older, grandparents);
 - d. If the conservatee has a child, sibling, or grandchild under 12 years of age, then a parent, guardian, or other person having legal custody of the child, sibling, or grandchild with whom the child, sibling, or grandchild resides.
3. **When the mailing must be completed:** If the care plan is an initial plan, you must complete the mailing described above no later than the end of the 120th day after the filing date of the *Order Appointing Probate Conservator* issued in your case. If the care plan is an update, you must complete the mailing no later than the end of the 10th day before the hearing to consider terminating the conservatorship or no later than the date the court orders.
4. **Before you mail:** Make enough copies of pages 1–4 of this form, *Confidential Conservatorship Care Plan—Probate*, to be able to send one to each person in the categories in items 1 and 2, above. Make enough copies of *Confidential Medical Information Attachment* (form GC-355A) to be able to send one to each person in item 1, above.
IMPORTANT: Do **not** send *Confidential Medical Information Attachment* (form GC-355A) to anyone except the persons in item 1.
5. **Fill out Proof of Delivery by Mail:** You (the conservator) or your attorney must fill out the Proof of Delivery by Mail on page 5 of this form, including the names, relationships to the conservatee, and mailing addresses of the persons in the categories in items 1 and 2, above, who are entitled to receive a copy of the plan. If the Proof of Delivery by Mail does not have enough space for the names, relationships, and addresses of all the persons who will receive a copy of the plan, you must show the additional names, relationships, and addresses on one or more additional pages and attach those pages to the Proof of Delivery.
After completing the mailing as described in item 6 below, you or your attorney must date and sign the Proof of Delivery by Mail on page 5 of this form.
6. **How to mail:** You (the conservator), the conservator's attorney of record, or an employee of the attorney, must do the following:
 - a. Place copies of this *Confidential Conservatorship Care Plan—Probate* and, to the persons specified in item 1 above, *Confidential Medical Information Attachment* in sealed envelopes with postage fully prepaid addressed to each person at the address shown for that person on the Proof of Delivery by Mail on page 5 of this form or on attached additional pages.
 - b. Deposit (mail) the sealed envelope(s) with the United States Postal Service on the date and from the place (city and state) shown in item 4 at the top of the Proof of Delivery by Mail on page 5 of this form.
7. **File the care plan:** You (the conservator or your attorney) must file with the court the original *Confidential Conservatorship Care Plan—Probate*, *Confidential Medical Information Attachment*, and a signed and dated Proof of Delivery by Mail (page 5 of this form) with any additional address pages attached.

CONSERVATORSHIP OF <i>(name):</i> CONSERVATEE	CASE NUMBER:
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**CONFIDENTIAL MEDICAL INFORMATION ATTACHMENT TO
CONFIDENTIAL CONSERVATORSHIP CARE PLAN—PROBATE**

To the conservator of the person: Complete items 1–4; complete item 5 if you want to discuss additional confidential medical information; sign at the bottom of page 2; and attach this form to *Confidential Conservatorship Care Plan—Probate* (form GC-355). Follow the instructions for delivery and filing on page 6 of form GC-355.

1. The conservatee has been diagnosed with the following physical or mental health conditions (*check all that apply*):
- a. No known health conditions.
 - b. Physical health conditions described
 below. on Attachment A1b.
 - c. Mental health conditions described
 below. on Attachment A1c.
2. The conservatee is receiving or using the following medical treatment, medications, supports, or devices for one or more of the conditions described in item 1. (*Complete all that apply.*)
- a. No medical treatment, medications, supports, or devices.
 - b. All medical treatments and the conditions treated by each are described below. on Attachment A2b.
 - c. All medications taken and the conditions treated by each are described below. on Attachment A2c.
 - d. All services and supports received, including the reason for each, are described below. on Attachment A2d.
 - e. All devices used and the purpose of each are described below. on Attachment A2e.
3. a. The medical treatment, medications, supports, and devices described in item 2 are sufficient to meet the conservatee's current and foreseeable medical needs.
- b. The additional medical treatment, medications, supports, or devices described below on Attachment A3b are necessary to meet the conservatee's current and foreseeable medical needs.

CONSERVATORSHIP OF <i>(name):</i>	CASE NUMBER:
CONSERVATEE	

4. The following health-care providers are currently providing treatment or care to the conservatee *(give name, professional license type (e.g., physician, cardiologist or other specialist, dentist, psychotherapist) and license number, and contact information for each; if you know, describe the treatment and care provided):*

a. Name: _____ License number: _____
 Professional license type: _____
 Mailing address: _____

 Telephone number: _____ Email address: _____
 Treatment or care provided *(if known)*: _____

b. Name: _____ License number: _____
 Professional license type: _____
 Mailing address: _____

 Telephone number: _____ Email address: _____
 Treatment or care provided *(if known)*: _____

c. Name: _____ License number: _____
 Professional license type: _____
 Mailing address: _____

 Telephone number: _____ Email address: _____
 Treatment or care provided *(if known)*: _____

d. Name: _____ License number: _____
 Professional license type: _____
 Mailing address: _____

 Telephone number: _____ Email address: _____
 Treatment or care provided *(if known)*: _____

Additional providers listed on Attachment A4.

5. Additional confidential medical information is discussed below. on Attachment A5.

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Probate Conservatorship: Confidential Declaration Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Adopt form GC-325; revise form GC-335; revoke form GC-335A

Committee or other entity submitting the proposal:
 Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Recent legislation, including Assembly Bill 1194 (Stats. 2021, ch. 417) and Assembly Bill 1663 (Stats. 2022, ch. 894), modified the probate conservatorship process to clarify the standards for appointment of a conservator, to increase court oversight of a conservator after appointment, to add to the information that the conservator and the court must provide to a conservatee, and to enact a framework for supported decisionmaking. As a result, many conservatorship forms are, either subtly or more clearly, out of date. The committee will develop a recommendation for revisions to multiple conservatorship forms to bring them into conformity with current law.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation:
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-29

Title

Probate Conservatorship: Confidential
Declaration Forms

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt form GC-325; revise form GC-335;
revoke form GC-335A

Proposed Effective Date

January 1, 2025

Contact

Corby Sturges, 415-865-4507
corby.sturges@jud.ca.gov

Proposed by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-Soon Lee, Chair

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes adopting one form, revising one form, and revoking one form related to probate conservatorships. The new form for mandatory use would be used to certify that a conservatee, proposed conservatee, or person alleged to lack capacity is medically unable to attend a hearing that they would otherwise be required to attend. The revised form—also for mandatory use—would (1) expand the scope of the existing capacity declaration to allow the assessing clinician to provide additional information needed by the court to make the legal determinations at issue, and (2) incorporate other capacity determinations related to a conservatee’s treatment for a major neurocognitive disorder, such as dementia. The existing attachment form with the major neurocognitive disorder capacity determinations would be revoked as no longer necessary. The proposal is part of the committee’s project to update the conservatorship forms to conform to recent legislation promoting self-determination for persons subject to protective proceedings, including conservatorships.

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.

Background

California conservatorship law has undergone many changes over the past 18 years. Beginning with the Omnibus Conservatorship and Guardianship Act of 2006,¹ the Legislature has enacted multiple measures intended to protect the rights and interests of conservatees and persons for whom appointment of a conservator is proposed.² Recently, Assembly Bill 1194 (Stats. 2021, ch. 417) and Assembly Bill 1663 (Stats. 2022, ch. 894) amended the conservatorship statutes in several respects to promote self-determination by persons in conservatorships or subject to petitions for appointment of a conservator.

The Probate Code requires an assessment of the needs of a proposed conservatee to determine the appropriateness and extent of a conservatorship, to provide that the health and psychosocial needs of the proposed conservatee are met, and to set goals for increasing a conservatee's functional abilities to the extent possible.³ In addition, the code bars a court from granting a petition for appointment of a conservator unless the court makes an express finding, after considering the proposed conservatee's abilities and capacities with current and possible supports, that "the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee."⁴ To make these determinations and issue narrowly tailored orders that protect a person's interests and preserve their autonomy, the court needs detailed specialized information about the person's physical and mental health and mental capacity.

Currently, a single mandatory form, *Capacity Declaration—Conservatorship* (form GC-335), serves as the vehicle through which experts provide the court with their conclusions to inform several statutory determinations. Items 1 through 4 of the form seek information about the declarant's identity, qualifications, and relationship with the subject of the declaration. Item 5 then implements statutory provisions that authorize a person who is otherwise required to attend or be produced at a hearing not to attend the hearing because of "medical inability."⁵

The balance of form GC-335 serves as the declaration of an expert clinical evaluator regarding the person's mental capacity to give or refuse informed consent to medical treatment generally. Item 6 of the form calls for an assessment of the person's mental functions and identification of any deficits in those functions.⁶ Item 7 then asks the clinician to give their opinion whether the

¹ The Omnibus Act comprised Assembly Bill 1363 (Stats. 2006, ch. 493), Senate Bill 1116 (Stats. 2006, ch. 490), Senate Bill 1550 (Stats. 2006, ch. 491), and Senate Bill 1716 (Stats. 2006, ch. 492). See also Assem. Bill 1727 (Stats. 2007, ch. 553) (Omnibus Act cleanup legislation).

² Unless a distinction between categories is material to the discussion, this proposal refers to members of all these categories jointly as *persons*.

³ Prob. Code, § 1800(b) & (c). Section 1800 was amended by section 4 of AB 1663 (Stats. 2022, ch. 553, § 4). All subsequent statutory references are to the Probate Code unless otherwise specified.

⁴ § 1800.3(b) & (c). Section 1800.3 was amended by section 5 of AB 1663 (Stats. 2022, ch. 553, § 5).

⁵ §§ 1825(a)(2) & (b), 1860.5(e)(2), 1863(b)(1)(B) & (b)(2), 1893(b), 2253(d)(1) & (e), 2356.5(f)(2). See also *id.*, §§ 1956, 2250.4(b), 3141.

⁶ The mental functions in item 6 on form GC-335 are based on the list in section 811.

(proposed) conservatee has or lacks the capacity to consent to medical treatment generally. If a petition seeks authority to place the person in a secured-perimeter residential care facility because of a major neurocognitive disorder (NCD) or to administer medication for care and treatment of major NCDs, the clinician may use *Major Neurocognitive Disorder Attachment to Capacity Declaration—Conservatorship* (form GC-335A) to express opinions whether the person has capacity to give or withhold informed consent to either or both.

This proposal is part of the committee’s continuing effort to update the Judicial Council forms used in probate conservatorship proceedings to implement the Legislature’s intent to promote self-determination and enhance autonomy. The revised form would ask parties and experts to provide more extensive and precise information to the courts, thereby enabling the latter to make fine-grained determinations about a person’s abilities and needs and issue more narrowly tailored orders that limit the intrusions on a conservatee’s autonomy to those necessary to protect those other rights and interests.⁷

The Proposal

Form GC-335 currently contains both a declaration on a person’s medical ability to attend a hearing and a declaration regarding the person’s mental capacity.⁸ The committee proposes revising form GC-335 to focus on a clinical evaluator’s assessment of the person’s mental capacity. This proposed reorganization would lead to the adoption of a new form, *Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship* (form GC-325), for use to make the declaration regarding a person’s ability to attend a hearing.⁹ The proposed revisions to form GC-335 would, among other things, give the evaluator an opportunity to offer opinions on a broader range of issues, including the capacity of a person with a major NCD, such as dementia, to give or withhold informed consent to placement in a secured-perimeter residential care facility for the elderly, the administration of medications appropriate for the care and treatment of a major NCD, or both.¹⁰ This information is currently provided, when applicable, on *Major Neurocognitive Disorder Attachment to Capacity Declaration—Conservatorship* (form GC-335A), which would be revoked because it is no longer needed.

For several reasons, a single form is not suitable to serve both as a declaration regarding a person’s medical ability to attend a hearing and a declaration regarding a person’s mental capacity to perform actions or make decisions. First, the statutory qualifications required to complete a declaration on medical ability differ from those required to complete a capacity

⁷ See, for example, Judicial Council of Cal., Advisory Com. Rep., *Probate Conservatorship: Less Restrictive Alternatives* (July 17, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12246541&GUID=2D040B09-36A5-4157-85D0-428F176C4608>.

⁸ As used in this proposal, “declaration” includes an affidavit. Cal. Rules of Court, rule 1.6(21).

⁹ See *supra* note 5 and accompanying text.

¹⁰ § 2356.5(b) & (c).

declaration.¹¹ Medical inability to attend a hearing may be established by the declaration of a “licensed medical practitioner” or, if the person is an adherent of a religion that calls for reliance on prayer alone for healing, the declaration of an accredited practitioner of that religion who is treating the person. On the other hand, where the law requires a declaration to support a judicial determination that a person lacks legal capacity, that declaration must be executed by a “licensed physician, or a licensed psychologist [who is acting] within the scope of [their] licensure.”¹² Furthermore, the parenthetical instruction in the current form (item 3) that the religious practitioner may address only whether the person is able to attend a hearing (item 5) can be easily overlooked. Completion and submission of items 6 and 7 on current form GC-335 by a religious practitioner would waste time and resources; it could, if unnoticed, also prejudice the determinations in the conservatorship proceeding.

Second, the declaration on medical ability to attend a hearing must contain information different from that contained in a capacity declaration. A person’s medical ability to attend a hearing depends primarily on their physical health on and around the date of the hearing.¹³ A person’s mental capacity, on the other hand, depends on whether any deficits in the person’s mental functions exist, whether those deficits significantly impair the person’s practical abilities, the frequency, severity, and duration of periods of impairment, and the kinds of acts or decisions at issue.¹⁴

Third, the statutes expressly provide that the declaration on medical ability is evidence only of the person’s inability to attend the hearing. The court must not consider that declaration in determining whether the person has or lacks legal capacity to perform an act or make a decision.¹⁵ A capacity declaration, however, provides material evidence to support the court’s determinations whether to appoint a conservator for a person and, if so, what powers to grant to enable the conservator to protect the conservatee. Separating the declarations into two forms will promote the proper use and independent consideration of the contents of each one.

The committee therefore proposes separating current form GC-335 into two forms. The first would be a new mandatory form GC-325, *Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship*. The second would be a revised and retitled form GC-335, *Confidential Capacity Assessment and Declaration—Probate Conservatorship* with content from

¹¹ Compare, for example, section 1893(b) (licensed medical practitioner or, if the person adheres to such a religion, an accredited practitioner of a religion that relies on prayer alone for healing who is treating the person) with section 1890(c) (“a licensed physician, or a licensed psychologist [acting] within the scope of ... licensure”).

¹² E.g., §§ 1890(c), 2365.5(f)(3). See § 1826(a)(4)(B).

¹³ “Emotional or psychological instability is not good cause for the absence of the proposed conservatee from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate *physiological* damage to the proposed conservatee.” § 1825(c), italics added (attendance at hearing on petition for appointment of conservator); see also §§ 1860.5(e)(3), 1863(b)(3), 1893(b), 2253(d)(1).

¹⁴ §§ 811–813.

¹⁵ §§ 1825(b), 1860.5(e)(2), 1863(b)(2), 1893(b), 2253(e).

form GC-335A, *Major Neurocognitive Disorder Attachment to Capacity Declaration—Conservatorship* incorporated into form GC-335.

Confidential Declaration on Medical Ability to Attend Hearing—Probate Conservatorship (form GC-325)

The committee proposes adopting form GC-325 as a separate, standalone form for mandatory use and clarifying the individuals authorized to complete the form. In addition to physicians, the committee proposes expressly authorizing nurse practitioners and physician’s assistants as well as physicians and psychologists to complete the form. This expansion is consistent with the ordinary understanding of the statutory term “licensed medical practitioner.” In addition, these practitioners would, if treating the subject of the request, have the expertise and information needed to complete the declaration.

Capacity Declaration—Conservatorship (form GC-335)

The committee recommends retitling form GC-335 as *Confidential Capacity Assessment and Declaration—Probate Conservatorship* and revising it substantially. To support a judicial determination that a person lacks legal capacity to perform an act or make a decision and should therefore be legally disabled from performing that act or making that decision, the law requires evidence that the person has a deficit in at least one of many specified mental functions and a correlation between the deficit or deficits and the action or decision in question such that the deficit, alone or together with other mental function deficits, significantly impairs the person’s ability to understand and appreciate the consequences of the type of action or decision in question.¹⁶ The current form does not give the clinician an opportunity to identify functional impairments resulting from a deficit, explain how an impairment affects the person’s ability to perform everyday activities, or connect their clinical conclusions to their professional opinions on the ultimate issues of fact in terms that courts can use to decide the cases before them.

Proposed revisions to form GC-335 include:

- Retitling the form as *Confidential Capacity Assessment and Declaration—Probate Conservatorship* to emphasize that the form must be kept confidential and contains more than a conclusory declaration regarding a person’s mental capacity;
- Adding a new introductory section that explains the purpose of the form, a checklist of the specific judicial determinations requested in the petition, and more details about the person to be assessed to inform the clinician of the purpose and context of the assessment;
- Adding detailed instructions to the clinician and requiring the clinician to provide background about the clinician’s relationship with the assessed person; the date and

¹⁶ § 811(a) & (b). The diagnosis of a mental or physical disorder, without more, is not sufficient to warrant a judicial determination that a person lacks the capacity to perform an act or make a decision. § 811(c).

duration of the most recent examination of the person; and the bases of the clinician's conclusions and opinions;

- Adding items for the clinician to discuss the general state of the person's physical and mental condition;
- Expanding former item 6 (now Part II) to allow the clinician to provide a more thorough assessment of the person's mental functions, including an option to indicate whether the person has a mild deficit in each function and an opportunity for the clinician to indicate whether any temporary or reversible factors may be causing or contributing to mental function deficits;
- Adding Part III to allow the clinician to connect any mental function deficit found and described in Part II to the impairment, if any, of the person's ability to perform everyday activities; and
- Expanding, in new Part IV, the number and detail of the items asking the clinician to offer an opinion on questions of ultimate fact—including, if applicable, the questions about the capacity of a person with a major NCD to give or withhold informed consent that are currently on form GC-335A—and correlating these items with the checklist in item 1 of the form.

The committee intends its proposed revisions to provide a form that will allow clinicians to communicate the information courts need to make informed judgments using language that courts will be able to understand and use in the cases before them.

Major Neurocognitive Disorder Attachment to Capacity Declaration—Conservatorship (form GC-335A)

As discussed above, the information and conclusions required to support a judicial determination that a person lacked capacity to give or withhold informed consent (1) to placement in a secured-perimeter residential care facility because of a major NCD and (2) to administration of medication for treatment of major NCDs would be moved to form GC-335. This attachment would no longer be needed. The committee therefore proposes revoking it.

Alternatives Considered

The committee did not consider taking no action because some elements on form GC-335 are inconsistent with the law and need revision to conform. The committee considered maintaining a separate attachment for major NCD declarations, but, as discussed above, determined that that information would be more appropriate as part of the capacity declaration itself. The committee also considered proposing revisions to additional forms but currently lacks the necessary resources.

Fiscal and Operational Impacts

The proposed form revisions are not likely to have any significant fiscal or operational effect on court operations.

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?
- Would adding a space to the caption box on form GC-325, form GC-335, or both, for use to indicate a hearing date be useful?

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 GC-325, GC-335, and GC-335A, at pages 8–19

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY FILE IN CONFIDENTIAL FOLDER DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE <input type="checkbox"/> OTHER	CASE NUMBER:
CONFIDENTIAL DECLARATION ON MEDICAL ABILITY TO ATTEND HEARING—PROBATE CONSERVATORSHIP	

INSTRUCTIONS

1. A petition that requires a hearing
 - a. has been filed in the conservatorship proceeding named above and set for hearing on (date):
The petition is titled (give exact title):
 - b. will be filed in the conservatorship proceeding named above.
2. The (proposed) conservatee is expected to attend the hearing, but may be excused if medically unable to attend. Please complete items 4–8, below, to give your opinion whether the (proposed) conservatee is medically unable to attend.
3. Emotional or psychological instability does not qualify as medical inability to attend unless, because of that instability, attending the hearing is likely to cause the (proposed) conservatee serious and immediate physiological damage.

DECLARANT'S INFORMATION

4. Name:
5. Office address, telephone number, and email:
6. a. I am a California-licensed physician nurse practitioner physician's assistant
 psychologist acting within the scope of my license.
My license number is:
- b. I am an accredited practitioner of a religion that calls for reliance on prayer alone for healing. The (proposed) conservatee is an adherent of my religion and is under my treatment.
7. a. I last examined the (proposed) conservatee on (date):
b. The (proposed) conservatee is is **not** a patient under my ongoing care and treatment.

ABILITY TO ATTEND COURT HEARING

8. a. The (proposed) conservatee is currently able to attend a court hearing (check all that apply):
 in person remotely.
- b. The (proposed) conservatee is medically unable to attend a court hearing (check all that apply):
(1) in person remotely from (date): until (date):
(2) in person remotely for the foreseeable future.
- c. **Factual basis for conclusion** (supporting facts are stated below in Attachment 8c.)

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

Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY FILE IN CONFIDENTIAL FOLDER DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
CONFIDENTIAL CAPACITY ASSESSMENT AND DECLARATION—PROBATE CONSERVATORSHIP	
This form is intended to inform the court about the care and support needed by the person described in item 2 so that the court can determine whether the person needs a conservatorship and, if they do, can determine the appropriate scope of the conservatorship.	

TO THE PETITIONER: Complete items 1 and 2.

1. **The petition.** A petition asks or will ask the court to determine that the person described in item 2 lacks the ability to perform the actions or make the decisions checked below (*check all that apply*):

- a. Provide properly for their own needs for physical health, food, clothing, or shelter. (Probate Code, § 1801(a).)
- b. Stay or return to live safely in their own residence (*Id.*, §§ 2352, 2352.5.)
- c. Give or withhold informed consent to the medical treatment specified in the petition. (*Id.*, §§ 811, 813, 2357.)
- d. Give or withhold informed consent to medical treatment generally. (*Id.*, §§ 811, 813, 1880–1891, 2355.)
- e. Give or withhold informed consent to placement in a secured perimeter (locked) residential care facility for the elderly. (*Id.*, §§ 811, 2356.5.)
- f. Give or withhold informed consent to administration of medication appropriate for care and treatment of major neurocognitive disorders (e.g., dementia). (*Id.*, §§ 811, 2356.5.)
- g. Manage their own financial resources or property. (*Id.*, §§ 811, 812, 1801(b), 1872, 1873; Civil Code, § 39(b).)
- h. Resist fraud or undue influence. (*Ibid.*)
- i. Other (*specify*):

Note to petitioner: Provide a copy of the petition to the clinician who will be assessing the person named in item 2 for the clinician's reference. Do **not** attach *Confidential Supplemental Information* (form GC-312).

2. **The person to be assessed**

- a. Name: _____
 Address: _____
 Telephone number: _____ Email address: _____
 Date of birth: _____
 Highest level of education completed (*grade or degree*): _____
 Marital or partnership status: single married/partnered dissolved widowed
 Preferred language: _____ speaks _____ reads writes

- b. The person currently resides:
 - (1) independently in a house or apartment.
 - (2) in an assisted-living facility.
 - (3) in an intermediate care nursing facility.
 - (4) in a skilled nursing facility.
 - (5) in a secured-perimeter (locked) residential facility.
 - (6) other (*describe*): _____

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name):	CASE NUMBER:
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

TO THE CLINICIAN: Complete items 4 through 31. If you cannot answer one or more applicable questions on the form, please check the appropriate box or, if there is no box, leave the question blank. Secure or destroy your copy of the petition. Do not send it to the court.

3. Instructions. Please complete this form to tell the court,

- in items 4–8, about yourself, your professional background, the assessment, and the bases for your conclusions;
- in Part I, about the general physical and mental health of the person described in item 2;
- in Part II, whether, in your professional opinion, the person in item 2 suffers from any deficits in the mental functions described;
- in Part III, whether the person's mental function deficits, if any, impair their ability to perform, with or without assistance, any of the activities of daily living or instrumental activities of daily living listed; and
- in Part IV, whether the deficits or impairments discussed in Parts II and III lead you to conclude that the person lacks any of the abilities or capacities checked in item 1, describing how the impairments affect each diminished ability or capacity.

Clinician's background and assessment history

- (Name):
 - (Office address, telephone number, and email):
- I am a California-licensed physician. License no: _____
 - I am a California-licensed psychologist acting within the scope of my license. License no: _____
 I have at least two years' experience diagnosing major neurocognitive disorders (including dementia).
 - I have been practicing as a licensed physician or psychologist for _____ years.
- The person named in item 2 is is **not** a patient under my continuing care and treatment.
 - I have known this person for (specify length of time in months or years): _____
- Date of the examination on which this assessment is based or, if based on multiple examinations, the date I most recently examined the person: _____
 - Time spent in most recent examination: _____
- My responses to the questions and prompts on this form are based on (check all that apply):
 - My examination of this person for the purpose of evaluating the person's abilities and capacities.
 - Multiple examinations of this person for purposes of general health care and medical treatment.
 - Administration of standardized examinations or tools that measure the person's mental functioning. All tests administered and dates of administration are listed below in Attachment 8c.
 - My review of the person's medical records.
 - Discussions with other practitioners responsible for providing health care to the person. These discussions are described below in Attachment 8e.
 - Discussions with team members or other professionals who participated in the person's assessment. These discussions are described below in Attachment 8f.
 - Discussions with the person's family or friends (names and relationships given below. in Attachment 8g.)
 - Other sources of information, which are described below in Attachment 8h.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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PART I. GENERAL PHYSICAL AND MENTAL HEALTH

9. Physical health

- a. Overall physical health is: Excellent Good Fair Poor I don't know
- b. Overall physical health is likely to: Improve Remain stable Deteriorate I don't know
 The person should be reevaluated in _____ weeks.
- c. Chronic conditions that require ongoing care and treatment are listed below in Attachment 9c.

10. Mental health

- a. Overall mental health is: Excellent Good Fair Poor I don't know
- b. Overall mental health is likely to: Improve Remain stable Deteriorate I don't know
 The person should be reevaluated in _____ weeks.
- c. All known diagnosed mental health disorders (current *Diagnostic and Statistical Manual of Mental Disorders*) are listed below in Attachment 10c.

PART II. MENTAL FUNCTIONING

This part documents the existence and degree of any deficits found by the assessment in the mental functioning of the person described in item 2. Deficits are indicated as follows:

a = no deficit; **b** = mild deficit; **c** = moderate deficit; **d** = major deficit or no function; **e** = not evaluated or don't know

11. Alertness and attention (ability to recognize and react to a stimulus)

- a. Level of arousal or consciousness (deficit may be shown by lethargy, lack of response without constant stimulation, or stupor)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- b. Orientation to:

(1) Time (When? Year, month, day, hour)	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
(2) Place (Where? State, city, address)	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
(3) Person (Who? Name, relationship)	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
(4) Situation (What? How? Why?)	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
- c. Ability to attend to and concentrate on tasks (ability to attend to a stimulus; concentrate on a stimulus over brief time periods)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------

Notes:

12. Information processing

- a. Memory

(1) Immediate recall	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
(2) Short-term memory and learning (the ability to encode, store, and retrieve information)	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
(3) Long-term memory (ability to remember information from the past)	<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
- b. Understanding (the ability to receive and accurately process information given in written, spoken, visual, or other media)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- c. Communication (the ability to express oneself and indicate preferences in speech, writing, signs, pictures, etc.)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- d. Visual-spatial reasoning (recognition of familiar objects; spatial perception, problem solving, and design)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- e. Quantitative reasoning (the ability to understand basic quantities and make simple calculations)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- f. Verbal reasoning (the ability to compare options, to reason using abstract concepts, and to reason logically about outcomes)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- g. Executive functioning (the ability to plan, organize, and carry out actions (assuming physical ability) in one's own rational self-interest)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------

Notes:

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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a = no deficit; b = mild deficit; c = moderate deficit; d = major deficit or no function; e = not evaluated or don't know

13. Thought processes

- a. Organization of thinking (deficit may be demonstrated by severely disorganized, nonsensical, or incoherent thinking)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- b. Correspondence of thoughts to reality (deficit may be demonstrated by hallucinations or delusions)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------
- c. Control of thoughts (deficit may be demonstrated by uncontrollable, repetitive, or intrusive thoughts)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------

Notes:

- 14. Ability to modulate mood and affect (deficit may be demonstrated by pervasive and persistent or recurrent mood or affect inappropriate in kind or degree to the circumstances)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------

Notes:

- 15. Ability to accept and cooperate with appropriate care or assistance (deficit may be demonstrated by inability to acknowledge illness or disorder, acting without regard for consequences, or inability or refusal to accept appropriate care)

<input type="checkbox"/> a	<input type="checkbox"/> b	<input type="checkbox"/> c	<input type="checkbox"/> d	<input type="checkbox"/> e
----------------------------	----------------------------	----------------------------	----------------------------	----------------------------

Notes:

- 16. Variation (some or all of the deficits noted above vary in frequency, severity, or duration):

Yes No I don't know Variation of deficits is described below in Attachment 16.

Possible Temporary or Reversible Causes of Mental Function Deficits

17. Medications

- a. Is the person currently taking any medication—prescription or nonprescription—that may impair the person's mental functioning?

Yes No I don't know

If yes, each of those medications, with dosage and treatment indications, is listed below in Attachment 17a.

Name	Dosage/Schedule	Indications
------	-----------------	-------------

- b. Each medication listed in item 17a can impair a person's mental functioning as explained

below in Attachment 17b.

- 18. Reversible causes Have temporary or reversible causes of mental impairment been considered, assessed, diagnosed, or treated?

Yes No I don't know All causes considered are discussed below in Attachment 18.

- 19. Physical or emotional factors Are there physical or emotional factors (e.g., hearing, vision, or speech impairment; bereavement; or others) present that could cause some or all of the person's capabilities to appear diminished and that could improve with time, treatment, or assistive devices?

Yes No I don't know Any applicable physical or emotional factors are described below in Attachment 19.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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PART III. EVERYDAY ACTIVITIES

This part describes any impairment of the person's ability to engage in activities of daily living and instrumental activities of daily living due to the mental function deficits discussed in Part II.

20. Activities of Daily Living (care of self and related activities)

- a. Maintain adequate hygiene (for example, bathing, grooming, dressing, caring for teeth, going to the toilet)

Able; fully independent
 Able with advice and passive support
 Able, but only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 20a.
- b. Prepare meals and eat for adequate nutrition

Able; fully independent
 Able with advice and passive support
 Able, but only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 20b.
- c. Identify abuse or neglect and protect self from harm

Able; fully independent
 Able with advice and passive support
 Able, but only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 20c.

21. Instrumental Activities of Daily Living

- a. **Financial** (if appropriate, note dollar limits)

(1) Protect and spend small amounts of cash

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21a(1).
- (2) Manage and use checks; pay monthly bills

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21a(2).
- (3) Enter into a contract (including, for example, to buy, sell, or lease real property or to obtain and use a credit card)

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21a(3).

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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21. b. Medical

(1) Choose and direct caregivers

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21b(1).

(2) Admit self to health-care facility

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21b(2).

(3) Manage own medication (take proper dose as scheduled; refill or renew prescriptions as needed)

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21b(3).

(4) Contact help if ill or in an emergency

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21b(4).

c. Home and community life

(1) Maintain a reasonably safe and clean home or other living environment; arrange for home maintenance or repair

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21c(1).

(2) Recognize and avoid common hazards (for example, a hot stove or poisons)

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21c(2).

(3) Drive a car safely

Able; fully independent
 Able with advice and passive support
 Able only with active assistance
 Unable, no matter type or extent of assistance
 I don't know

Comments below in Attachment 21c(3).

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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21. c. (4) Use public transportation (for example, a bus, a train, or a car with a driver)
 Able; fully independent Able with advice and passive support Able only with active assistance Unable, no matter type or extent of assistance I don't know
 Comments below in Attachment 21c(4).

(5) Initiate and follow a schedule of daily activities
 Able; fully independent Able with advice and passive support Able only with active assistance Unable, no matter type or extent of assistance I don't know
 Comments below in Attachment 21c(5).

PART IV. PERSON'S NEED FOR SUPPORT OR CONSERVATORSHIP

This part gives my professional opinion about the issues checked in item 1 based on my assessment of the person's mental functions, described in Part II, and the person's ability to perform applicable activities or instrumental activities of daily living, described in Part III.

22. Ability to provide properly for personal needs for physical health, food, clothing, or shelter (Probate Code, § 1801(a).)

Based on my assessment of the person's applicable mental functions and abilities, it is my professional opinion that:

- a. The person **has** the ability to provide properly for their own needs for physical health, food, clothing, and shelter without support with the support described below in Attachment 22a.
- b. The person does **not** have the ability to provide properly for their own needs for physical health, food, clothing, or shelter because the person is not able, with or without support, to perform the applicable activities described in Part III of this form below in Attachment 22b.
- c. I do not have enough information to form an opinion on this issue.

23. Ability to live safely in the personal residence (Probate Code, §§ 2352, 2352.5.)

Based on my assessment of the person's applicable mental functions and abilities, it is my professional opinion that:

- a. The person **is** able to live safely in the personal residence (check (1) or (2))
 - (1) without support or supervision.
 - (2) with available and accepted support or supervision. The person needs and will accept (check (A), (B), or (C):
 - (A) Some support; can live in the personal residence with support of family members or friends.
 - (B) Some supervision; can live in the personal residence with in-home supportive services.
 - (C) 24-hour supervision; can live in the personal residence with a live-in caregiver.

Additional information is provided in Parts II and III of this form below in Attachment 23a.

- b. The person is **not** able to live safely in the personal residence even with support or supervision. The person needs placement in a secured residential care facility.
 Additional information is provided in Parts II and III of this form below in Attachment 23b.

- c. I do not have enough information to form an opinion on this issue.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name):	CASE NUMBER:
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

24. Capacity to give or withhold informed consent to the medical treatment specified in the petition (Probate Code, § 2357.)

The following medical treatment has been recommended for the person (*describe*):

Based on my assessment of the person's applicable mental functions and abilities, it is my professional opinion that:

- a. The person **has** the capacity to give or withhold informed consent to the recommended medical treatment because the person can do **all** of the following: (1) respond knowingly and intelligently to questions about the treatment; (2) participate in the treatment decision by means of a rational thought process; and (3) understand (A) the nature and seriousness of the diagnosed disorder, (B) the nature of the recommended treatment, (C) the probable degree and duration of and benefits and risks of the recommended treatment, (D) the consequences of lack of treatment, and (E) the nature, risks, and benefits of any reasonable alternatives to the recommended treatment.
- b. The person **lacks** the capacity to give or withhold informed consent to the recommended medical treatment because the person **cannot do at least one** of the following: (1) respond knowingly and intelligently to questions about the treatment, (2) participate in the treatment decision by means of a rational thought process, or (3) understand at least one of the following: (A) the nature and seriousness of the diagnosed disorder, (B) the nature of the recommended treatment, (C) the probable degree and duration of and benefits and risks of the recommended treatment, (D) the consequences of lack of treatment, or (E) the nature, risks, and benefits of any reasonable alternatives to the recommended treatment.

The reasons for these conclusions are further explained below in Attachment 24b.

- c. I do not have enough information to form an opinion on this issue.

25. Capacity to give or withhold informed consent to medical treatment generally (Probate Code, § 1881.)

Based on my assessment of the person's applicable mental functions and abilities, it is my professional opinion that:

- a. The person **has** the capacity to respond knowingly and intelligently to questions about at least some forms of medical treatment and to participate in at least some treatment decisions by means of a rational thought process.
- b. The person **lacks** the capacity to respond knowingly and intelligently to questions about any form of medical treatment or to participate in a treatment decision by means of a rational thought process because the person cannot understand one or more of the following (*check all that apply*):
- (1) the nature and seriousness of any illness, disorder, or defect that they have or may develop;
 - (2) the nature of any medical treatment that is or may be recommended by their health-care providers;
 - (3) the probable degree and duration of any benefits and risks of any medical intervention that is or may be recommended by the person's health-care providers and the consequences of lack of treatment; or
 - (4) the nature, risks, and benefits of any reasonable alternatives

and the person's inability to understand is linked to one or more of the deficits described in Part II.

- c. I do not have enough information to form an opinion on this issue.

26. Capacity to give or withhold informed consent to placement in a secured-perimeter residential facility for persons with major neurocognitive disorders (Probate Code, § 2356.5.)

- a. The person has a major neurocognitive disorder (such as dementia) as defined in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders*. See Part I of this form for more information.
- b. The person needs or would benefit from placement in a restricted and secure environment for the reasons (for example, wandering, violence, or rejecting care) explained below in Attachment 26b.

- c. Based on my assessment of the person's relevant mental functions and abilities, it is my professional opinion that:

- (1) The person **has** the capacity to give or withhold informed consent to this placement.
- (2) The person **lacks** the capacity to give or withhold informed consent to this placement. The mental function deficit or deficits described in Part III significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to placement in a restricted, secured-perimeter residential facility.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name):	CASE NUMBER:
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

26. d. The proposed placement in a locked or secured-perimeter facility is the **least restrictive placement** appropriate to the person's needs. (Describe the alternative placements you considered and explain why each is inappropriate.)

e. I do not have enough information to form an opinion on this issue.

27. **Capacity to give or withhold informed consent to administration of medication for treatment of major neurocognitive disorders** (Probate Code, § 2356.5.)

a. The person has a major neurocognitive disorder (such as dementia) as defined in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders*. See Part I of this form for more information.

b. The person needs or would benefit from appropriate medications for the care and treatment of major neurocognitive disorders (including dementia). Any medications and the need or potential benefit of each are described below in Attachment 27b.

c. Based on my assessment of the person's relevant mental functions and abilities, it is my professional opinion that:

(1) The person **has** the capacity to give or withhold informed consent to the administration of medications appropriate for the care and treatment of major neurocognitive disorders (including dementia).

(2) The person **lacks** the capacity to give or withhold informed consent to the administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia). The mental function deficit or deficits described in Part III significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to the administration of medications for the care and treatment of major neurocognitive disorders (including dementia).

d. I do not have enough information to form an opinion on this issue.

28. **Ability to manage own financial resources (money and property)** (Probate Code, §§ 1801, 1872.)

Based on my assessment of the person's relevant mental functions and abilities, it is my professional opinion that:

a. The person is able to manage their own financial resources without assistance with available and accepted assistance. If the person is able to manage financial resources with assistance, the nature and extent of that assistance are described in Parts II and III of this form below in Attachment 28a.

b. The person is substantially unable to manage their own financial resources, even with assistance, for the reasons given in Parts II and III of this form below in Attachment 28b.

c. I do not have enough information to form an opinion on this issue.

29. **Ability to resist fraud or undue influence** (Probate Code, §§ 1801, 1872.)

Based on my assessment of the person's relevant mental functions and abilities, it is my professional opinion that:

a. The person is able without assistance with available and accepted assistance to resist fraud or undue influence (excessive persuasion that overcomes the person's free will and results in inequity). If the person is able to resist fraud or undue influence with assistance, the nature and extent of that assistance are described in Parts II and III of this form below in Attachment 29a.

b. The person is substantially unable, even with assistance, to resist fraud or undue influence for the reasons given in Parts II and III of this form below in Attachment 29a.

c. I do not have enough information to form an opinion on this issue.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
---	--------------

30. Other information regarding my assessment of the person's mental functions, any deficits in those functions, and any resulting substantial impairments to the person's ability to understand and appreciate the consequences of acts or decisions is stated below in Attachment 30.

31. Number of pages attached: _____

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):	CASE NUMBER:
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

**ATTACHMENT TO FORM GC-335, CAPACITY DECLARATION—CONSERVATORSHIP,
ONLY FOR (PROPOSED) CONSERVATEE WITH A MAJOR NEUROCOGNITIVE DISORDER**

9. It is my opinion that the (proposed) conservatee HAS does NOT have a major neurocognitive disorder (such as dementia) as defined in the current edition of *Diagnostic and Statistical Manual of Mental Disorders*.

a. **Placement of (proposed) conservatee.** (If the (proposed) conservatee requires placement in a secured-perimeter residential care facility for the elderly, please complete items 9a(1)–9a(5).)

(1) The (proposed) conservatee needs or would benefit from placement in a restricted and secure facility because (state reasons; continue on Attachment 9a(1) if necessary):

(2) The (proposed) conservatee's mental function deficits, based on my assessment in item 6 of form GC-335, include (describe; continue on Attachment 9b(2) if necessary):

(3) The (proposed) conservatee HAS the capacity to give informed consent to this placement.

(4) The (proposed) conservatee does NOT have the capacity to give informed consent to this placement. The deficits in mental function assessed in item 6 of form GC-335 and described in item 9a(2) above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to placement in a restricted and secure environment.

(5) A locked or secured-perimeter facility is is NOT the least restrictive environment appropriate to the needs of the (proposed) conservatee.

b. **Administration of medications.** (If the (proposed) conservatee requires administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia), please complete items 9b(1)–9b(5).)

(1) For the reasons stated in item 9b(5), the (proposed) conservatee needs or would benefit from the following medications appropriate to the care and treatment of major neurocognitive disorders (including dementia) (list medications; continue on Attachment 9b(1) if necessary):

(2) The (proposed) conservatee's mental function deficits, based on my assessment in item 6 of form GC-335, include (describe; continue on Attachment 9b(2) if necessary):

(3) The (proposed) conservatee HAS the capacity to give informed consent to the administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia).

The (proposed) conservatee does NOT have the capacity to give informed consent to the administration of medications appropriate to the care and treatment of major neurocognitive disorders (including dementia). The deficits in mental function assessed in item 6 of form GC-335 and described in item 9b(2) above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of giving consent to the administration of medications for the care and treatment of major neurocognitive disorders (including dementia).

(4) The (proposed) conservatee needs or would benefit from the administration of the medications listed in item 9b(1) because (discuss reasons; continue on Attachment 9b(5) if necessary):

10. Number of pages attached: _____

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Probate Guardianship: Participation of a Minor Ward in Court

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Amend Cal. Rules of Court, rule 7.1016

Committee or other entity submitting the proposal:
 Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): January 15, 2024

Project description from annual agenda: The committee will develop a recommendation to amend California Rules of Court, rule 7.1016 to implement amendments to Family Code section 3042 as they apply to probate guardianships of the person. Under Probate Code section 1514(b)(1), Family Code sections 3020–3032 and 3040–3049, including section 3042, govern the probate court in appointing a guardian of the person. In 2021, Senate Bill 654 (Stats. 2021, ch. 768, § 2) amended Family Code section 3042, which sets conditions on a child's participation and testimony in a family law custody proceeding. The statutory amendments changed those conditions and required the Judicial Council to develop or amend rules of court to implement the section no later than January 1, 2023. The council amended rule 5.250, effective January 1, 2023, to fulfill this mandate with respect to family law child custody proceedings. Because rule 7.1016 implements the requirements of Family Code section 3042 as they apply to guardianships of the person, that rule should have also been amended by January 1, 2023, but it was not.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-30

Title

Probate Guardianship: Participation of a
Minor Ward in Court

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 7.1016

Proposed Effective Date

January 1, 2025

Proposed by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-Soon Lee, Chair

Contact

Corby Sturges, 415-865-4507
corby.sturges@jud.ca.gov

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes amending rule 7.1016 of the California Rules of Court to conform to recent legislation that amended Family Code section 3042. The legislation changed the conditions under which a minor child participates or testifies in court in a child custody or visitation proceeding, including a probate guardianship of the person. The committee also proposes amending the rule to conform more closely to statute by narrowing the scope of its application and expanding the protections afforded to wards who are parties, as well as to clarify its requirements and simplify its language.

Background

The Legislature amended Family Code section 3042 in 2010 to expand the provisions governing a child's participation and testimony in a child custody or visitation proceeding. (Assem. Bill 1050; Stats. 2010, ch. 187.) The legislation required the Judicial Council to adopt a rule of court "establishing procedures for examination of a child witness" and "guidelines on methods other than direct testimony for obtaining information or other input from the child regarding custody or visitation." (*Ibid.*) On the recommendation of the Family and Juvenile Law Advisory Committee

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.

and the Elkins Family Law Implementation Task Force, the Judicial Council adopted rule 5.250, effective January 1, 2012, to fulfill this mandate.¹

A probate guardianship of the person gives custody of a minor child to an adult other than the child’s parent. Probate Code section 1514(b)(1) provides that, “[i]n appointing a guardian of the person, the court is governed by” Family Code sections 3020–3032 and 3040–3049, “relating to custody of a minor.” Thus, Family Code section 3042 governs the probate court in appointing a guardian of the person. Effective January 1, 2013, the Judicial Council approved the Probate and Mental Health Advisory Committee’s recommendation to adopt rule 7.1016, governing the participation and testimony of a ward or a proposed ward in a probate guardianship of the person.²

In 2021, Senate Bill 654 (Stats. 2021, ch. 768, § 2) amended Family Code section 3042 again. The bill required the Judicial Council to develop or amend rules to implement that section no later than January 1, 2023. (Fam. Code, § 3042(j).) On the recommendation of the Family and Juvenile Law Advisory Committee, the council amended rule 5.250, effective January 1, 2023, to implement the statutory amendments made by SB 654.³ Amending rule 7.1016 was not considered at that time.

The Proposal

The proposed amendments to rule 7.1016 would implement the changes to Family Code section 3042 made by SB 654 as they apply to probate guardianships. In particular, SB 654 barred a court from permitting a child to address the court regarding custody or visitation *in the presence of the parties* unless the court found that doing so in the parties’ presence would be in the child’s best interest and stated the reasons for that finding on the record. (Fam. Code, § 3042(f).) The amendment also required the court to provide a way to obtain the child’s input out of the presence of the parties. (*Id.*, § 3042(f)(1).) Proposed amendments to rule 7.1016(e)(1)–(3) would implement those statutory changes as they apply to probate guardianships.

SB 654 also amended section 3042 to impose a duty on the child’s attorney, an evaluator, an investigator, or a child custody recommending counselor to indicate, as soon as feasible, to the judge, the parties or their attorneys, and other professionals serving on the case if a child has changed their preference about addressing the court. (*Id.*, § 3042(h).) Proposed amendments to rule 7.1016(c) would implement those statutory changes as they apply to probate guardianships.

¹ Judicial Council of Cal., Advisory Com. Rep., *Family Law: Children’s Participation and Testimony in Family Court Proceedings* (Oct. 6, 2011).

All further unspecified references to rules are to the California Rules of Court.

² Judicial Council of Cal., Advisory Com. Rep., *Probate Guardianships: Testimony and Alternatives to Testimony of Wards and Proposed Wards in Guardianship Cases* (Aug. 29, 2012).

³ Judicial Council of Cal., Advisory Com. Rep., *Family Law: Child Custody and Visitation in Cases Involving Abuse by Parent and Child Testimony* (Sept. 2, 2022), pp. 2–3, 7, 9, <https://jcc.legistar.com/View.ashx?M=F&ID=11204080&GUID=A2EE8E73-47E5-40A6-8441-C95EC7CE60D2>.

In addition, the committee proposes amendments that would apply the rule’s general provisions to a ward regardless of whether the ward is a party. The protections in rule 7.1016(c)–(e) and (g) currently apply only to a ward who is not a party. Family Code section 3042, however, does not limit its application to a child who is not a party, and a child may be a party to a family law custody proceeding. In particular, a child may be a party to a custody proceeding brought in the context of a Domestic Violence Prevention Act (Fam. Code, §§ 6211(e)–(f), 6229, 6301(a)) case or an action under the Uniform Parentage Act (Fam. Code, § 7630(a)). (See generally Fam. Code, §§ 3021(e)–(f), 3022.) In the absence of a reason for excluding wards who are parties, proposed amendments to rule 7.1016(c)–(e) and (g) would extend their application to a ward who is a party and wishes to participate in the hearing or testify.⁴

On the other hand, the committee proposes that the rule continue to separately address situations in which a ward who is a party receives a discovery request or is called as a witness by another party. These situations are beyond the scope of Family Code section 3042 because they could entail a ward’s unwilling participation or testimony. (Rule 7.1016(h).) Nevertheless, a rule governing the participation and testimony of a ward in a guardianship proceeding would be incomplete without them.

An additional proposed amendment to rule 7.1016(d) would clarify the distinction between a ward 12 years of age or older, who *must* be permitted to address the court *unless* doing so would not be in the ward’s best interest, and a ward younger than 12 years old, who *may* be permitted to address the court *if* doing so would be in the ward’s best interests.⁵

Further proposed amendments would eliminate the existing distinction between a “proceeding,” to which the rule applies, and “[an]other matter subject to this rule,” which, as used, is actually *not* subject to the rule but a matter to which the court may, in an exercise of discretion, apply all or part of the rule. The amendments would instead specify clearly that the rule applies to a ward’s participation and testimony in a hearing on appointment or removal of a guardian of the person, parental visitation of a ward during a guardianship of the person, or the termination of a guardianship of the person. (Rule 7.1016(b)(1).) The court would have discretion to apply the rule’s provisions to the participation or testimony of a ward in any other hearing in a guardianship of the person or of the estate. (Rule 7.1016(b)(2).)

⁴ Excluding a ward who is a party from the scope of the rule’s protections could be problematic for another reason. Probate Code section 1043(b) authorizes an interested person to appear and make a response or objection orally at a hearing. In line with this statute and probate practice, rule 7.1016(a)(2) would treat a ward as a party if the ward filed a petition or made a response or objection in a guardianship proceeding. A ward who was not a party to a guardianship would thus become a party by virtue of expressing to the court a preference regarding a matter before the court. It does not make sense to afford the protections of Family Code section 3042 to a ward before they have begun to address the court but not afterward.

⁵ Rule 7.1016(d)(2)–(3). This distinction aligns with, but is not limited to, the Probate Code’s authorization of a minor child 12 years of age or older to file a petition for appointment of a guardian for themselves and thereby become a party. (Prob. Code, § 1510(a); see also Fam. Code, § 3042(c)–(d).)

Alternatives Considered

The committee did not consider taking no action because legislation mandated revisions to the rule. The committee considered limiting its proposed amendments to those necessary to conform to the amendments to Family Code section 3042 enacted by SB 654. On reviewing the rule, however, the committee determined that additional amendments were needed to (1) bring the rule into conformity with existing law more generally, (2) clarify its requirements and the scope of its application, and (3) simplify its language.

Fiscal and Operational Impacts

The proposal is not expected to generate any additional costs for the courts. If there are costs to implement the proposal, they would result from the underlying legislative action.

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. Cal. Rules of Court, rule 7.1016, at pages 5–13
2. Link A: Fam. Code, § 3042,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3042
3. Link B: Prob. Code, § 1514,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=1514

Rule 7.1016 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 7.1016. Participation and testimony of wards in guardianship proceedings**
2 **(Prob. Code, § 1514(b)(1); Fam. Code, § 3042)**

3
4 **(a) Definitions**

5
6 As used in this rule, ~~the following terms have the meanings specified:~~

- 7
8 (1) “Ward” includes a “proposed ward.”
9
10 (2) ~~A “proceeding” is a matter before the court for decision in a probate~~
11 ~~guardianship of the person that concerns appointment or removal of a~~
12 ~~guardian, visitation, determination of the ward’s place of residence, or~~
13 ~~termination of the guardianship by court order.~~
14
15 (3) ~~“Party,” as used in this rule to~~ when referring to the a ward, means indicates a
16 ward who has filed a petition or ~~opposition~~ made a response or objection to a
17 petition concerning a proceeding or other matter subject to this rule in a
18 probate guardianship proceeding.
19

20 **(b) Purpose and scope of rule**

- 21
22 (1) This rule applies ~~Family Code section 3042~~ to the participation and testimony
23 of the a ward in a proceeding in a probate hearing on:
24
25 (A) Appointment or removal of a guardianship of the person, including
26 appointment of a successor guardian;
27
28 (B) Parental visitation of a ward in a guardianship of the person; or
29
30 (C) Termination of a guardianship of the person. The testimony of other
31 minors in a guardianship case is governed by Evidence Code sections
32 765(b) and 767(b).
33
34 (2) The court may, in its discretion, may apply all or part of this rule, in whole or
35 in part, to the participation and testimony of a ward in a hearing in a
36 guardianship of the estate or in a matter before the court in a guardianship of
37 the person that is not a proceeding within the meaning of this rule. The phrase
38 “or other matter subject to this rule” following the term “proceeding” is a
39 reference to the matters described in this paragraph a hearing in a
40 guardianship of the person on a matter not described in (1).
41

- 1 (3) ~~No statutory mandate, rule, or practice requires a ward who is not a party to~~
2 ~~the proceeding or other matter subject to this rule to participate in~~ This rule
3 ~~does not require a ward to address the~~ court or prohibits ~~him or her~~ a ward
4 ~~from doing so. When a ward desires to participate but is not a party to the~~
5 ~~proceeding or other matter subject to this rule, the court must balance the~~
6 ~~protection of the ward, the statutory duty to consider the wishes of and other~~
7 ~~input from the ward, and the probative value of the ward's input while~~
8 ~~ensuring all parties' due process rights to challenge evidence relied on by the~~
9 ~~court in making decisions affecting the ward in matters covered by the rule.~~
- 10
- 11 (4) ~~This rule rather than r~~Rule 5.250, on children's participation and testimony in
12 ~~family court proceedings, applies in~~ does not apply to probate guardianship
13 proceedings.
- 14
- 15 (5) Nothing in this rule limits the application of Evidence Code sections 765(b)
16 and 767(b) to the testimony of a minor in a guardianship proceeding.

17

18 **(c) Determining whether ~~the nonparty~~ a ward wishes to address the court or has**
19 **changed their preference about addressing the court**

- 20
- 21 (1) The following persons must inform the ~~court~~ judicial officer if they ~~have~~
22 ~~information indicating~~ are aware that a ward ~~who is not a party~~ wishes to
23 address the court ~~in a proceeding or other matter subject to this rule:~~
- 24
- 25 (A) The ward's ~~counsel;~~ attorney or guardian ad litem;
- 26
- 27 (B) A court or county guardianship investigator;
- 28
- 29 (C) A child custody recommending counselor who provides
30 recommendations to the judicial officer under Family Code section
31 3183; or
- 32
- 33 (D) An expert appointed by the court under Evidence Code section 730 to
34 assist the court in the matter; ~~or.~~
- 35
- 36 (E) ~~The ward's guardian ad litem.~~
- 37
- 38 (2) ~~The following persons~~ A party to the proceeding or a party's attorney may
39 inform the ~~court~~ judicial officer if they ~~have information indicating~~ that a
40 ward ~~who is not a party~~ wishes to address the ~~court in a proceeding or other~~
41 ~~matter subject to this rule:~~ court.
- 42
- 43 (A) A party in the guardianship case; and

1
2 (B) ~~An attorney for a party in the guardianship case.~~

3
4 (3) In the absence of information indicating that a ward ~~who is not a party~~ wishes
5 to address the court ~~in a proceeding or other matter subject to this rule~~, the
6 judicial officer may inquire whether the ward wishes to do so.

7
8 (4) If a ward informs any of the persons specified in (1) that the ward has
9 changed their preference about addressing the court, that person must, as
10 soon as feasible, inform the parties or their attorneys, the ward's attorney or
11 guardian ad litem, the court investigator, and the judicial officer of that
12 change.

13
14 (d) **Guidelines for determining Determining whether addressing the court is in the**
15 **nonparty a ward's best interest**

16
17 (1) ~~When~~ If a ward who is not a party indicates that he or she wishes to address
18 the court, the judicial officer must consider whether involving permitting the
19 ward in the proceeding or other matter subject to this rule to address the court
20 is in the ward's best interest.

21
22 (2) If the ward is 12 years old or older, the judicial officer must ~~hear from~~ permit
23 the ward to address the court unless the court makes a finding finds that
24 addressing the court is not in the ward's best interest and states the reasons
25 for that finding on the record.

26
27 (3) If the ward is younger than 12 years of age, the court may permit the ward to
28 address the court if the court finds that addressing the court is appropriate and
29 in the ward's best interest.

30
31 (4) In determining whether addressing the court is in the ward's best interest, the
32 judicial officer should consider the following:

33
34 (A) Whether the ward is of sufficient age and capacity to form an
35 intelligent preference as to the matter to be decided;

36
37 (B) Whether the ward is of sufficient age and capacity to understand the
38 nature of testimony;

39
40 (C) Whether ~~information has been presented indicating that~~ the ward may
41 be at risk of emotionally harm if ~~he or she is~~ permitted or denied the
42 opportunity to address the court; ~~or that~~

1 (D) Whether the ward may benefit from addressing the court;

2
3 ~~(D)~~ (E) Whether the subjects ~~areas~~ about which the ward is anticipated to
4 address the court are relevant to the court's decision ~~the court must~~
5 make;

6
7 ~~(E)~~ (F) Whether ~~the~~ appointment of ~~counsel under Probate Code section 1470~~
8 an attorney or a guardian ad litem for the ward would be helpful to the
9 determination or ~~would be~~ necessary to protect the ward's interests; and

10
11 ~~(F)~~ (G) Whether any other factors weigh in favor of or against ~~having~~
12 permitting the ward to address the court, taking into consideration the
13 ward's desire to do so.

14
15 (e) **Guidelines for receiving testimony and other input from the nonparty a**
16 **ward**

17
18 ~~(1) No testimony of a ward may be received without such testimony being heard~~
19 ~~on the record or in the presence of the parties. This requirement may not be~~
20 ~~waived.~~

21
22 ~~(2) On deciding to take the testimony of a ward who is not a party in a~~
23 ~~proceeding or other matter subject to this rule, the judicial officer should~~
24 ~~balance the necessity of taking the ward's testimony in the courtroom with~~
25 ~~parents, the guardian or proposed guardian, other parties, and attorneys~~
26 ~~present with the need to create an environment in which the ward can be open~~
27 ~~and honest. In each case in which a ward's testimony will be taken, the~~
28 ~~judicial officer should consider:~~

29
30 ~~(A) Where the testimony will be taken;~~

31
32 ~~(B) Who should be present when the testimony is taken;~~

33
34 ~~(C) How the ward will be questioned; and~~

35
36 ~~(D) Whether a court reporter is available in all instances, but especially~~
37 ~~when the ward's testimony may be taken outside the presence of the~~
38 ~~parties and their attorneys. If the court reporter will not be available,~~
39 ~~whether there are other means to collect, preserve, transcribe, and make~~
40 ~~the ward's testimony available to parties and their attorneys.~~

41
42 (1) Unless the court determines that permitting a ward to address the court in the
43 presence of the parties would be in the ward's best interest and states the

1 reasons for that finding on the record, the court must not permit the ward to
2 address the court in the presence of the parties.

3
4 (2) In determining the best interest of the ward under (1), the court must consider
5 whether addressing the court in the presence of the parties is likely to be
6 detrimental to the ward.

7
8 (3) If the court does not permit the ward to address the court in the presence of
9 the parties, the court must provide an alternative method for the ward to
10 address the court so that the court can obtain input directly from the ward on
11 the record. If a court reporter is not available, the court must provide other
12 means to obtain the ward's input and make it available to the parties and their
13 attorneys.

14
15 (3) (4) ~~In taking testimony from a ward who is not a party to the proceeding or~~
16 ~~other matter subject to this rule, the court must take~~ exercise the special care
17 required by Evidence Code sections 765(b) and 767(b) to the extent that
18 those sections apply. In addition, if ~~If~~ the ward is not represented by an
19 attorney and the court does not appoint one, the court must inform the ward
20 in an age-appropriate manner about the ~~limitations on~~ to the confidentiality of
21 testimony and that the information provided to the court will be on the record
22 and provided to the parties in the case.

23
24 (4) (5) ~~In the process of listening to and inviting the ward's input, the court must~~
25 ~~allow but not require the ward to state a preference regarding the matter to be~~
26 ~~decided in the proceeding or other matter subject to this rule and should~~
27 provide information in an age-appropriate manner about the process by which
28 the court will make a decision.

29
30 (5) (6) ~~In any case in which a ward who is not a party to the proceeding or other~~
31 ~~matter subject to this rule will be called to testify, the court must consider the~~
32 ~~appointment of counsel for the ward under Probate Code section 1470 and~~
33 ~~may consider the appointment of a guardian ad litem~~ appointing an attorney
34 or a guardian ad litem for the ward. ~~In addition to satisfying the requirements~~
35 ~~for minor's counsel under rule 7.1101, minor's counsel~~ The attorney or
36 guardian ad litem must:

37
38 (A) Provide information to the ward in an age-appropriate manner about the
39 ~~limitations on~~ to the confidentiality of testimony and indicate to the
40 ward ~~the possibility that~~ the information provided to the court will be
41 on the record and provided to the parties in the case;
42

- 1 (B) ~~Allow but not require the ward to state a preference regarding the~~
2 ~~issues to be decided in the proceeding or other matter subject to this~~
3 ~~rule, and p~~Provide information to the ward in an age-appropriate
4 manner about the process by which the court will make a decision;
5
- 6 (C) If appropriate, provide the ward with an orientation to the courtroom or
7 other place where the ward will testify; and
8
- 9 (D) Inform the parties and the court about the ward's desire to testify or
10 otherwise provide input.
11
- 12 (6) (7) If the court precludes ~~the calling of a ward who is not a party~~ from testifying
13 ~~as a witness in a proceeding or other matter subject to this rule, the court~~
14 must provide alternatives to testimony for ~~the court to obtaining~~ information
15 about the ward's preferences or other input ~~from the ward. These alternatives~~
16 may include:
17
- 18 (A) ~~A~~ Participation of a court or county guardianship investigator
19 ~~participating~~ in the case under Probate Code section 1513 or 1513.2;
20
- 21 (B) Appointment of a child custody evaluator or investigator under
22 Evidence Code section 730;
23
- 24 (C) Appointment of counsel or a guardian ad litem for the ward;
25
- 26 (D) ~~Admissible~~ Receipt of admissible evidence provided by the ward's
27 parents, parties, or witnesses in the proceeding or other matter subject
28 to this rule;
29
- 30 (E) ~~Information provided by~~ Receipt of information from a child custody
31 recommending counselor authorized under Family Code section 3183
32 to make a recommendation to the court; and
33
- 34 (F) ~~Information provided~~ Receipt of information from a child interview
35 center or professional to avoid unnecessary multiple interviews.
36
- 37 (7) (8) If the court precludes ~~the calling of a ward who is not a party~~ from testifying
38 ~~as a witness in a proceeding or other matter subject to this rule and specifies~~
39 ~~one of the other~~ an alternatives to testimony, the court must require that the
40 information ~~or evidence~~ obtained by through that alternative means and
41 provided by a professional (other than counsel for the ward or counsel for any
42 party) or a other nonparty:
43

- 1 (A) Be documented in writing and fully ~~document~~ reflect the views
2 expressed by the ward's views on the matters ~~on which he or she~~
3 ~~wished to express an opinion~~ to be decided;
4
5 (B) Describe the ward's input in sufficient detail to assist the court in
6 making its decision;
7
8 (C) Be obtained and provided to the court and to the parties by a person
9 who will be available for testimony and cross-examination; and
10
11 (D) Be filed in the confidential portion of the case file.

12
13 **(f) Responsibilities of court-connected or appointed professionals—~~all wards~~**
14

15 A child custody evaluator, an expert witness appointed under Evidence Code
16 section 730, an investigator, or a child custody recommending counselor ~~or other~~
17 ~~eustody mediator~~ who is appointed or assigned to ~~meet with~~ obtain information
18 from a ward and provide the information to the court and the parties must:
19

- 20 (1) ~~Provide information to~~ Inform the ward in an age-appropriate manner about
21 the ~~limitations on~~ to the confidentiality of testimony and ~~the possibility that~~
22 information provided to the professional ~~may~~ will be shared with the court on
23 the record and provided to the parties in the case;
24
25 (2) ~~Allow but not require the ward to state a preference regarding the issues to be~~
26 ~~decided in the proceeding or other matter subject to this rule, and provide~~
27 ~~information~~ Inform the ward in an age-appropriate manner about the process
28 by which the court will make a decision; ~~and~~
29
30 (3) Allow but not require the ward to state a preference regarding the issues to be
31 decided by the court; and
32
33 (3) (4) ~~Provide to~~ Give the other parties ~~in the case~~ information about how best to
34 support ~~the interest of~~ the ward during the court process.
35

36 **(g) ~~Methods of p~~Providing information to parties and supporting nonparty wards**
37

38 Courts should provide information to ~~the parties and~~ information and support to ~~the~~
39 a ward who is not a party to the proceeding or other matter subject to this rule when
40 if the ward wants to participate or testify. Methods of providing information or
41 support may include:
42

- 1 (1) ~~Having~~ Directing court or county guardianship investigators ~~and or~~ experts
2 appointed under Evidence Code section 730 to meet jointly or separately with
3 the parties and their attorneys to discuss alternatives to having the ward
4 provide direct testimony;
- 5
- 6 (2) Providing an orientation for the ward ~~about~~ to the court process and the role
7 of the judicial officer in making decisions, ~~how the~~ setup of the courtroom or
8 chambers ~~will be set up where the ward will testify or address the court,~~ and
9 ~~what the process of~~ participating or testifying ~~will entail~~;
- 10
- 11 (3) Providing information to parties before the ward participates or testifies so
12 that they can consider the possible effect on the ward of participating or ~~not~~
13 ~~participating in the proceeding or other matter subject to this rule~~ testifying;
- 14
- 15 (4) ~~Appointing counsel under Probate Code section 1470~~ an attorney or a
16 guardian ad litem for the ward to assist in the provision of information to the
17 ward concerning his or her decision to participate ~~in the proceeding~~ or testify;
- 18
- 19 (5) Including information in guardianship orientation presentations and
20 publications about the options available to a ward ~~who is not a party to the~~
21 ~~proceeding or other matter subject to this rule~~ to participate or testify or not
22 to do so, and the consequences of a ward's decision ~~whether~~ to become a
23 party to the proceeding ~~or other matter subject to this rule~~; and
- 24
- 25 (6) Providing an interpreter for the ward.

26

27 **(h) If the a ward is a party to the proceeding**

28

- 29 (1) A ward who is a party ~~to the proceeding or other matter subject to this rule~~ is
30 subject to the law of discovery ~~applied~~ applicable to parties in civil actions
31 and may be called as a witness by any other party unless the court makes a
32 finding that ~~providing information in response~~ requiring the ward to respond
33 to discovery requests or testifying as a witness ~~is~~ would not be in the ward's
34 best interest and states the reasons for that finding on the record.
 - 35
 - 36 (2) The court must consider appointing ~~counsel under Probate Code section 1470~~
37 an attorney or a guardian ad litem for a ward who is a party ~~to the proceeding~~
38 ~~or other matter subject to this rule~~ if the ward is not represented ~~by counsel~~.
 - 39
 - 40 (3) In determining whether ~~providing information in response~~ requiring a ward to
41 respond to discovery requests or testifying as a witness ~~is~~ would be in the
42 ward's best interest, the judicial officer should consider ~~the following~~:
- 43

- 1 (A) Whether ~~information has been presented indicating that~~ the ward may
 2 be at risk of emotionally harm if ~~he or she is permitted or denied the~~
 3 opportunity to provide information in response required to respond to
 4 discovery requests or by testimony testify;
- 5
- 6 (B) Whether the subjects ~~areas about which~~ that the ward's responses or
 7 testimony is anticipated to provide information in response to discovery
 8 requests or by testimony are expected to address are relevant to the
 9 court's decision the court must make; and
- 10
- 11 (C) Whether any other factors weigh in favor of or against having requiring
 12 the ward provide information in response to respond to discovery
 13 requests or by testimony testify.
- 14
- 15 (4) In taking testimony from a ward ~~who is a party to the proceeding or other~~
 16 ~~matter subject to this rule~~, the court must ~~take~~ exercise the special care
 17 required by Evidence Code sections 765(b) and 767(b) to the extent that
 18 those sections apply. ~~In addition, if~~ If the ward is not represented by an
 19 attorney and the court does not appoint one, the court must inform the ward
 20 in an age-appropriate manner about the ~~limitations on~~ to the confidentiality of
 21 testimony and that the information provided to the court will be on the record
 22 and provided to the parties in the case.

23

24 **(i) Education and training of ~~judicial officers and court staff~~**

25

26 Education and training ~~content~~ for court staff and judicial officers should include
 27 information on:

- 28
- 29 (1) A ward's² participation in proceedings or other matters subject to this rule,
 30 guardianship hearings;
- 31
- 32 (2) Methods other than direct testimony for receiving input from a ward to give
 33 relevant information and input to the court;
- 34
- 35 (3) Procedures for taking a ward's testimony, consistent with the safeguards in
 36 this rule, Family Code section 3042, and Evidence Code sections 765(b) and
 37 767(b); and
- 38
- 39 (4) The differences in the application of this rule to wards who are parties and
 40 those who are not parties to the proceeding or other matters subject to this
 41 rule.
- 42

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/28/24

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Traffic: Officer's Declaration in Trial by Written Declaration

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form TR-235

Committee or other entity submitting the proposal:
Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, 415-865-5327 Jamie.Schechter@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: A stakeholder requested the Traffic Advisory Committee consider revision of treatment of Engineering and Traffic surveys (ETS) on this form, specifically the term "on file with the court" in box 4 and 5.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-32

Title

Traffic: Officer's Declaration in Trial by
Written Declaration

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise form TR-235

Proposed Effective Date

January 1, 2025

Proposed by

Traffic Advisory Committee
Hon. Maria Lucy Armendariz, Chair

Contact

Jamie Schechter, 415-865-5327
Jamie.Schechter@jud.ca.gov

Executive Summary and Origin

The Traffic Advisory Committee proposes changes to form TR-235, *Officer's Declaration*, used in trials by written declaration for certain traffic infractions. The committee proposes to revise the form to state that an officer should verify that the current version of the engineering and traffic survey (ETS) is on file with the court before checking a box that states the ETS is on file. The committee also proposes to amend an out-of-date reference to the length of validity of an ETS and other minor updates to the form.

Background

Vehicle Code section 40902 allows a defendant to contest a citation in writing without having to make a personal court appearance—a procedure called “trial by written declaration.” Trials by written declaration are available in cases involving infraction violations of the Vehicle Code or violations of local ordinances adopted under the Vehicle Code. California Rules of Court, rule 4.210 provides procedures for trials by declaration. As part of the trial by declaration process, the clerk requests a written declaration from the citing officer. (Rule 4.210(b)(5).) The officer's declaration is form TR-235. (Rule 4.210(i)(4).)

For speeding infractions, form TR-235 allows an officer to check a box stating that the ETS is on file with the court. Vehicle Code section 627(a) defines an ETS as “a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities.” An ETS is a report prepared by civil engineers for

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.

municipalities; an ETS for speed limits must be conducted at least once every 5, 7, or 14 years, depending on different criteria. (Veh. Code, § 40802.) In 2021, Vehicle Code section 40802 was amended to extend the validity of a survey conducted more than 7 years ago to 14 years; it had previously been 10 years. (Assem. Bill 43 (Stats. 2021, ch. 690).)

Additionally, court staff identified a concern regarding form TR-235 and questioned whether a court is required to have the ETS whenever an officer checks the box stating that the ETS is on file with the court. When a municipality commissions an ETS, the court may or may not have a current copy on file. The ETS can be necessary to prove a foundational element in an infraction case involving speeding. However, no authority was located that requires courts to keep the surveys on file. For courts that do not have the survey on file for a given case, allowing an officer to check a box stating that the ETS is on file, without first verifying that fact, is problematic for the trial-by-written-declaration process.

The Proposal

The committee proposes revising form TR-235 at items 4b and 5b to state that an officer should verify that the ETS is on file with the court before checking the box that states that it is. Further, to comply with Vehicle Code section 40802, the committee proposes revising the form at item 6 to change the maximum length of validity of the ETS conducted more than 7 years ago to 14 years. The committee also proposes some minor rewording for clarity and plain language.

Alternatives Considered

The committee considered correcting only the out-of-date reference in item 6 of the form but determined that the check boxes concerning an ETS being on file with the court should be addressed. The committee also considered combining items 4, 5, and 6, which all concern the ETS, but determined the form closely follows Vehicle Code section 40802 and that changes may not be warranted, especially since no stakeholders had suggested reorganizing the form. The committee, concerned that officers may have an advantage over defendants in filling out the form, also considered removing some of the pre-printed officers' declarations under item 1a. However, the committee determined that the declarations in item 1a are foundational in nature and generally do not provide a substantive account of the facts. The committee may consider revisiting the trial by written declaration forms in the future.

Fiscal and Operational Impacts

Courts may need to make case management system updates and will need to produce 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. Form TR-235, at pages 4–5
2. Link A: Veh. Code, § 40902,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH§ionNum=40902
3. Link B: Veh. Code, § 627,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=627.&lawCode=VEH
4. Link C: Veh. Code, § 40802,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40802.&lawCode=VEH
5. Link D: Assem. Bill 43 (Stats. 2021, ch. 690),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB43

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: TELEPHONE:	FOR COURT USE ONLY	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:		
OFFICER'S DECLARATION (Trial by Written Declaration—Vehicle Code, § 40902)		
RETURN DATE:	ARRESTING/CITING OFFICER NAME/ID NO.:	CITATION NUMBER/DATE ISSUED:
AGENCY NAME:	OFFICE [IF ANY]:	CASE NUMBER:

INSTRUCTIONS: The defendant in the case listed above has opted for trial by written declaration under Vehicle Code section 40902. The officer named above must check all statements that apply, date, sign, and complete and return this form to the court named above by the return date.

1. **OFFICER'S DECLARATION:** Except as expressly stated below, I have personal knowledge of the facts stated herein. The events occurred in the County of *(specify)*: _____ at about the date, time, and location stated in the citation.
 - a. At the time of the citation I was a peace officer **on duty** for the exclusive or main purpose of traffic enforcement not for the exclusive or main purpose of traffic enforcement, and I was was not wearing a uniform as required by Vehicle Code section 40800. Any vehicle used by me complied with Vehicle Code section 40800.
 - b. The offense(s) were not committed in my presence.
 - c. Any statement(s) made by the defendant were voluntary, recorded verbatim not verbatim and is/are reasonably complete and accurate in substance.
 - d. Safety is an element of the violation alleged. In my opinion, the defendant's operation of the vehicle was unsafe.
 - e. Any equipment used by me to gather evidence in support of this violation was properly maintained, in good working order, and I have been trained in its use.
 - f. Any traffic sign, signal, or device mentioned was official and properly located, maintained, in good working order, and clearly visible to a driver of a vehicle controlled, governed, or affected by such sign, signal, or device.
 - g. Any diagram(s) submitted is/are not exact or to scale, but is/are reasonably complete, accurate, and fairly depict(s) the location, situation, and events described.
 - h. Speed supported by the patrol vehicle's speedometer was a significant factor. Pursuant to department policy, the patrol vehicle used in connection with this citation was officially calibrated on *(date)*: _____
 The result was *(specify)*: _____
 The calibration was considered by me in determining defendant's speed.
 - i. Defendant was identified by Driver's License or other *(specify)*: _____
2. **THE METHOD(S) USED TO DETERMINE THE SPEED OF THE INVOLVED VEHICLE WAS/WERE:**

a. <input type="checkbox"/> Odometer	e. <input type="checkbox"/> Laser
b. <input type="checkbox"/> Visual estimation	f. <input type="checkbox"/> Aircraft
c. <input type="checkbox"/> Pacing	g. <input type="checkbox"/> Other <i>(specify)</i> : _____
d. <input type="checkbox"/> Radar (see items 4, 5, 6, below)	
3. Engineering and traffic survey (ETS) not required per Vehicle Code section **40802(a)(2)**.
4. ETS completed within five (5) years prior to date of alleged violation.
 - a. ETS attached.
 - b. ETS on file with the court. **(Note: Verify court has a current ETS on file before checking this box.)**
5. ETS completed within five (5) and seven (7) years prior to date of alleged violation.
 - a. ETS attached.

(Continued on reverse)

PEOPLE v. DEFENDANT (Name):	CASE NUMBER:
-----------------------------	--------------

- 5. b. ETS on file with the court. (Note: Verify court has a current ETS on file before checking this box.)
 - c. Arresting/citing officer has successfully completed a radar operator course of not less than 24 hours approved and certified by the Commission on Peace Officer Standards and Training (POST).
 - d. Laser or other electronic device was used to measure speed. Arresting/citing officer successfully completed an additional training course of not less than two hours approved and certified by POST.
 - e. The speed measuring device used to measure the speed of defendant (Serial No: _____) meets or exceeds the minimum operational standards of the National Highway Traffic Safety Administration (NHTSA) and was last calibrated on (date): _____ by an independent certified laser/radar repair and testing/calibration facility.
 - f. Equipment accuracy check conducted on (date): _____ at (time): _____ and again on (date): _____ at (time): _____
6. ETS completed within seven (7) and fourteen (14) years prior to the date of the alleged violation.
- a. A registered engineer has evaluated the section of the highway in question and has determined that no significant changes in roadway or traffic conditions have occurred.
 - b. All of the elements marked under item 5, above, that are applicable.

7. **FACTS AND CIRCUMSTANCES** (Type or print only. State what happened):

Continued on attachment.

8. **OTHER EVIDENCE AND STATEMENTS** (Explain any other evidence and statements):

Continued on attachment.

9. **DIAGRAM(S)** (specify):

Attached.

10. Number of pages attached: _____

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

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE)

ID Number: _____

Agency NCIC Number: _____

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/28/24

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Traffic: Mandatory Reminder Notices—Traffic Procedures

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Amend Cal. Rules of Court, rule 4.107

Committee or other entity submitting the proposal:
Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, 415-865-5327 Jamie.Schechter@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: A stakeholder requested the Traffic Advisory Committee consider revision of Cal. Rules of Court, rule 4.107 to clarify whether reminder notices are required for all infractions or Vehicle Code infractions only, and if it is required for all infractions, clarification about the procedure for litigants who do not have an address on file with the Department of Motor Vehicles.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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INVITATION TO COMMENT

SPR24-33

Title

Traffic: Mandatory Reminder Notices—
Traffic Procedures

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 4.107

Proposed Effective Date

January 1, 2025

Proposed by

Traffic Advisory Committee
Hon. Maria Lucy Armendariz, Chair

Contact

Jamie Schechter, 415-865-5327
jamie.schechter@jud.ca.gov

Executive Summary and Origin

The Traffic Advisory Committee proposes revising a rule of court to clarify the procedures for a court to follow for sending infraction notices. The committee proposes exceptions to the notice procedures when a court does not have a litigant’s address or the information necessary (or the technological capability) to send a notice electronically. Additionally, the proposal includes revisions to improve readability and changes to comply with current law.

Background

In December 2016, the Judicial Council adopted California Rules of Court, rule 4.107, effective January 1, 2017. This rule requires courts to send courtesy/reminder notices that inform litigants how to resolve their traffic cases. The current rule does not make clear whether it applies only to Vehicle Code infractions or to all infractions. The original invitation to comment stated that rule 4.107 would require “that trial courts send ‘courtesy notices’ to traffic defendants before an initial appearance, and would specify information that must be provided to defendants in those notices.”¹ The Judicial Council report recommending adoption of rule 4.107 states that the rule

¹ Invitation to comment (SP16-08), at p. 1, www.courts.ca.gov/documents/SP16-08.pdf.

would “require that trial courts send reminder notices to traffic defendants.”² The word “traffic” as used in this context is a nonspecific term and can be interpreted to mean only Vehicle Code infractions, or more broadly, to mean all infractions.

The current rule also contains references to the civil assessment amount³ and consequences for failing to appear or pay⁴ that are no longer accurate. Additionally, the rule does not contain a procedure for courts to follow when a courtesy/reminder notice is undeliverable due to the lack of a valid physical mailing address, which occurs most often with persons who are experiencing homelessness.

The Proposal

The committee proposes clarifying that rule 4.107 applies to all infractions. In addition, the committee suggests adding an appropriate procedure for courts to follow when a litigant does not have a valid physical mailing address and electronic notice is not feasible because the court does not have the necessary information or the court does not possess the technological ability to send one. Finally, the committee proposes revisions to rule 4.107 to reflect changes in the law.

The following revisions are intended to clarify the rule’s language and scope:

- Specify that rule 4.107 applies to all infractions, not just infractions under the Vehicle Code;
- Add that if a court cannot send a reminder notice because either there is no valid address or doing so electronically is not possible, the court need not send a reminder notice in those circumstances;
- Consolidate procedures in 4.107(b).

The following revisions are needed due to changes in the law:

- Change the civil assessment amount from \$300 to \$100; and
- Eliminate outdated consequences for failure to appear or pay.

Alternatives Considered

The committee determined the current scope of rule 4.107 was unclear and considered whether rule 4.107 should be clarified to apply to all infractions or only Vehicle Code infractions. The committee understands that most courts have interpreted rule 4.107 to apply to all infractions but some courts have not interpreted the rule in this manner. The committee concluded that applying

² Judicial Council of Cal., Advisory Com. Rep., *Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations* (Dec. 1, 2016), at p. 2, <https://jcc.legistar.com/View.ashx?M=F&ID=4817182&GUID=D0F79B3B-0A7E-40FC-9F2A-C79D7B4F9024>.

³ Assem. Bill 199 (Stats. 2022, ch. 57).

⁴ Assem. Bill 2746 (Stats. 2022, ch. 800).

the rule to all infractions would ensure better access to justice.⁵ The committee also considered taking no action to clarify the procedure to follow when a litigant does not have a valid mailing address, as smaller courts may not experience a large impact on court operations from undeliverable courtesy/reminder notices. However, the committee recognized that different jurisdictions, especially larger ones, may experience a significant impact on operations from undeliverable reminder notices.

Fiscal and Operational Impacts

Courts that have interpreted rule 4.107 to apply only to Vehicle Code infractions will need to change their operations to send reminder notices for all infractions.

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. Cal. Rules of Court, rule 4.107, at page 4
2. Link A: Assem. Bill 199 (Stats. 2022, ch. 57)
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB199
3. Link B: Assem. Bill 2746 (Stats. 2022, ch. 800)
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2746

⁵ A stakeholder advised that the problem regarding undeliverable courtesy/reminder notices is generally, although not always, related to non-Vehicle Code infractions.

Rule 4.107 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 4.107. Mandatory reminder notice—traffic procedures**

2
3 **(a) Mandatory reminder notice for infractions**

- 4
5 (1) Each court must send a reminder notice to the address shown on the *Notice to*
6 *Appear*, ~~unless the defendant otherwise notifies the court of a different address~~
7 or an alternate address of which the defendant notifies the court.
8
9 (2) The court may satisfy the requirement in ~~paragraph~~ (1) by sending the notice
10 electronically, including by ~~e-mail~~ email or text message, to the defendant. By
11 providing an electronic address or number to the court or to a law enforcement
12 officer at the time of signing the promise to appear, a defendant consents to
13 receiving the reminder notice electronically at that electronic address or number.
14
15 (3) If the court cannot comply with (1) because the defendant does not have a valid
16 mailing address or with (2) because the court does not have the necessary
17 information or the technological capability to send reminder notices
18 electronically, the court need not send a reminder notice.
19
20 (4) The failure to receive a reminder notice does not relieve the defendant of the
21 obligation to appear by the date stated in the *Notice to Appear*.
22

23 **(b) Minimum information in reminder notice**

24
25 In addition to information obtained from the *Notice to Appear*, the reminder notice
26 must contain, at least the following information:
27

- 28 (1) An appearance date and location;
29
30 (2) Whether a court appearance is mandatory or optional;
31
32 (3) The total bail amount and payment options, including procedures for
33 requesting installment plans, community service, and an ability-to-pay
34 determination;
35
36 (4) The notice about traffic school required under Vehicle Code section 42007, if
37 applicable;
38
39 (5) Notice that a traffic violator school will charge a fee in addition to the
40 administrative fee charged by the court;
41
42 (6) The potential consequences for failure to appear or pay, including ~~a driver's~~
43 ~~license hold or suspension~~, a civil assessment of up to ~~\$300~~ \$100, a new

Rule 4.107 of the California Rules of Court would be amended, effective January 1, 2025, to read:

- 1 charge for failure to appear, a warrant of arrest, or some combination of these
- 2 consequences, if applicable;
- 3
- 4 ~~(7) The potential consequences for failure to pay a fine, including a driver's~~
- 5 ~~license hold or suspension, a civil assessment of up to \$300, a new charge for~~
- 6 ~~failure to pay a fine, a warrant of arrest, or some combination of these~~
- 7 ~~consequences, if applicable;~~
- 8
- 9 ~~(8) The right to request an ability to pay determination;~~
- 10
- 11 ~~(9) Notice of the option to pay bail through community service (if available) and~~
- 12 ~~installment plans (if available);~~
- 13
- 14 ~~(10)(7)~~ Contact information for the court, including the court's website;
- 15
- 16 ~~(11)(8)~~ Information regarding trial by declaration, informal trial (if available),
- 17 and telephone or website scheduling options (if available); and
- 18
- 19 ~~(12)(9)~~ Correction requirements and procedures for correctable violations.
- 20
- 21

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/28/24

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Traffic: Instructions for Notice to Appear and Related Forms

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form TR-INST

Committee or other entity submitting the proposal:
Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, 415-865-5327 Jamie.Schechter@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: Traffic citation forms, including form TR-130 (commonly known as a "ticket") fall within the purview of the Traffic Advisory Committee. A revised form TR-130 was adopted by the council on September 19, 2023. The Traffic Advisory Committee expects to make conforming changes to the remaining citation forms based on the new form TR-130.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

As noted in the invitation to comment's Alternatives Considered section and as implied by the committee's annual agenda, the proposal began as a bigger project to potentially revise forms TR-INST, TR-100, TR-106, TR-108, TR-115, TR-120, TR-140. The committee focused on TR-INST instead of proposing changes to the other forms.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-34

Title

Traffic: Instructions for Notice to Appear and Related Forms

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise form TR-INST

Proposed Effective Date

January 1, 2025

Proposed by

Traffic Advisory Committee
Hon. Maria Lucy Armendariz, Chair

Contact

Jamie Schechter, 415-865-5327
jamie.schechter@jud.ca.gov

Executive Summary and Origin

The Traffic Advisory Committee proposes revising form TR-INST for clarification. Form TR-INST provides a manual of instructions for the notice to appear and related forms that include forms TR-100, TR-106, TR-108, TR-115, TR-120, TR-130, and TR-140. The proposal addresses technical amendments and corrections and responds to several suggestions from forms users.

Background

The Judicial Council form TR-130 (commonly known as a “notice to appear” or “ticket”) is statutorily mandated by Vehicle Code section 40500. This statute requires the Judicial Council to prescribe the notice to appear used when a person is arrested for misdemeanor or infraction violations of the Vehicle Code. (Veh. Code, § 40500(b).) When a notice to appear issued on a Judicial Council form is verified by the issuing officer, it constitutes a complaint in a criminal case. (Pen. Code, § 853.9; Veh. Code, § 40513(b).) Penal Code section 959.1(d) permits a court to receive and file an electronic notice to appear form approved by the Judicial Council. Each law enforcement agency prints its own citations or uses an e-citation platform.

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.

In 2021, the Traffic Advisory Committee convened a working group to undertake an extensive redesign of form TR-130.¹ In 2023, the Judicial Council adopted a revised form TR-130 (along with revised forms TR-140 and TR-INST) with an effective date of January 1, 2024. To help with implementation of the redesigned form TR-130, form TR-INST would benefit from additional technical and clarifying changes.

The following is a summary of feedback received from stakeholders:

- Electronic citation vendors have expressed interest in expanding electronic service options to litigants in the future. However, form TR-INST currently states that the officer issues a “paper” citation to the litigant.
- Several stakeholders identified concerns with the “Tab Area” on form TR-130 and requested clarification as to whether that area could appear on the top or bottom of the citation.
- Some law enforcement agencies inquired how officers should fill out the top of form TR-130, including which box to check.

The Proposal

The committee proposes the following changes to sections of form TR-INST:

- 1.010: Clarify that the defendant must respond to the citation (as opposed to answer allegations).
- 2.010: Remove the word “paper” to allow for electronic service. Although electronic service is not yet an option, the proposal removes the word “paper” in this section so that form TR-INST does not inadvertently prohibit electronic service in the future.
- 4.050: Add information about the “Tab Area” allowing for perforation at the top or bottom of the citation.
- 5.010: Remove improper underlining.
- 6.040: Clarify how officers should complete the top of form TR-130 and, specifically, the circumstances under which a particular box should be checked.
- Minor technical changes to improve clarity and consistency.

Alternatives Considered

The committee considered a larger proposal of clarifying revisions to all notice to appear and related forms appearing in form TR-INST, potentially combining or revoking some of the forms. Although some of the forms are older and could potentially be improved or combined, the committee has not received complaints or suggestions from stakeholders about them. Additionally, because the citation forms are primarily for law enforcement purposes, rather than courts, any revisions to the forms can be burdensome on multiple county and state agencies and

¹ The working group was composed of Traffic Advisory Committee members and other stakeholders, including representatives from law enforcement agencies and the Department of Motor Vehicles, court administrators, and criminal defense attorneys. The redesign process involved several iterations based on feedback and new legislation.

would require extensive outreach to these agencies that can sometimes present communication challenges. As a result, the committee decided to focus on form TR-INST.

Fiscal and Operational Impacts

The committee does not believe there will be any operational or fiscal impacts caused by these revisions.

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. Form TR-INST, at pages 4–40

**NOTICE TO APPEAR AND RELATED FORMS
(Form TR-INST)**

Revised Effective January 1, **2024 2025**



JUDICIAL COUNCIL of CALIFORNIA

455 Golden Gate Avenue
San Francisco, California 94102-3688

ACKNOWLEDGMENTS

The Judicial Council gratefully acknowledges the contributions and cooperation of those representatives from the judicial community, law enforcement agencies, and special interest groups who made this manual possible.

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Chapter 1 PURPOSE OF FORMS

1.000. Definitions

For the purposes of these instructions the following words are synonymous: (a) Notice to Appear, citation; (b) violation, offense, allegation, charges; (c) defendant, violator, person, individual, citee, driver; (d) court, court of jurisdiction; (e) officer, arresting officer, citing officer, issuing officer.

1.010. In General

Notice to Appear forms are designed to meet statutory requirements and, to the extent possible, address the procedural requirements of local courts and law enforcement agencies. **Notices to Appear** **Notice to Appear forms** should **also** provide the defendant with pertinent information regarding the charges and what steps the defendant must take to **answer the allegations respond.**

The uniform language and data fields assist law enforcement and the courts in the timely and accurate processing of the citation information. The design also ensures statewide conformity of advisements important to the defendant and that those advisements are clear and explicit.

1.020. Notice to Appear

- (a) Whenever a person is arrested for any violation declared to be an infraction or misdemeanor, or for a violation of any city or county ordinance, and the person is not immediately taken before a magistrate, the arresting officer must prepare a Notice to Appear form.¹
- (b) When the Notice to Appear is prepared on a form approved by the Judicial Council it constitutes a complaint to which the defendant may enter a plea.²

1.030. Continuation Form

- (a) The *Continuation of Notice to Appear* or *Continuation of Citation* form must be used when multiple offenses are charged and the Notice to Appear form does not provide sufficient space for the listing of all the charges. A *Continuation of Citation* is a multipurpose form intended for use with either a Notice to Appear form or a Notice to Correct Violation form.
- (b) A second Notice to Appear must not be issued in lieu of a continuation form.
- (c) The Notice to Appear and the corresponding continuation form must be treated as one law enforcement document and contain the same citation number.

¹ Veh. Code, § 40500(a); Pen. Code, § 853.6.

² Veh. Code, § 40513(b); Pen. Code, § 853.9.

1.040. Electronic Notice to Appear

- (a) An electronic Notice to Appear issued on form TR-130, *Traffic/Nontraffic Notice to Appear*, eliminates those citation-processing problems caused by the illegibility of handwritten information. The use of an electronic Notice to Appear also reduces the amount of information that must be entered into law enforcement and court computer systems.
- (b) A court is authorized to receive and file a Notice to Appear in an electronic form if all of the following conditions are met:³
 - (1) The information is on a form approved by the Judicial Council.
 - (2) The Notice to Appear is transmitted to the court by a law enforcement agency.
 - (3) The court has the facility to electronically store the information for the statutory period of record retention.
 - (4) The court has the ability to reproduce the Notice to Appear in physical form upon the demand and payment of the reproduction costs.
- (c) Any Notice to Appear prepared electronically must include all mandatory data fields and notices to the defendant that are on form TR-130. The formatting and spacing may vary depending on the software used to prepare the citation.

1.041. Notice to Correct Violation

Unless certain disqualifying conditions exist, a law enforcement officer who chooses to take action on certain registration, license, or equipment violations of the Vehicle Code must issue a Notice to Appear that specifies that the offense is correctable or a Notice to Correct Violation. (Veh. Code, §§ 40610, 40522, 40303.5.) If an agency does not receive proof of correction on a Notice to Correct, the agency can deliver to the court the signed promise with a certification that no proof of correction was received. (*Id.*, § 40618.) The Judicial Council adopted form TR-140, *Notice to Correct Violation*, in 2000. (See Appendix G.)

1.050. Notice of Correction and Proof of Service

Form TR-100, *Notice of Correction and Proof of Service*, must be used for any corrections to the original Notice to Appear citation.⁴ (See Appendix A.)

³ Pen. Code, § 959.1.

⁴ Veh. Code, § 40505.

Chapter 2 AUTHORITY TO PRESCRIBE FORMAT

2.010. Judicial Council

(a) The Judicial Council has three forms for the Notice to Appear:

(1) Form TR-115, *Automated Traffic Enforcement System Notice to Appear*,⁵ to be used in conjunction with violations of **Vehicle Code** sections 22451, 21453, and 22101 recorded by an automated traffic enforcement system. (See Appendix D.)

(2) Form TR-120, *Nontraffic Notice to Appear*,⁶ to be used for violations other than traffic offenses. (See Appendix E.)

(3) Form TR-130, *Traffic/Nontraffic Notice to Appear*,⁷ to be used for both infraction and misdemeanor offenses. If form TR-130 is prepared and submitted electronically, a computer-generated **paper** citation is issued to the defendant at the time of arrest and a copy is filed with the court either electronically when permitted or as a paper copy. (See Appendix F.)

(b) Form TR-106, *Continuation of Notice to Appear*, and form TR-108, *Continuation of Citation*, are intended for use in conjunction with form TR-120, *Nontraffic Notice to Appear*, and form TR-130, *Traffic/Nontraffic Notice to Appear*. (See Appendix B and Appendix C.)

(c) The Judicial Council has not adopted a form for, nor established guidelines governing, the following: (1) parking citations, (2) arrest/booking reports, and (3) court bail courtesy notices.

Chapter 3 REVISION DATES

3.010. Judicial Council

(a) Periodically, the Judicial Council will revise Notice to Appear forms. Law enforcement must use the revised Notice to Appear form by the effective date of the revised form if it is to serve as a complaint. (See section 6.030 for exception.) Depending on changes in statutory requirements, effective dates are established to allow law enforcement as much time as possible to deplete any existing supplies of the old form, print and disseminate new forms, and, if necessary, develop new procedures and train personnel regarding the revisions.

⁵ *Id.*, § 40518.

⁶ Pen. Code, § 853.9.

⁷ Veh. Code, §§ 40500(b), 40513(b), 40522; Pen. Code, § 853.9.

-
- (b) The council revised forms TR-130 and TR-140, effective January 1, 2024, and forms TR-115 and TR-120, effective June 26, 2015. Forms TR-100, TR-106, and TR-108 have an effective date of January 1, 2004.

Chapter 4 FORM SPECIFICATIONS

4.010. Required Copies

The arresting officer must prepare the Notice to Appear form, at a minimum, in triplicate with a copy delivered to the court and the issuing agency for Vehicle Code violations⁸ and in duplicate for all other violations.⁹ The copy of the citation issued to the arrested person must include all of the information on the copy of the citation filed with the court, including any signature for the defendant's promise to appear or respond.¹⁰ Before printing or programming Notice to Appear forms, law enforcement agencies should contact their local court to determine if there are any local requirements for the court's case management system.

4.020. Size and Color

The size and color of Notice to Appear copies for printed forms TR-106, TR-108, TR-120, TR-130, and TR-140 should conform with the requirements of the courts in which they are filed. Printed copies of forms completed electronically should comply as closely as possible with these specifications but may vary depending on the courts' or law enforcement agency's technological capabilities. The Judicial Council recommends the following minimum size and other form specifications:

- (a) A "trim" size of 4-1/4 inches wide and 7-1/2 inches long; 5/8-inch tabs on the top or bottom of the form.
- (b) Original (Court's copy), white, 15-pound paper stock. Print head-to-head.
- (c) Duplicate (Police agency's copy), pink, 15-pound paper stock. No printing on reverse.
- (d) Triplicate (Officer's copy), green, 15-pound paper stock. Print reverse head-to-head.
- (e) Quadruplicate (Defendant's copy), yellow, 20-pound paper stock. Print reverse head-to-head.
- (f) The colors of the "Court's copy" and "Police agency's copy" correspond with rule 1:3-1 of the Model Rules Governing Procedure in Traffic Cases adopted by the National Conference of Commissioners on Uniform State Laws.

⁸ Veh. Code, §§ 40500(a), 40506.

⁹ Pen. Code, § 853.6.

¹⁰ Veh. Code, § 40505.

4.030. Paper Stock

Paper stock for hand-written citations must be pressure sensitive and have a shelf life of at least five years. The citation text must be reproducible on photocopy equipment.

4.040. Serial Numbers

- (a) The serial numbers of the form sets must be sequential. There must be no “duplication” of numbers between form sets.
- (b) The format of the serial numbers is at the discretion of local law enforcement with the approval of the court.

4.050. Printing Format

- (a) A vertical format is required, except for the Proof of Service on form TR-100, which is printed horizontally to facilitate mailing.
- (b) All text on the forms must be printed in black ink, except the warning at the top of form TR-130, which should be printed in white ink. All text on citation forms TR-115 and TR-120 must have a minimum font size of 6.0 points. All text on form TR-130 must have a minimum font size of 5.0 points. Serial numbers may be printed in red ink. The box for the defendant’s signature and the box for the warning may be printed in red ink. Form TR-130 may include gray shading around the appearance and response information, the citation details section, and each section on the back of the citation to improve readability. The “Tab Area” on form TR-130 may appear on the top or bottom of the form. It is meant to represent space for perforation of forms in a citation book.

4.060. Printing Expenses

The printing of the forms and the associated costs are not the responsibility of the Judicial Council; printing is to be arranged in accordance with local custom.

Chapter 5 VARIATIONS OF MANDATORY LANGUAGE/DATA FIELDS

5.000. In General

Mandatory language and data fields are indicated by unshaded areas on examples of Judicial Council forms; see section 5.010 for exceptions. On form TR-130, yellow shading indicates fields that can be customized.

5.010. Permitted Variations

- (a) To meet the unique customs and/or needs of local law enforcement agencies and courts, the Judicial Council form permits limited variations in specified data fields. To indicate that variations may be permitted, these data fields are identified by shaded areas. On form TR130, this shading is yellow. Shading should not appear on printed forms.
- (b) The California Highway Patrol is permitted to alter the format and location of the fields for the name of the court, court address, and phone number and to add a field for the location of a CHP Inspection Facility on the face of a form TR-130, *Traffic/Nontraffic Notice to Appear*, for their form CHP-215X.
- (c) Formatting for the bracketed information that is required in the “Where” field on a Notice to Appear forms may be modified to include information for multiple court locations. On form TR-130, formatting for the information in the yellow box containing the court addresses may be modified as necessary to include the desired number of court locations.

Chapter 6 MANDATORY LANGUAGE/DATA FIELDS

6.000. In General

The mandatory language and data fields vary between the various Notice to Appear forms depending on the purpose of the form. All language and data fields in unshaded (or nonyellow, for form TR-130) areas on the forms are mandatory, even if not discussed below. Mandatory text or data fields of the forms may not be reworded or omitted, except for references to statutory authorities, which may be abbreviated differently. Citations prepared electronically may abbreviate terms to facilitate printing of forms.

Law enforcement agencies should be aware that if a written Notice to Appear is not prepared on an approved Judicial Council form, a court may conclude that it does not constitute a complaint to which a defendant may enter a plea. (Veh. Code, § 40513(b).) If a defendant pleads other than “guilty” or “nolo contendere” and the court concludes that the Notice to Appear is defective, it could be necessary to refile the charges by a formal complaint. (Veh. Code, § 40513(a).)

6.010. Agency Name

The name of the citing agency and jurisdiction must appear near the top of the form.

6.020. Title of Form

The title of the form must be printed near the top of the form, or in the bottom corner, for form TR-130.

6.030. Serial Number

- (a) A sequential serial number for each multipart set of Notice to Appear forms must appear horizontally near the top right corner of each form.
- (b) To facilitate the filing systems of some courts, statewide law enforcement agencies must also print the serial number in the lower right margin of the court's copy. Statewide law enforcement agencies must comply with this requirement as specified in section 3.010. Local law enforcement agencies must comply with the requirement for the duplication of the serial number in the right margin within one calendar year of a request from a local court.
- (c) The serial number may be preprinted on the Notice to Appear.
- (d) The serial number on continuation form TR-106 or TR-108 must be the same as that on the corresponding Notice to Appear; the duplication of the serial number in the right margin is not required.
- (e) Bar coding of the serial number permits those courts with bar code readers to improve the timeliness and accuracy of processing Notice to Appear forms. Within the following parameters, the bar coding of the serial number must be placed on the face of the court's copy of the Notice to Appear form:
 - (1) The bar code must appear as near as ~~practical~~ **practicable** to the bottom of the form and ~~is the in~~ **in** USS Code 39 barcode data format.
 - (2) The bar code should have a 1/4-inch area (quiet zone) that is clear and free of all printing preceding the start character and the following stop character.
 - (3) Statewide law enforcement agencies must comply with the bar code requirement as specified in section 3.010.
 - (4) Local law enforcement agencies must comply with the bar code requirement within one calendar year of a request from a local court.

6.040. ~~Misdemeanor Check Box~~ **Identifying the Type of Violation**

To facilitate processing, the citing officer must check ~~“Respond to Citation before”~~ **one of the three options** on form TR-130:

“Appear in Court” if one of the offenses charged is a misdemeanor or an infraction requiring an appearance. The citing officer must provide a time and date to appear when checking this box.

“Respond to Citation Before” if the offense charged is an infraction that does not require an appearance. The citing officer must provide only a date by which to respond when checking this box.

“To Be Notified” if the person being cited will be notified at a later date. The formatting of the “To Be Notified” box may be adjusted.

The citing officer must check ~~or~~ the Misdemeanor box at the top of the other Notices to Appear form TR-106, TR-108, or TR-120 if one of the offenses charged is a misdemeanor. The misdemeanor check box does not appear on the *Automated Traffic Enforcement System* notice, form, TR-115.

6.050. Date and Time

- (a) The date and time of the issuance of the Notice to Appear must be indicated near the top of the form.
- (b) The “Date of Violation” data field must be Mo./Day/Yr.
- (c) A check box “A.M./P.M.” format is provided as an optional field to indicate the time. Indicating the time in the form of “A.M./P.M.” is more easily understood by most defendants than the use of the 24-hour clock (military time).

6.060. Defendant’s Name

- (a) The defendant’s name is required on the Notice to Appear.¹¹
- (b) The sequence of the defendant’s name must be First/Middle/Last. This sequence corresponds with the California Driver License/Identification Card.

6.070. Defendant’s Address

- (a) The defendant’s current address must be indicated on the Notice to Appear.¹²
- (b) The address must be the defendant’s mailing address. The mailing address allows the court to mail a courtesy notice and/or other correspondence to the defendant.
- (c) A street address may also be indicated in addition to the mailing address.

6.071. Defendant’s Class and Category of Driver’s License

- (a) The defendant’s class of driver’s license may be specified on the Notice to Appear.
- (b) Notice to Appear forms TR-115 and TR-130 must specify whether the defendant’s driver’s license is a commercial driver’s license.

¹¹ Veh. Code, §§40500(a), 40518(b); Pen. Code, § 853.6.

¹² Veh. Code, §§ 40500(a), 40518(b); Pen. Code, § 853.6.

6.080. Defendant's Birth Date

- (a) The defendant's birth date is required on the Notice to Appear. The sequence of the birth date must be Mo./Day/Yr.
- (b) The birth date data field is designed to accept a numerical entry.

6.090. Defendant's Physical Description

- (a) The defendant's sex, **color of** hair, color of eyes, height, and weight are required on the Notice to Appear. See section 6.091 for the policy regarding the defendant's race/ethnicity.
- (b) Data fields for the recording of the defendant's physical description are designed to accept the standard abbreviations of physical descriptors.

6.091. Defendant's Race/Ethnicity

- (a) A specific data field for the defendant's race or ethnicity must be added to the Notice to Appear form. The data field should be located on the same line as other physical descriptors.
- (b) If the defendant's race or ethnicity is to be indicated, the Judicial Council recommends the use of a single alpha character. Reference: California Department of Justice's Electronic Disposition Reporting Manual.

6.100. Commercial Vehicle

If the vehicle involved in an offense when a **an** Notice to **aA** Appear is issued is a commercial vehicle,¹³ the citing officer must mark the check box within the data field, "**COMMERCIAL VEHICLE** (Veh. Code, § 15210(b))."

6.110. Hazardous Material

If the vehicle involved in an offense when a **an** Notice to **aA** Appear is issued was transporting hazardous material, the citing officer must mark the check box within the data field, "**HAZARDOUS MATERIAL** (Veh. Code, § 353)."

6.120. Vehicle Description

The year, make, model, body style, and color of the vehicle operated by the defendant at the time of the offense must be indicated on the Notice to Appear.¹⁴

¹³ *Commercial vehicle* is defined in Vehicle Code section 15210(b). The requirement to indicate if **an** offense involves a motor vehicle is per Vehicle Code section 40300.2.

¹⁴ Veh. Code, § 40500(a).

6.130. Reason for Stop

The officer must write the reason for the stop on notices used for traffic stops (forms TR-130 and TR-140).¹⁵

6.140. Name of Registered Owner/Lessee

- (a) The Notice to Appear must contain the name of the registered owner or lessee.¹⁶
- (b) The name must be indicated on the Notice to Appear in the sequence First/Middle/Last, unless a company is listed as the registered owner of the vehicle or vehicles.

6.150. Address of the Registered Owner/Lessee

- (a) The address of the registered owner/lessee must be indicated on the Notice to Appear.¹⁷
- (b) The address must be the registered owner's mailing address.

6.160. Correctable Violation Advisement and Check Boxes

- (a) Whenever a person is arrested for violations specified in Vehicle Code section 40303.5 and none of the disqualifying conditions set forth in Vehicle Code section 40610(b) exist, and the officer issues a Notice to Appear, the notice must specify the offense charged and note in a form approved by the Judicial Council that the charge will be dismissed upon proof of correction.¹⁸
- (b) For offenses identified in Vehicle Code section 40303.5 the citing officer must indicate by marking the appropriate "Yes" or "No" check box whether or not the offense is eligible for dismissal upon proof of timely correction. Marking the "No" box denotes that disqualifying conditions specified in Vehicle Code section 40610(b) exist.
- (c) The correctable violation advisement and the check boxes do not appear on the *Automated Traffic Enforcement System* notice form, TR-115.

6.170. Booking Required

The officer may either book the arrested person prior to release or indicate on the Notice to Appear that the arrested person must be booked before appearing in court.¹⁹ If the "Booking Required" check box is checked on form TR-120 or TR-130, the arresting agency must complete

¹⁵ Veh. Code, § 1656.3

¹⁶ *Id.*, § 40500(a).

¹⁷ *Ibid.*

¹⁸ *Id.*, § 40522.

¹⁹ Pen. Code, § 853.6.

the verification of booking section on the defendant's copy of the form. The "Booking Required" check box does not appear on the *Automated Traffic Enforcement System* notice, form TR-115.

6.180. Violations

The Notice to Appear must state the offenses charged.²⁰

6.190. Speed

A Notice to Appear charging a speeding violation must specify the approximate speed ("approx."), prima facie or maximum speed, and any other speed limit exceeded.²¹

- (a) The "Safe Speed" box is provided so that the officer can indicate a speed different from the maximum or prima facie (posted) speed when the Notice to Appear is prepared charging a violation of the basic speed law (Veh. Code, § 22350). Conditions affecting the safe speed limit should be noted on the Notice to Appear (e.g., fog, rain, etc.).
- (b) When a speed violation is charged, both the approximate speed and the prima facie speed applicable to the street or highway should be indicated.
- (c) Entry of the maximum speed limit pertaining to the particular type of vehicle, or combination of vehicles, is only required if the defendant is cited for exceeding the speed limit for that vehicle.

6.200. Location of Violation

The Notice to Appear must state the location of where the offenses charged occurred.

6.210. Officer's Declaration on Information and Belief

The officer must indicate on the Notice to Appear (check box) when the offense was not committed in the officer's presence and that the officer's declaration is on information and belief. A citizen's complaint and a collision investigation are examples of a situation that may result in the officer checking the box. The declaration is separate and distinct from the officer's declaration under penalty of perjury discussed in section 6.220.

6.220. Officer's Declaration Under Penalty of Perjury

The Notice to Appear must contain the officer's dated declaration, under penalty of perjury, subscribed by the officer, that the information regarding the violations is true and correct.²² The

²⁰ Veh. Code, § 40500(a); Pen. Code, § 853.6.

²¹ Veh. Code, § 40503.

²² Code Civ. Proc., § 2015.5.

date of the declaration must appear in the declaration date field when completed by either an arresting or a citing officer.

6.230. Other Officer

The name of the arresting officer, if different from the name of the officer completing the Notice to Appear, must be stated on the Notice to Appear. This policy was adopted to address situations in which there are teams of officers working radar enforcement or aerial patrol. This option is not available on the *Automated Traffic Enforcement System Notice to Appear*. (See section 6.231.)

6.231. Declarant—Automated Traffic Enforcement System Citations

The name of the government agency or law enforcement representative making the declaration, “Violation was not committed in my presence. The above is declared on information and belief and is based on photographic evidence,” must be stated on the *Automated Traffic Enforcement System Notice to Appear*.

6.240. Defendant’s Signature

To secure release from arrest, the defendant must give his/her their written promise to appear.²³ The defendant’s signature on the defendant’s copy of the citation must be identical to the signature on the copy of the citation filed with the court. The requirement for a signed promise to appear does not apply to citations issued for violations recorded by an *Automated Traffic Enforcement System Notice to Appear*.

The defendant has the option to provide their cellphone information when they sign the citation. This information may be used by the court to send reminders about mandatory appearances and deadlines.²⁴

6.250. Time to Appear or Deadline to Respond

- (a) The time specified in a Notice to Appear issued for a traffic offense must be a specific date which is at least 21 days after arrest; the court having jurisdiction over the offense charged may authorize the arresting officer to specify on the Notice to Appear that the appearance may be made before the time specified.²⁵
- (b) When a Notice to Appear has been issued for a violation recorded by an automated traffic enforcement system, it must be mailed within 15 days of the violation date to the current address of the registered owner of the vehicle on file with the Department of Motor Vehicles,

²³ Veh. Code, § 40504; Pen. Code, § 853.6.

²⁴ Cal. Rules of Court, rule 4.107.

²⁵ Veh. Code, § 40501(a).

with a certificate of mailing obtained as evidence of service.²⁶ The time to appear must be at least ~~ten~~ 10 days after the Notice to Appear is delivered.²⁷

- (c) The time to appear placed on the Notice to Appear for a nontraffic offense must be at least 10 days after the date of arrest for a nontraffic violation. (Pen. Code, § 853.6.)
- (d) In the case of juveniles, the court having jurisdiction over the offense charged may require the arresting officer to indicate on the Notice to Appear “to be notified” rather than a specific date.²⁸

6.260. Place to Appear

The place specified on the Notice to Appear must be one of the following:

- (a) Before a magistrate or judge.²⁹
- (b) Before a person authorized to receive a deposit of bail.³⁰
- (c) Before the juvenile court, juvenile court referee, or juvenile hearing officer.³¹

6.270. Night Court

If the court identified in the Notice to Appear holds night sessions, the notice must include a statement advising the defendant.³²

6.280. Legend

The lower left corner of the Notice to Appear forms must denote that the form is a Judicial Council form and specify the council’s form number.

²⁶ *Id.*, § 40518(a).

²⁷ *Id.*, § 40518(b).

²⁸ *Id.*, § 40501(b).

²⁹ *Id.*, § 40502(a), (b); Pen. Code, § 853.6.

³⁰ Veh. Code, § 40502(c); Pen. Code, § 853.6.

³¹ Veh. Code, § 40502(d).

³² *Ibid.*

Chapter 7 DISCRETIONARY LANGUAGE/DATA FIELDS

7.000. In General

The discretionary (shaded or yellow) areas on the forms (see Appendixes) depict language and data fields that are frequently included at the option of the court or law enforcement agency (with the consent of the court in which the Notice to Appear is to be filed).

Because of limited space, not all of the discretionary language and data fields used throughout the state can be shown on the sample forms. The following are narrative descriptions of several discretionary data fields.

7.010. Bail Statement

If the offense is bailable, the magistrate must fix the amount of bail and endorse the following statement on the warrant for arrest.³³

BAIL:

The defendant is to be admitted to bail in the sum of _____ dollars.

Judge

Note: The mandatory requirement that the above statement appear on the reverse of the court's copy disrupts the processing of Notice to Appear forms in those automated courts that use the space for cash register validations, automated traffic system notations, and notes of court proceedings. These courts use a separate form when issuing a warrant for arrest. For those reasons, the warrant for arrest statement is now discretionary.

7.030. Defendant's Thumbprint

- (a) The defendant's thumbprint may be placed on the Notice to Appear in situations in which there is a question in the citing officer's mind as to the true identity of the defendant. The court will then have the option of comparing thumbprints in those cases where the defendant alleges that another person has committed the cited offense.³⁴
- (b) The Judicial Council recommends that the thumbprint on form TR-120 or TR-130 be placed in a one-inch square area located on the reverse of the court's copy in the lower left corner. For electronic citations, a digitized thumbprint or fingerprint may be printed on the defendant's paper copy of the citation and filed with the court as part of the Notice to Appear. If the defendant's thumbprint or fingerprint is captured electronically as a digital image, but not included as part of the Notice to Appear, the digital image may be retained

³³ Pen. Code, § 815(a).

³⁴ Veh. Code, § 40500(a); Pen. Code, § 853.6.

by the arresting agency for use as provided in Penal Code sections 853.5 and 853.6 and Vehicle Code sections 40500 and 40504 and any other purposes permitted by law.

- (c) The thumbprint item does not appear on the *Automated Traffic Enforcement System Notice to Appear*.

Chapter 8 PROHIBITED LANGUAGE/DATA FIELDS

8.010. Defendant's Social Security Number

The defendant's social security number must not be indicated on the Notice to Appear, unless the social security number is also the driver's license number and/or the defendant holds a commercial driver's license.

To protect an individual's civil rights, federal statutes allow a very restricted compulsory use of a person's social security number for the purpose of establishing identity.³⁵

Federal statutes do permit an agency having administrative responsibility for driver's license and motor vehicle registration laws to use a person's social security number to establish that person's identity as it relates to the laws within the agency's jurisdiction.³⁶

The California Department of Motor Vehicles requires an individual to disclose their social security number in order to obtain a driver's license or identification card.³⁷ A number of other states use the individual's social security number as the driver's license number.

³⁵ Pub. L. No. 93-579, § 7.

³⁶ 42 U.S.C. § 405(c)(2)(C)(i)(IV).

³⁷ Veh. Code, §§ 1653.5, 12801.

Appendix A: Notice of Correction and Proof of Service, Form TR-100

NAME OF COURT:	
STREET ADDRESS:	
MAILING ADDRESS:	
CITY AND ZIP CODE:	
BRANCH NAME:	
TELEPHONE:	
PEOPLE OF THE STATE OF CALIFORNIA vs.	
DEFENDANT:	
NOTICE OF CORRECTION AND PROOF OF SERVICE (Vehicle Code, § 40505)	
AMENDING OFFICER NAME/ID NO.:	DEPARTMENT/AGENCY:
CITATION NUMBER:	CASE NUMBER:

1. A *Notice to Appear/Notice to Correct Violation* was issued to you by an officer of this department on (date):

2. The citation issued to you contained an error as indicated by the items checked below. This notice of correction does not affect the validity of the citation or the required court appearance.

- Date/time of violation should be _____
- Date/time of court appearance should be changed
from _____ to _____
- Violation section(s) should be changed
from _____ to _____
- Location of violation should be changed
from _____ to _____
- Other (specify): _____

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

Date: _____
(Signature of officer)

Form Adopted for Mandatory Use
Judicial Council of California
TR-100 (Rev. January 1, 2004)

I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where where the mailing took place. My business address is:

On (date): _____ I served this Notice of Correction on the parties at the address listed below by depositing in a sealed envelope, postage prepaid, with the United States Postal Service at (city and state): _____

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

Date: _____

Original to court _____ (Type or print name)

Defendant's Address: _____ (SIGNATURE)

Appendix B: Continuation of Notice to Appear, Form TR-106

CONTINUATION OF NOTICE TO APPEAR (Face of Violator's Copy)

(Name of Agency and Jurisdiction)				
CONTINUATION OF NOTICE TO APPEAR			<input type="checkbox"/> MISDEMEANOR <input type="checkbox"/> Traffic <input type="checkbox"/> Nontraffic	(Citation No.)
Date 1: / /	Time	AM PM	Day of Week S M T W T F S	Case No.
Name (First, Middle, Last) 2: _____				
Veh. Lic. No. or VIN 3: _____			State	
Correctable Violation (Veh. Code, § 40610)				
Yes	No	Code and Section	Description	Misdemeanor or Infraction (Circle)
4. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
5. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
6. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
7. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
8. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
9. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
10. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
11. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
12. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
13. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
14. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
15. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
16. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
17. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
18. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
19. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
20. <input type="checkbox"/>	<input type="checkbox"/>	_____	_____	M I
21. <input type="checkbox"/> Violations not committed in my presence, declared on information and belief.				
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct, and a continuation of the enforcement document noted.				
22. _____ Arresting or Citing Officer			Serial No. _____	
23. _____ Date			Serial No. _____	
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED. X Signature				
24. _____ Signature			SEE REVERSE	
<small>Judicial Council of California Form Rev. 01-01-04 (Veh. Code, §§ 40600(b), 40613(b), 40622, 40600; Pen. Code, § 853.9)</small>			<small>TR-106</small>	

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

**CONTINUATION OF NOTICE TO APPEAR
(REVERSE OF VIOLATOR'S COPY)**

IMPORTANT — READ CAREFULLY

This form is used when multiple offenses are charged and the original notice to appear form does not provide sufficient space for the listing of all the charges. PLEASE REFER TO THE REVERSE OF THE ORIGINAL NOTICE TO APPEAR FOR IMPORTANT INFORMATION REGARDING YOUR LEGAL OBLIGATIONS.

CORRECTABLE VIOLATIONS: Those driver license, vehicle registration, and mechanical violations cited in accordance with Vehicle Code section 40610(a) will be dismissed by the court if PROOF OF CORRECTION and payment of a transaction fee are presented to the court by mail or in person on or before the appearance date.

Violations of Vehicle Code section 16028 (automobile insurance) will be dismissed upon your showing to the court that evidence of financial responsibility was valid at the time this citation was issued.

Proof of correction should be obtained for driver license, registration, and equipment violations. CORRECT EQUIPMENT VIOLATIONS IMMEDIATELY.

METHODS FOR OBTAINING CERTIFICATION OF CORRECTION (Veh. Code, § 40616):
 1. Pollution control device violations must be certified by a smog check station licensed by the California Bureau of Automobile Repair.
 2. Lamp, brakes, and exhaust system violations may be certified as corrected by an authorized inspection and installation station for the specific violation(s).
 3. Registration and driver license violations may also be certified as corrected by an office of the Department of Motor Vehicles or by any clerk or deputy clerk of a court.
 4. Proof of correction, except for violations that must be cleared at a certified inspection and installation station, may be obtained at _____ (fill in location) during regular business hours.

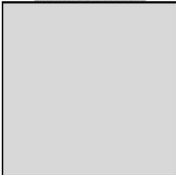
CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)				
Section(s) Violated	Signature of Person Certifying Correction	Serial No.	Agency	Date

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

CONTINUATION OF NOTICE TO APEAR
(Reverse Of Court Copy)

(Circle one)

RIGHT or LEFT
THUMB PRINT



Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

Appendix C Continuation of Citation, Form TR-108

CONTINUATION OF CITATION (Face of Violator's Copy)

(Name of Agency and Jurisdiction)				
CONTINUATION OF CITATION		<input type="checkbox"/> NOTICE TO APPEAR		<input type="checkbox"/> MISDEMEANOR
		<input type="checkbox"/> NOTICE TO CORRECT VIOLATION		<input type="checkbox"/> Traffic <input type="checkbox"/> Nontraffic (Citation No.)
Date of Violation	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Day of Week S M T W T F S	Case No.
1 / /				
Name (First, Middle, Last)				
2				
Veh. Lic. No. or VIN			State	
3				
Correctable Violation (Veh. Code, § 40610)				
Yes	No	Code and Section	Description	Misdemeanor or Infraction (Circle)
4 <input type="checkbox"/>	<input type="checkbox"/>			M I
5 <input type="checkbox"/>	<input type="checkbox"/>			M I
6 <input type="checkbox"/>	<input type="checkbox"/>			M I
7 <input type="checkbox"/>	<input type="checkbox"/>			M I
8 <input type="checkbox"/>	<input type="checkbox"/>			M I
9 <input type="checkbox"/>	<input type="checkbox"/>			M I
10 <input type="checkbox"/>	<input type="checkbox"/>			M I
11 <input type="checkbox"/>	<input type="checkbox"/>			M I
12 <input type="checkbox"/>	<input type="checkbox"/>			M I
13 <input type="checkbox"/>	<input type="checkbox"/>			M I
14 <input type="checkbox"/>	<input type="checkbox"/>			M I
15 <input type="checkbox"/>	<input type="checkbox"/>			M I
16 <input type="checkbox"/>	<input type="checkbox"/>			M I
17 <input type="checkbox"/>	<input type="checkbox"/>			M I
18 <input type="checkbox"/>	<input type="checkbox"/>			M I
19 <input type="checkbox"/>	<input type="checkbox"/>			M I
20 <input type="checkbox"/>	<input type="checkbox"/>			M I
21 <input type="checkbox"/> Violations not committed in my presence, declared on information and belief.				
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct, and a continuation of the enforcement document noted.				
22 _____			Serial No.	
Arresting or Citing Officer				
23 / /	Name of Arresting Officer, if different from Citing Officer			Serial No.
Date				
24 WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED. X Signature				
Judicial Council of California Form Rev. 01-01-04 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40600, 40610(f), 40616; Pen. Code, § 853.8)				SEE REVERSE TR-108

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

CONTINUATION OF CITATION
(Reverse of Violator's Copy)

IMPORTANT—READ CAREFULLY

This form is used when multiple offenses are charged and the original Notice to Appear/Notice to Correct Violation form does not provide sufficient space for the listing of all the charges. PLEASE REFER TO THE REVERSE OF THE ORIGINAL NOTICE TO APPEAR/NOTICE TO CORRECT VIOLATION FOR IMPORTANT INFORMATION REGARDING YOUR LEGAL OBLIGATIONS.

CORRECTABLE VIOLATIONS ON A NOTICE TO APPEAR: Those driver license, vehicle registration, and mechanical violations cited in accordance with Vehicle Code section 40610(a) will be dismissed by the court if PROOF OF CORRECTION and payment of a transaction fee are presented to the court by mail or in person on or before the appearance date. Proof of correction should be obtained for driver license, registration, and equipment violations. CORRECT EQUIPMENT VIOLATIONS IMMEDIATELY.

Violations of Vehicle Code section 16028 (automobile insurance) will be dismissed only upon (1) your showing or mailing to the court evidence of financial responsibility valid at the time this notice to appear was issued and (2) your payment of a transaction fee.

CORRECTABLE VIOLATIONS ON A NOTICE TO CORRECT VIOLATION: Those driver license, vehicle registration, and mechanical violations cited in accordance with Vehicle Code section 40610(a) must be corrected and PROOF OF CORRECTION must be provided to the law enforcement agency's office designated on the reverse side of the Notice to Correct Violation form within 30 days in order to have the violation cleared. Proof of correction should be obtained for driver license, registration, and equipment violations. CORRECT EQUIPMENT VIOLATIONS IMMEDIATELY.

METHODS FOR OBTAINING CERTIFICATION OF CORRECTION (Veh. Code, § 40616):

1. Pollution control device violations must be certified by a smog check station licensed by the California Bureau of Automobile Repair.
2. Lamp, brakes, and exhaust system violations may be certified as corrected by an authorized inspection and installation station for the specific violation(s).
3. Registration and driver license violations may also be certified as corrected at an office of the Department of Motor Vehicles or by any clerk or deputy clerk of a court.
4. Proof of correction, except for violations that must be cleared at a certified inspection and installation station, may be obtained at: _____ (fill in location) during regular business hours.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO: COURT, CITING AGENCY)

Section(s) Violated	Signature of Person Certifying Correction	Serial No.	Agency	Date

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

CONTINUATION OF CITATION
(Reverse of Court's Copy)

(Circle one)
**RIGHT or LEFT
THUMBPRINT**

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

Appendix D Automated Traffic Enforcement System Notice to Appear, Form TR-115

**TRAFFIC NOTICE TO APPEAR
Automated Traffic Enforcement System**

<i>(NAME OF AGENCY AND JURISDICTION)</i>									
NOTICE TO APPEAR Automated Traffic Enforcement (Citation No.)									
Date of Violation 1. / /			Time <input type="checkbox"/> AM <input type="checkbox"/> PM		Day of Week S M T W T F S		Case No.		
Name (First, Middle, Last) 2.									
Address 3.									
City 4.			State			ZIP Code			
Driver Lic. No. 5.			State		Class	Commercial <input type="checkbox"/> Yes <input type="checkbox"/> No		Age	Birth Date / /
Sex 6.	Hair	Eyes	Height	Weight	Race				
Veh. Lic. No. or VIN 7.			State			<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b))			
Yr. of Veh. 8.	Make	Model	Body Style	Color		<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)			
Registered Owner or Lessee 9.									
Address 10.									
City 11.			State			ZIP Code			
Code and Section 12.					Description				
Location of Violation at 13.				City/County of Occurrence					
<p><input checked="" type="checkbox"/> Violation was not committed in my presence. The above is declared on information and belief and is based on photographic evidence.</p> <p>I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.</p>									
Date Issued 14.			Declarant				ID No.		
YOU MUST RESPOND TO THE COURT ON OR BEFORE:									
15. WHEN: DATE: _____					Time: _____ <input type="checkbox"/> AM <input type="checkbox"/> PM				
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.									
16. WHERE: [Name of court(s)] [Section(s) or division(s), room no(s)] [Street address(es)] [Phone no.]						Clerk's Office Hours <i>[Insert hours clerk's office is open.]</i>			
<div style="border: 1px solid black; padding: 5px; display: inline-block; margin: 10px;">FPO Barcode</div>									
						DEFENDANT COPY SEE REVERSE TR-115			
Judicial Council of California Form Rev. 06-26-15 (Veh. Code, § 40518)									

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

TRAFFIC NOTICE TO APPEAR
Automated Traffic Enforcement System

IMPORTANT—READ CAREFULLY
<p>This Citation Is Based on Photographic Evidence The vehicle identified on the front was photographed in violation of a traffic signal or sign. You may see the photographs. Contact: _____ You may see the photographs online at: _____ For more information about the evidence in this case, you may contact the issuing agency, _____ by telephone at: _____ or in person at: _____ on _____ during the hours of _____ If you were not driving the vehicle at the time of the violation, contact _____</p>
WHAT TO DO
<p>You have been issued a citation that charges you with a traffic infraction. You must respond by following one of the procedures below by the date on the front (see "WHEN"). If you do not, you may lose your license to drive, and your money penalties may increase.</p> <p>1. If you do NOT contest the violation a. (Pay the bail amount) (See "BAIL INFORMATION" below) Your bail will be forfeited to the court. You will not have to appear in court. You will be convicted of the violation, and it will appear on your record at the Department of Motor Vehicles (DMV). A point count will be charged to your DMV record for this offense and your insurance may be adversely affected. b. (Traffic school) You may be able to avoid the point count and adverse effect on your insurance by attending traffic school. Contact the court to request traffic school. You must pay the bail amount as a fee, and you may have to pay other fees.</p> <p>2. If you contest the violation (select one) a. (Court trial) Send a certified or registered letter postmarked not later than five days prior to the appearance date, or come to the court by the appearance date to request a court trial on a future date when an officer and witnesses will be present. You may be required to submit the bail amount. You will be given a date for your trial. Go online or call the court for information on going to court without paying bail. —OR— b. (Trial by written declaration) Send a certified or registered letter postmarked not later than five days prior to the appearance date, or come to the court on or before the date on the front and request a trial by written declaration. Submit the bail amount. You will be given forms to allow you to write a statement and submit other evidence without appearing in court. An officer will also submit a statement. The judicial officer will consider all of the evidence at the same time and decide the case.</p>
WRITING TO THE COURT
<p>If you write to the court, always write the citation number and your driver license number on your letter. Use of certified or registered mail is required. Do not send your copy of the citation. Keep it for your own records.</p>
BAIL INFORMATION
<p>The "bail" is the amount to pay or deposit for the charged violation.</p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 80%;">Bail Amount: \$ _____ OR [See enclosed information]</div> <p>Make the check or money order payable to _____ Write the citation number and your driver license number on your check or money order. You may deposit the bail in person, by mail or by phone. Go online or call the court for information on going to court without paying bail.</p>
NIGHT COURT TRIALS [are] [are NOT] available for this citation.
JUVENILES
<p>If you are under 18, you must be accompanied by your parent or guardian when you appear in court. Bring this citation and your driver license. You will be notified by the Juvenile Court of your court date. [For additional information, call the Juvenile Traffic Court at _____]</p>
ONLINE INFORMATION
<p>You may obtain additional information at [Local Web site: _____]</p>

Shaded areas on the form indicate spaces subject
to modification for local or agency requirements.

Appendix E Nontraffic Notice to Appear, Form TR-120

NONTRAFFIC NOTICE TO APPEAR (Face of Court's Copy)


(Name of Agency and Jurisdiction)		<input type="checkbox"/> MISDEMEANOR		(Citation No.)	
NOTICE TO APPEAR		Nontraffic			
Date of Violation 1. / /		Time <input type="checkbox"/> AM <input type="checkbox"/> PM		Day of Week S M T W T F S	
Case No.					
Name (First, Middle, Last) 2.					
Address 3.					
City 4.		State/Country		ZIP Code E-mail Address	
Driver Lic. No. 5.		State	Class	Age	Birth Date / /
				<input type="checkbox"/> Juvenile (Phone No.) ()	
Sex 6.	Hair	Eyes	Height	Weight	Race
					Other Description
Code	Ordinance	Description	M	I	Misdemeanor or Infraction (Circle)
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
Evidence Seized 19.		<input type="checkbox"/> Booking Required			
Location of Violation(s) 20.		City/County of Occurrence			
Comments 21.					
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.					
22. I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.					
23. / / Dec. Date		Arresting or Citing Officer		Serial No. to Dates Off	
24. / / Dec. Date		Name of Arresting Officer, if different from Citing Officer		Serial No. to Dates Off	
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.					
X Signature					
26. WHEN:		ON OR BEFORE THIS DATE: / /		Time: <input type="checkbox"/> AM <input type="checkbox"/> PM Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	
27. WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.					
WHERE: [Name of court(s)] [Section(s) or division(s), room no(s)] [Street address(es)] [Phone No.]					
28. <input type="checkbox"/> To be notified		<input type="checkbox"/> You may arrange with the clerk to appear at a night session of the court.			
FPO Barcode (USS Code 39)				DEFENDANT COPY	
Judicial Council of California Form Rev. 06-26-15 (Pen. Code, § 853.9)				SEE REVERSE TR-120	

Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

NONTRAFFIC NOTICE TO APPEAR
(Reverse Of Court's Copy)

(Circle one)

RIGHT or LEFT
THUMB PRINT



Shaded areas on the form indicate spaces subject to modification for local or agency requirements.

Appendix F Traffic/Nontraffic Notice to Appear, Form TR-130

AGENCY NAME/JURISDICTION INFO				(CITATION NUMBER)	
NOTICE TO: <input type="checkbox"/> APPEAR IN COURT AT ____ <input type="checkbox"/> AM <input type="checkbox"/> PM ON: OR <input type="checkbox"/> RESPOND TO CITATION BEFORE: DATE: ____ / ____ / ____ <i>See back for detailed instructions</i> <input type="checkbox"/> To be notified				<input type="checkbox"/> Name of Court, Division of Court, Street Address, City, State ZIP <small>Ⓞ XXX.XXX.XXXX ⇒ websiteurl.com</small> <input type="checkbox"/> Name of Court, Division of Court, Street Address, City, State ZIP <small>Ⓞ XXX.XXX.XXXX ⇒ websiteurl.com</small> <input type="checkbox"/> Name of Court, Division of Court, Street Address, City, State ZIP <small>Ⓞ XXX.XXX.XXXX ⇒ websiteurl.com</small> <input type="checkbox"/> Name of Court, Division of Court, Street Address, City, State ZIP <small>Ⓞ XXX.XXX.XXXX ⇒ websiteurl.com</small>	
ACT BY THIS DATE TO AVOID A WARRANT OR ADDED FEES					
Date of Violation (mm/dd/yy)		Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Driver's License Number (all states)		Class State
Name (first, middle, last)					
Current Address (no., street, city, state, zip)					
Date of Birth (mm/dd/yy)		Parent/Guardian Phone No. <input type="checkbox"/> Juvenile		Commercial <input type="checkbox"/> Y <input type="checkbox"/> N	Insurance <input type="checkbox"/> Y <input type="checkbox"/> N
Race / Ethnicity	Sex	Hair	Eyes	Height	Weight
Vehicle License/VIN		State	Reg (mm/yy)	Year of Veh.	Make
Registered Owner/Lessee <input type="checkbox"/> Same as driver <input type="checkbox"/> Owner's responsibility (VC, § 40001)				Model	Body Style
Address (no., street, city, state, zip) <input type="checkbox"/> Same as driver				Color	
Reason for Stop				CHP / DOT / PUC / ICC	
CITATION DETAILS <input type="checkbox"/> Booking Required (see reverse)					
Correctable (Fix-It)		Code/Section	Description	M = Misdemeanor I = Infraction (circle)	
<input type="checkbox"/> Y <input type="checkbox"/> N				M	I
<input type="checkbox"/> Y <input type="checkbox"/> N				M	I
<input type="checkbox"/> Y <input type="checkbox"/> N				M	I
<input type="checkbox"/> Y <input type="checkbox"/> N				M	I
Approx. Speed	PF/Max Speed	Veh. Limit	Safe Speed	Radar/Lidar	<input type="checkbox"/> Commercial Veh. VC, § 15210(b)
Location of Violation					<input type="checkbox"/> Hazardous Mat. VC, § 353
City/County of Occurrence				Agency Case No.	
Comments (weather, road, traffic conditions) <input type="checkbox"/> Crash					
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief (VC, § 40600) I declare under penalty of perjury under the laws of the State of CA that the foregoing is true and correct.					
DECL. DATE	ARRESTING OR CITING OFFICER			SERIAL NO.	
DECL. DATE	ARRESTING OFFICER, (if different from above)			SERIAL NO.	
I promise to act by the date at the top of this citation. Signing DOES NOT admit guilt. () CELLPHONE - OPTIONAL (may be used for reminders) EMAIL - OPTIONAL (may be used for reminders)					
X _____ SIGNATURE					

DEFENDANT COPY | FORM INFO

Continuation form

Form Adopted for Mandatory Use
 Judicial Council of California
 TR-130, Traffic/Nontraffic Notice to Appear
 [Rev. Jan. 1, 2024]
SEE REVERSE

FPO Barcode USS Code 39

Vehicle Code, §§40500(b), 40513(b),
 40522, 40600; Pen. Code, §853.9

TAB AREA

WHAT YOU NEED TO DO

Step 1 Which box is checked on the front of the citation:
APPEAR IN COURT or RESPOND TO CITATION?

Step 2 Follow instructions based on the box checked on the front.

If **APPEAR IN COURT** is checked on the front

- ▶ **Your next step:** Go to court on the date, time and location on the front. Appearing in court is your **only option**. You can plead guilty or not guilty. **IMPORTANT: Missing court may result in a warrant for your arrest. Don't let that happen—go to court! The judge will explain next steps.**
- **Helpful Tip:** Put the court date in your calendar, set a reminder, start planning now.
- **Juveniles:** If you were under 18 years old at the time of the violation, you must bring a parent or guardian with you to court.

If **RESPOND TO CITATION** is checked on the front

Citations can take up to 14 days to show up in the court system.
 Keep checking to find your citation, and then complete Option A, B, C, or D by the date listed on front

- ▶ **Your next step:** Choose an option below and respond by the date. **IMPORTANT: Not responding by the date on the front can result in a "failure to appear" charge, a guilty finding, an additional fee of up to \$100, and a hold on your car registration (owner's responsibility). Choose one of the options below to avoid these penalties:**
- **Option A: Pay or Ask for a Reduction (Guilty Finding)**
 - Pay (online, call, in person). If you cannot pay in full now, contact the court (see front for contact information) to request a payment plan or extension.
 - Ask for a reduction at MYCITATIONS.COURTS.CA.GOV (takes about 10 minutes).**Note: This option may add points to your driving record and affect insurance.**
- **Option B: Request Traffic School** To avoid points on your driving record, you can request traffic school. You pay the citation plus an additional traffic school fee and complete traffic school. Contact the court to see if you are eligible.
- **Option C: Dispute the Citation (Plead Not Guilty)** You can dispute the citation **in person** by requesting a court date for a trial (no cost) or **by mail** ("trial by written declaration"), which requires you to pay the fine up front (amount returned if citation is dismissed). Contact court for more details (court info on front of citation).
- **Option D: Correctable ("Fix-It")** If "Correctable" is checked on the front, first show an officer, authorized inspection agency, or DMV (license and registration issues only) that you fixed the issue, and they will sign the citation (below). Then, you must show the court that you fixed the issue to have the violation dismissed. You must also pay a transaction fee. For insurance issues, you must show the court you had insurance when you got the ticket and pay a transaction fee.

CERTIFICATE OF CORRECTION (MUST BE RETURNED TO COURT)

Section(s) Violated	Signature of Person Certifying Correction	Serial No.	Agency	Date

If "**Booking Required**" is checked on front, call xxx-xxx-xxxx to schedule an appointment before the court date. You will not be arrested and will attend your court date on your own.

MORE INFORMATION

- For translations and general information about the process, visit <https://www.courts.ca.gov/forms.htm>
- To contact the court, see front of citation for court's website and phone number. The court will send notice explaining next steps.

[Rev. Jan. 1, 2024]





(Circle one)
RIGHT or LEFT
THUMB PRINT

A large yellow rectangular box with a black border, intended for a thumb print.

Appendix G Notice to Correct Violation, Form TR-140

NOTICE TO CORRECT VIOLATION (Face of Violator's Copy)

<i>(Name of Agency and Jurisdiction)</i>									
NOTICE TO CORRECT VIOLATION					(Citation No.)				
1. Date of Violation			Time		Day of Week		Case No.		
/ /					<input type="checkbox"/> AM <input type="checkbox"/> PM		S M T W T F S		
2. Name (First, Middle, Last) <input type="checkbox"/> Owner's Responsibility (Veh. Code, § 40001)									
3. Mailing Address									
4. City State ZIP Code									
5. Driver Lic. No.		State		Class	Age	Birth Date		<input type="checkbox"/> Juvenile (Tel. No.)	
						/ /		()	
6. Sex	Hair	Eyes	Height	Weight	Race	Other Description			
7. Veh. Lic. No. or VIN	State		<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b))						
8. Yr. of Veh.	Make	Model	Body Style	Color		<input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)			
9. Veh. Lic. No. or VIN	State		CHP/DOT						
10. Yr. of Veh.	Make	Model	Body Style	Color		PUC/ICC			
11. Reason for Stop									
12. Registered Owner or Lessee <input type="checkbox"/> Same as Driver									
13. Address City State ZIP Code <input type="checkbox"/> Same as Driver									
14. Violation(s) Code and Section Description									
15.									
16.									
17.									
18. Location of Violation(s) City/County									
19.									
20. I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed at California									
21. Citing Officer ID Vacation Dates From To									
22. I PROMISE TO CORRECT THE VIOLATION(S) LISTED ABOVE AND PROVIDE PROOF OF CORRECTION TO THE ISSUING AGENCY AS INSTRUCTED BELOW WITHIN 30 DAYS.									
X SIGNATURE									
WHEN: CORRECT VIOLATION(S) IMMEDIATELY. CONTINUED OPERATION WITHOUT CORRECTION MAY RESULT IN ARREST AND PENALTY.									
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.									
WHERE: PROVIDE PROOF OF CORRECTION TO THE ISSUING AGENCY'S ADDRESS LISTED ON THE REVERSE.									
FPO Barcode									
DEFENDANT COPY									
<small>Adopted for Mandatory Use Judicial Council of California, www.courts.ca.gov TR-140, Notice to Correct Violation, [Rev. Jan. 1, 2024]</small>									
<small>SEE REVERSE Vehicle Code, §§ 40810(d), 40818</small>									

Shaded areas on the sample form indicate spaces
subject to modification for local or agency requirements.

REVERSE OF VIOLATOR'S COPY

INSTRUCTIONS TO DRIVER-OWNER				
WHAT TO DO				
<p>METHODS FOR OBTAINING CERTIFICATION OF CORRECTION (Veh. Code, § 40616): This Notice to Correct Violation may be cleared upon correction of the violation by providing satisfactory proof of correction within 30 days of this notice, as specified below, either in person at the issuing agency's office at [address] during normal business hours or by mail postmarked within 30 days of this notice to the issuing agency's address indicated below.</p> <p>Violations may be certified as corrected on this form (as indicated below) in the following manner:</p> <ol style="list-style-type: none"> 1. Brake, lamp, smog device, or muffler violations may be certified as corrected by any station licensed to inspect and certify for the specific violation(s). 2. Driver license and registration violations may be certified as corrected at offices of the DMV by an appropriate employee thereof, or by any clerk or deputy clerk of a court. 3. Any violation may be certified as corrected by a law enforcement agency regularly engaged in the enforcement of the California Vehicle Code. <p>DO NOT STOP AN OFFICER ON ANY FREEWAY, EXPRESSWAY, OR BRIDGE FOR CERTIFICATION OF CORRECTION.</p> <p>NOTE: INSPECTION STATIONS MUST LIST THEIR AFD LICENSE NUMBER ISSUED BY THE BUREAU OF AUTOMOTIVE REPAIR IN THE SPACE PROVIDED BELOW.</p> <p>WARNING: Any person willfully violating a written promise to correct or willfully failing to deliver proof of correction is guilty of a misdemeanor (Veh. Code, § 40616), which may lead to arrest, penalty, and additional fees. In addition, the Department of Motor Vehicles (DMV) will WITHHOLD the issuance or renewal of your driver license, and may revoke or suspend your driving privilege for Vehicle Code offenses. YOU MUST RETURN THE COMPLETED CERTIFICATE OF CORRECTION TO THE ISSUING AGENCY.</p>				
CERTIFICATE OF CORRECTION (RETURN TO THE ISSUING AGENCY)				
Section(s) Violated	Signature of Person Certifying Correction	ID or AFD License No.	Agency or Certified Inspection Station	Date

[Name of Agency]
 [Section(s) or division(s), room no(s)]
 [Street address]

POSTMASTER: If undeliverable return to Name
 and Mailing Address on reverse

FIRST
CLASS
POSTAGE
REQUIRED

Rev. Jan. 1, 2024

**Shaded areas on the sample form indicate spaces
subject to modification for local or agency requirements.**

REVERSE OF COURT COPY

TO BE EXECUTED IN CASE OF FAILURE TO DELIVER PROOF OF CORRECTION

DEFENDANT HEREIN FAILED TO DELIVER PROOF OF CORRECTION IN VIOLATION OF HIS/HER SIGNED PROMISE, AND IN VIOLATION OF VEHICLE CODE SECTION 40616.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT _____ CALIFORNIA, ON _____ DATE

BY: _____ TITLE _____
PRINT OR TYPE NAME

SIGNATURE ID/BADGE NUMBER _____

ADDRESS:

FOR COURT USE ONLY

(Circle one)

RIGHT or LEFT
THUMB PRINT

Rev. Jan. 1, 2024

Shaded areas on the sample form indicate spaces subject to modification for local or agency requirements.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 3/28/24

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Traffic: Ability-to-Pay Request Form and Court Order

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise forms TR-320/CR-320 and TR-321/CR-321

Committee or other entity submitting the proposal:
Traffic Advisory Committee

Staff contact (name, phone and e-mail): Jamie Schechter, 415-865-5327 Jamie.Schechter@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023

Project description from annual agenda: MyCitations is an online option developed by the Judicial Council and 7 superior courts that allows a litigant to request an ability-to-pay determination for infraction fines and fees without having to appear in court. With the passage of Assembly Bill 143 (Stats. 2021, ch. 79), each of the 58 trial courts will offer online ability-to-pay determinations using MyCitations by June 30, 2024. Several stakeholders have noted that the infraction Can't Afford to Pay Fine forms (Ability to Pay forms) should be revised to be consistent with MyCitations.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-35

Title

Traffic: Ability-to-Pay Request Form and Court Order

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise forms TR-320/CR-320 and TR-321/CR-321

Proposed Effective Date

January 1, 2025

Proposed by

Traffic Advisory Committee
Hon. Maria Lucy Armendariz, Chair

Contact

Jamie Schechter, 415-865-5327
jamie.schechter@jud.ca.gov

Executive Summary and Origin

Several courts have requested changes to form TR-320/CR-320, *Can't Afford to Pay Fine: Traffic and Other Infractions*, and to form TR-321/CR-321, *Can't Afford to Pay Fine: Traffic and Other Infractions (Court Order)*. They have specifically requested that these forms provide an option for a litigant to enter a plea on the form itself, so that litigants would not be required to appear in court to enter a guilty or no-contest plea in traffic and other infraction cases. Stakeholders have also requested the types of public benefits listed on the form be expanded. The Traffic Advisory Committee proposes changes that would make the forms conform with the options currently offered through the court's online ability-to-pay tool, MyCitations.

Background

Forms TR-320/CR-320 and TR-321/CR-321

In 2015, the Judicial Council took steps to improve access and fairness in criminal and traffic infraction cases by adopting rule 4.105 of the California Rules of Court, which stated that defendants are not required to post bail before challenging Vehicle Code infractions unless an exception applies. When adopting rule 4.105, the council directed advisory committees to consider changes to rules or forms and to make other recommendations necessary to promote access to justice in all infraction cases, including recommendations related to postconviction proceedings or a defendant's failure to appear or to pay fines or fees. In response to this

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.

directive, the Traffic Advisory Committee and the Criminal Law Advisory Committee—in consultation with the Advisory Committee on Providing Access and Fairness—developed and recommended new procedural rules for traffic and other criminal infraction cases.¹ In 2016, the council adopted rule 4.106, which standardized court procedures when a defendant failed to appear or pay, and rule 4.335, which standardized court procedures related to ability-to-pay determinations. Those rules became effective January 1, 2017.

In January 2018, the Traffic Advisory Committee, the Criminal Law Advisory Committee, and the Advisory Committee on Providing Access and Fairness recommended two optional, plain-language Judicial Council forms—an application form and a judicial order form—to assist in implementing rule 4.335 on ability-to-pay determinations in traffic and other infraction cases. The forms, TR-320/CR-320 and TR-321/CR-321, were adopted with an effective date of April 1, 2018. The committees intentionally designed the forms using plain language and a more user-friendly format.

The MyCitations tool

In 2016, with funding from the U.S. Department of Justice’s Price of Justice Initiative, the Judicial Council began to study the impact of high fines and fees on low-income court users and to explore options to minimize these impacts. The Judicial Council partnered with seven superior courts to design an online process for submitting and adjudicating ability-to-pay determinations for traffic and other infractions citations. The resulting prototype provided users with the ability to search for their citation and make requests online for reductions for infraction fines and fees based on their ability to pay. The online tool, named MyCitations, was initially implemented as a pilot program in 2018.² MyCitations (<https://mycitations.courts.ca.gov/home>) is now mandated to be used by all California superior courts no later than June 30, 2024.³

MyCitations provides an online option for people who are struggling with court debt and who have eligible infraction violations that do not require a personal appearance in court. The tool allows a court user to look up a citation, answer several financial questions (including whether they receive public benefits), and submit a request to the court for a reduction in the amount owed. A user can also request a payment plan, additional time to pay, or community service. The tool also allows a user to make a guilty plea or no-contest plea.

The Proposal

As outlined above, the Judicial Council adopted optional ability-to-pay forms (TR-320/CR-320 and TR-321/CR-321) in 2018, a year before the first court went live with MyCitations. Unlike

¹ See Judicial Council of Cal., Advisory Com. Rep., *Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations* (Dec. 1, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4817182&GUID=D0F79B3B-0A7E-40FC-9F2A-C79D7B4F9024>.

² The Budget Act of 2018 (Sen. Bill 847; Stats. 2018, ch. 29) allocated funding to the Judicial Council to implement a pilot program for MyCitations. The pilot program involved eight courts.

³ Assem. Bill 143 (Stats. 2021, ch. 79).

MyCitations, the forms do not offer a plea option even though ability-to-pay determinations are generally only available for cases that are adjudicated.⁴ Nor do the forms contain the same financial information options that will be available on MyCitations. Although these forms are helpful for litigants, multiple stakeholders have requested that the forms provide the same options as the MyCitations tool. Most importantly, stakeholders have requested the ability to offer a plea on the form, instead of requiring litigants to go to court. There have also been requests to ensure the types of public benefits that a litigant may select on the form mirror those listed in MyCitations.

The following revisions are proposed for form TR-320/CR-320:

- Under the “Using this form” section on page 1, remove “Use this form **after** the court has decided that you owe the fine” from the second bullet point, as the form is allowing litigants to make a plea.
- Under the “Important!” section on page 1, add a second bullet point: “This form cannot be used to sign up for traffic school. Please contact your court if you wish to request a reduction and traffic school.”⁵
- Add additional options under item 2, “What type of income do you have?” to be consistent with planned enhancements to MyCitations. Also change the wording of all benefits to be consistent with MyCitations.
- Remove the option “Cancel or lower late charges that I have for missing a hearing or failing to pay my fine on time” from item 5 on page 3, as the civil assessment (if any) will be part of the total amount to be reduced.⁶
- Replace item 7, “Driver’s license ‘hold’ or suspension,” with new item 7, “Plea selection,” as driver’s license restrictions due to failure to appear or pay have changed since this form was adopted.⁷
- Minor changes to improve formatting and clarity.

The following revisions are proposed for form TR-321/CR-321:

- Add a plea acceptance section on page 1 to account for the revised form TR-320/CR-320 allowing for pleas.
- Switch “Request granted,” section with “Need more information,” section, for clarity.

⁴ Veh. Code, § 42003(b).

⁵ Note that this form should not be used by litigants who wish both to attend traffic school and to have an ability-to-pay determination. Vehicle Code section 42007(a)(2) requires that installment payments for traffic violator school be completed within 90 days, a time period that is generally shorter than ability-to-pay payment plans.

⁶ When the forms were initially adopted, it was unclear whether civil assessments could be included under ability-to-pay requests. However, Government Code section 68645.2 now clarifies that civil assessments are included in the total amount due. A litigant does not need to separately request the civil assessment be considered. Note that this is not the appropriate form if a litigant is requesting that the civil assessment be eliminated based on good cause.

⁷ See Assem. Bill 2746 (Stats. 2022, ch. 800), repealing Vehicle Code sections 40509 and 40509.5.

- Remove the “extra late charges” check box options from the “Request granted” section, as the civil assessment (if any) will be part of the total amount to be reduced.
- Minor changes to improve clarity.

Alternatives Considered

Based on a significant number of stakeholder requests and legislative changes, the committee did not consider taking no action. There were no significant alternatives considered.

Fiscal and Operational Impacts

Courts will need to update forms and the ability-to-pay process.

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 TR-320/CR-320 and TR-321/CR-321, at pages 5–9
2. Link A: Veh. Code, § 42003,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=42003.&lawCode=VEH
3. Link B: Veh. Code, § 42007,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=42007.&lawCode=VEH
4. Link C: Gov. Code, § 68645.2,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=68645.2.&nodeTreePath=33.6.7&lawCode=GOV

Clerk stamps date here when form is filed.

Using this form

- If you can't afford to pay your fine, fill out this form to ask for a lower fine, a payment plan, more time to pay, and/or community service.
You may use this form even if your fine has been sent to collections. If you have more than one fine, use one form for each fine.
Mail or take this form to the court listed on your ticket. If you want to file the form electronically, ask the court if it allows "e-filing."
If you lost your ticket or have questions, contact your court at www.courts.ca.gov/find-my-court.htm



Fill in court name and street address: Superior Court of California, County of

Types of fines

- Use this form for traffic fines (like speeding) or other infractions (like fishing without a license or drinking in public).
This form is not for parking tickets. Read your parking ticket to find out what you can do.



Fill in the case number and ticket number (if you have it): Case Number: Ticket Number:

Important!

- Do not use this form to tell the court that you didn't do anything wrong. See the instructions on your ticket and visit www.courts.ca.gov/selfhelp.htm for more information on fighting it.
This form cannot be used to sign up for traffic school. Please contact your court if you wish to request a reduction and traffic school.

1 Your information

Name: _____

Street or mailing address: _____ Street City State Zip

Telephone: _____ OK to text you at this number?* [] No [] Yes

Email (optional): _____ OK to email you at this email?* [] No [] Yes

* Some courts don't use text messages or email to contact court clients. Message and data rates would apply.



2 What type of income do you have?

- I do not get money from any source. (Skip to 3)
- I get public benefits. (Check all that apply, then skip to 3)
 - CalFresh (Food Stamps)
 - Medi-Cal
 - General Assistance / County Relief
 - SSI: Supplemental Security Income
 - SSP: State Supplementary Payment
 - IHSS: In-Home Supportive Services
 - CalWORKS: California Work Opportunity and Responsibility to Kids Act
 - TANF: Temporary Assistance for Needy Families
 - CAPI: Cash Assistance Program of Aged, Blind and Disabled Legal Immigrant
 - WIC: California Special Supplemental Nutrition Program for Women, Infants, and Children
 - Unemployment Compensation
 - Other
 - None of the above

I do **not** get public benefits, but I get money from other sources. (Answer all that apply)

a. How much money do you earn (take-home pay) or get from other sources (including income received in your family from a spouse or live-in romantic partner)?

\$ _____ every: (Check one) Year 2 weeks Twice a month
 Week Month Season
 Other: _____

b. This money supports me and _____ other people.

c. If I pay the fine, I would: (Check all that apply, if any)

- Not have enough money to pay my rent/mortgage. I pay \$ _____ for rent/mortgage every (Check one): Month Week Other: _____
- Not have enough money to pay for other basic living expenses. *Basic living expenses are things like: food, utilities, childcare, child support, transportation, medication, insurance (medical, car, house, and rental), and student loans.*
- Not have enough money to pay my debt for other court cases.
- Have other problems (please explain):

3 Do you have anything that shows your public benefits, income, or expenses?

Things like an EBT card, paystubs, tax returns, rent or mortgage checks, or utility bills.



a. Yes, I have attached **copies** to this form.

Important! Keep the original documents for your own records. Any copies you attach can be destroyed after the court makes a decision on your case. Cross out any social security numbers, or other private information, on the copy you give the court.

b. No, I do not have any papers to show because:

4 Have you told the court before that you can't pay this fine?

- Yes No, not that I can remember (Skip to 5)

What has changed in your family's life since then? (Check all that apply, if any.)

- Lost job or reduced hours at work.
Started to receive public benefits.
Suffered a serious illness or disability.
Other:

5 What are you asking the court to do? (Check all that you are willing and able to do)

- Lower the amount I owe on the fine.
Payment plan: I want to pay: \$ every month on the day of the month, until this fine is paid off.
More time to pay: Please change my deadline to (month/day/year):
Community service instead of paying the fine. I understand that community service may not be available on weekends or evenings.

Warning box with exclamation mark icon and text: Not all courts offer all of these choices. Contact the court listed on your ticket to find out about your choices. Some fines can't be reduced just because you don't have the money to pay them. You may ask for more time to pay, community service, and/or monthly payments even if the court can't reduce the fine.

6 Other information:

List other facts (if any) about why you can't pay the fine or about your choices in 5. (You can add extra pages or attach other documents that help you explain.)

Multiple horizontal lines for writing additional information.



7 **Plea selection** (In order to submit your request using this form, if your case is unadjudicated, you need to admit responsibility for the ticket by entering a plea of **Guilty** or **No Contest**. If you do not want to admit responsibility or you do not understand your rights, do not use this form. Instead, contact your court to set up a court appearance.)

By entering a plea you will be giving up the following rights:

- To be represented by an attorney employed by you;
- To have a speedy and public trial in front of a judge;
- To testify, to present evidence, and to use court orders without cost to compel the attendance of witnesses and the production of evidence on your behalf;
- To have the witnesses against you testify under oath in court, and to question such witnesses; and
- To remain silent and not testify and not incriminate yourself.

Make a choice between pleading Guilty or No Contest. A no contest plea is a way of saying, 'I don't believe I did all that the officer charges, but I admit violating the law.'

Note: Once you admit responsibility, you will have a conviction for this traffic offense that will be reported to the Department of Motor Vehicles (DMV).

Your plea (Check one):

- No Contest Plea.** I am the defendant in the case. I have read, understand, and waive the rights above, there are facts to support my plea, I am entering my plea freely and voluntarily, and I agree to plead "no contest." I understand that, for purposes of this case, a plea of no contest will be considered the same as a plea of guilty and that if I plead no contest the court will find me guilty.
- Guilty Plea.** I am the defendant in the case. I have read, understand, and waive the rights above, there are facts to support my plea. I am entering my plea freely and voluntarily, and agree to plead guilty.

8 **Read and sign below**



I promise that the information above is correct. I declare under penalty of perjury, under the laws of the State of California, that all information on or attached to this form is true.

Date: _____

Type or print your name



Sign your name

**Can't Afford to Pay Fine:
Traffic and Other Infractions
(Court Order)**

Clerk stamps date here when form is filed.

Court order: You said that you don't have enough money to pay what you owe. See below for the court's decision:

1 Plea selection


- The court accepts your plea of guilty or no contest for each offense charged.
- The court rejects your plea of guilty or no contest for each offense charged.
- Your case was previously adjudicated (there was previously a bail forfeiture or a finding of guilty or no-contest).


Superior Court of California, County of


Case Number:


Ticket number:

2 Request granted: The court decided that you don't have enough money to pay what you owe.


 The amount you owe is lowered to \$ _____.
 Pay the new amount of \$ _____
 by (date): _____.


 You will pay what you owe in monthly payments.
 Pay \$ _____ on the _____ day of every month for
 _____ months.
 Your **first** payment will be on (date): _____.
 Your **last** payment will be on (date): _____.


 You can have more time to pay what you owe. Pay \$ _____ on (date): _____.


 You will do community service instead of paying what you owe.
 You must do _____ hours of community service by (date): _____.
 Contact our court to learn how to set up community service.

This is a Court Order.



Case Number: _____

3 **Need more information:** The court has more questions.

Please contact your court to set up a time to see the judicial officer.

Clerk's phone number: _____

Clerk's address: _____

Please come to court at (time): _____ on (date): _____ Go to Department: _____

Bring these things with you:

(1) _____

(2) _____

(3) _____



**Don't miss
the court date!**

4 **Request denied:** The court decided that you have to pay the full cost of what you owe.

The court decided that:

You have enough money to pay what you owe.

You made a request before, but you did not show that your situation has changed since your last request.

Pay the full cost of what you owe (\$ _____) by (date): _____.

See the court's website for payment information.

Date: _____

Judge (or Judicial Officer)

5 **Clerk's certificate of service**

I am a clerk of the Superior Court of _____ County. I certify that I am not a party to this action.

I served a copy of this order to: _____ in the following manner:

Name of person served

Service by mail: I placed a filed copy of this order in a sealed envelope addressed to the following address:

Street or mailing address: _____
Street City State Zip

The envelope was mailed by U.S. mail, with full postage, from:

Place: _____, California, on (date): _____

Electronic service: I electronically sent a copy of this order:

from _____ to _____ on _____
Electronic Service Address Electronic Service Address Date

Date: _____

Clerk, by: _____

This is a Court Order.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee and Tribal Court—State Court Forum

Staff contact (name, phone and e-mail): Ann Gilmour ann.gilmour@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 28, 2023

Project description from annual agenda: Family and Juvenile Law Advisory Committee Annual Agenda item 9: Tribal court orders that involve the custody of a child are entitled to full faith and credit under section 1911(d) of the Indian Child Welfare Act and recognition and enforcement under the Uniform Child Custody Jurisdiction and Enforcement Act as specifically set forth in Family Code sections 3402(p) and 3404. Currently, however, there is no mechanism to have tribal court child custody orders recognized and enforced within the state court system. This is causing confusion and resulting in difficulties having tribal court custody orders recognized and enforced.

Tribal Court —State Court Forum Annual Agenda approved by Executive and Planning Committee: April 12, 2023 item 2: Tribal court orders that involve the custody of a child are entitled to full faith and credit under 1911(d) of the Indian Child Welfare Act and recognition and enforcement under the Uniform Child Custody Jurisdiction and Enforcement Act as specifically set out in Family Code sections 3402(p) and 3404. Currently, however, there is no mechanism to have tribal court child custody orders recognized and enforced within the state court system. This is causing confusion and resulting in difficulties having tribal court custody orders recognized and enforced.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-36

Title

Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders

Proposed Rules, Forms, Standards, or Statutes

Approve forms FL-580-INFO and FL-581; revise forms FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, and FL-585

Proposed by

Tribal Court–State Court Forum
Hon. Abby Abinanti, Cochair
Hon. Joyce D. Hinrichs, Cochair

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Contact

Ann Gilmour, 415-865-4207
ann.gilmour@jud.ca.gov

Executive Summary and Origin

The Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee propose that, effective January 1, 2025, the Judicial Council approve two new forms and revise four existing forms to clarify that the requirement to recognize and enforce child custody orders under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act (found in sections 3400–3465 of the Family Code) applies to custody orders issued by a tribal court. Tribal court judges report that they have experienced problems having their child custody orders registered and enforced because the existing form refers only to out-of-state custody orders and does not reference tribal court orders.

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.

Background

Tribal courts have authority to issue child custody orders in cases under their jurisdiction. These custody orders may be issued in cases that are akin to California juvenile, family, or probate guardianship proceedings. State and federal law mandate recognition of these orders. The Indian Child Welfare Act¹ provides at section 1911:

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)² is promulgated by the Uniform Law Commission to encourage states to adopt laws consistent with the federal Parental Kidnapping Prevention Act that discourages individuals from forum shopping when they are involved in child custody disputes. The law sets forth common principles for establishing court jurisdiction over child custody matters and provides for interjurisdictional enforcement of these orders.

Courts in jurisdictions that have adopted the UCCJEA must comply with the statute when custody and visitation issues arise in proceedings for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence.³

The UCCJEA, implemented in California at Family Code sections 3400–3465⁴ and *Registration of Out-of-State Custody Order* (form FL-580), provides for the recognition and enforcement of

¹ 25 U.S.C. § 1911(d), available at [https://uscode.house.gov/view.xhtml?req=\(title:25%20section:1911](https://uscode.house.gov/view.xhtml?req=(title:25%20section:1911)

² For full description, see www.uniformlaws.org/committees/community-home?CommunityKey=4cc1b0be-d6c5-4bc2-b157-16b0baf2c56d.

³ See “The Uniform Child-Custody Jurisdiction and Enforcement Act”, U.S. Department of Justice, Office of Justice Programs, Juvenile Justice Bulletin December 2001 (Available at: <https://www.ojp.gov/pdffiles1/ojjdp/189181.pdf>) and section 3402(d) of the Family Code (available at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3402), which defines the proceedings to which it applies: “Child custody proceeding” means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, legal separation of the parties, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under chapter 3 (commencing with section 3441).

⁴ Available at:

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=FAM&division=8.&title=&part=3.&chapter=&article=

out-of-state child custody orders. Although the UCCJEA is implemented in the Family Code, it is not limited to out-of-state child custody cases arising in what would be family law cases in California. As discussed in the legislative analysis when the UCCJEA was adopted in California, the legislation has "...a broad definition of coverage that, with the exception of adoption, includes virtually all cases that can involve custody of or visitation with a child as a custody determination."⁵ With respect to child custody orders issued by tribes, section 3404⁶ provides that "[a] child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced ..."

Although Family Code section 3404 also provides, in subdivision (b), that "[a] court of this state shall treat a tribe as if it were a state of the United States," tribal court judges and personnel report that they are experiencing problems having their custody orders (in all case types) recognized and enforced because of confusion around the use of form FL-580 for tribal court orders and in case types that would not be defined as "family law" cases under California law. In several instances state court clerks have refused to accept tribal court orders for filing.

Further, tribal court personnel report instances in which district attorneys and law enforcement have declined to act under section 3131⁷ of the Family Code, in relation to a tribal court order that is not registered with the state court. Section 3131 of the Family Code requires the district attorney to take all actions necessary to locate and return a child when the child has been taken in violation of a custody order. Failure to act on tribal court orders has resulted in children being left in dangerous situations.

The Proposal

The proposal would:

- Revise *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL105/GC-120) and *Attachment to Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105(A)/GC-120(A)) to include tribal orders and accommodate use in juvenile proceedings by revising the language in the caption box from "This section applies to family law cases" to "This section applies to cases other than probate guardianships," adding a check box in item one for the authorized representative of an agency that is party to the proceedings, and adding tribe as an option for the jurisdiction in which another proceeding for custody of the child could be taking place. It also would remove the column asking for the sex of the child as this is not required by statute;

⁵ See Sen. Floor Analysis, May 12, 1999, for SB 668, Uniform Child Custody Jurisdiction and Enforcement Act (Stats. 1999, ch. 867) at http://www.leginfo.ca.gov/pub/99-00/bill/sen/sb_0651-0700/sb_668_cfa_19990512_195713_sen_floor.html, p. 4.

⁶ Available at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3404.

⁷ Available at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3131.

- Revise *Registration of Out-of-State or Tribal Custody Order and Notice of Registration* (form FL-580) to (1) include reference to tribal orders in the title and throughout the body of the form; (2) accommodate use in family law, guardianship, or juvenile proceedings in which a child custody order is made by adding language in items three and four to reference removal of physical or legal custody of a child by an agency; (3) clarify the information on the date upon which the registered order can be enforced by adding language to item two on page three of the form and adding a new item six; and (4) change the title to include reference to the notice of registration contained at page three of the form;
- Revise *Request for Hearing Regarding Registration of Out-Of-State or Tribal Custody Decree Order* (form FL-585) to include tribal orders and change the language in the title from decree to order to be consistent with language used in other forms and the statute;
- Approve new *How to Register and Request Enforcement of Your Out-Of-State or Tribal Custody Order* (form FL-580-INFO) to set out the process and requirements for registration and enforcement of these orders; and
- Approve new *Petition for Enforcement of Out-of-State or Tribal Custody Order and Application for Warrant to Take Physical Custody of Child* (form FL-581) for optional use when there has been a breach of a registered out-of-state or tribal child custody order.

The proposal is urgently needed to remedy a problem that is causing significant public safety concerns when tribal child custody orders are ignored and not enforced and responds to the concerns that have been identified by tribal court judges, administrators, and advocates.

Alternatives Considered

The committees considered whether the issues could be addressed through training, informational materials, or other guidance but concluded that the existing forms caused confusion and needed to be revised to accommodate use for orders coming out of tribal courts.

Fiscal and Operational Impacts

Other than the initial costs associated with updating system forms, we do not anticipate any additional costs to the judicial branch. We anticipate that by clarifying an area where there is considerable existing confusion, the proposal will provide cost savings to litigants seeking to enforce tribal court child custody orders.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committees also seek 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 FL-105/GC-120, FL-105(A)/GC-120(A), FL-580, FL-580-INFO, FL-581, and FL-585, at pages 6–19

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ EMAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	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:	
(This section applies to cases other than probate guardianships) PETITIONER: RESPONDENT: OTHER PARTY:	
(This section applies only to guardianship cases.) GUARDIANSHIP OF (<i>Name</i>): _____ Minor	CASE NUMBER: _____
DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)	

1. I am (*check one*): a party to this proceeding to determine custody of a child the authorized representative of the: _____ agency, which is party to this proceeding to determine custody of a child.
2. My present address and the present address of each child residing with me is confidential under Family Code section 3429 as I have indicated in item 3.
3. There are (*specify number*): _____ minor children who are subject to this proceeding, as follows:
(Insert the information requested below. The residence information must be given for the last FIVE years.)

a. Child's name	Place of birth	Date of birth
Period of residence to present	Present address <input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.	Person child lived with (<i>name and complete current address</i>) <input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.
to	Child's residence (<i>City, State</i>)	Person child lived with (<i>name and complete current address</i>) Relationship
to	Child's residence (<i>City, State</i>)	Person child lived with (<i>name and complete current address</i>) Relationship
to	Child's residence (<i>City, State</i>)	Person child lived with (<i>name and complete current address</i>) Relationship

b. Child's name	Place of birth	Date of birth
Period of residence to present	Present address <input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.	Person child lived with (<i>name and complete current address</i>) <input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.

DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)

SHORT TITLE:	CASE NUMBER:
--------------	--------------

to	Child's residence (<i>City, State</i>)	Person child lived with (<i>name and complete current address</i>)	Relationship
to	Child's residence (<i>City, State</i>)	Person child lived with (<i>name and complete current address</i>)	Relationship
to	Child's residence (<i>City, State</i>)	Person child lived with (<i>name and complete current address</i>)	Relationship

- c. Additional residence information for a child listed in item a or b is continued on attachment 3c. ([Form MC-020](#) may be used for this purpose.)
- d. Additional children are listed on form FL-105(A)/GC-120(A). (Provide all requested information for additional children.)
4. Do you have information about, or have you participated as a party or as a witness or in some other capacity in, another court case or custody or visitation proceeding, in California or elsewhere, concerning a child subject to this proceeding?
 Yes No (If yes, attach a copy of the orders (if you have one) and provide the following information):

Proceeding	Case number	Court (<i>name, state or tribe, location</i>)	Court order or judgment (<i>date</i>)	Name of each child	Your connection to the case	Case status
a. <input type="checkbox"/> Family						
b. <input type="checkbox"/> Guardianship						
c. <input type="checkbox"/> Other						

Proceeding	Case Number	Court (<i>name, state or tribe, location</i>)
d. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency		
e. <input type="checkbox"/> Adoption		

5. One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one and provide the following information):

Court	County	State or Tribe	Case Number (<i>if known</i>)	Orders expire (<i>date</i>)
a. <input type="checkbox"/> Criminal				
b. <input type="checkbox"/> Family				
c. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency				
d. <input type="checkbox"/> Other				

SHORT TITLE:	CASE NUMBER:
--------------	--------------

6. Do you know of any person who is not a party to this proceeding who has physical custody or claims to have custody of or visitation rights with any child in this case? Yes No *(If yes, provide the following information):*

a. Name and address of person

- Has physical custody
- Claims custody rights
- Claims visitation rights

Name of each child

b. Name and address of person

- Has physical custody
- Claims custody rights
- Claims visitation rights

Name of each child

c. Name and address of person

- Has physical custody
- Claims custody rights
- Claims visitation rights

Name of each child

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

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

7. Number of pages attached: _____

NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.

CASE NAME:	CASE NUMBER:
------------	--------------

**ATTACHMENT TO
DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)**

Child's name <input type="checkbox"/> Residence information is the same as given on form FL-105/GC-120 for child a. (If NOT the same, provide the information below.)	Place of birth	Date of birth	
Period of residence	Present address	Person child lived with (name and complete current address)	Relationship
to present	<input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.	<input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.	
to	Child's residence (City, State)	Person child lived with (name and complete current address)	Relationship
to	Child's residence (City, State)	Person child lived with (name and complete current address)	Relationship
to	Child's residence (City, State)	Person child lived with (name and complete current address)	Relationship

Child's name <input type="checkbox"/> Residence information is the same as given on form FL-105/GC-120 for child a. (If NOT the same, provide the information below.)	Place of birth	Date of birth	
Period of residence	Present address	Person child lived with (name and complete current address)	Relationship
to present	<input type="checkbox"/> Check if the address is confidential under Family Code section 3429 and only put in the state.	<input type="checkbox"/> (Check if the address is confidential under Family Code section 3429 and only put in the state.	
to	Child's residence (City, State)	Person child lived with (name and complete current address)	Relationship
to	Child's residence (City, State)	Person child lived with (name and complete current address)	Relationship
to	Child's residence (City, State)	Person child lived with (name and complete current address)	Relationship

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ EMAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council FL-580-03.07.2024-am
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
REGISTRATION OF OUT-OF-STATE OR TRIBAL CUSTODY ORDER AND NOTICE OF REGISTRATION	CASE NUMBER: _____

1. The minor children covered by the out-of-state or tribal custody order are (*name each*):

<u>Child's name</u>	<u>Date of birth</u>	<u>Age</u>
---------------------	----------------------	------------

 2. a. Petitioner has been awarded custody visitation of those minor children.
 b. Petitioner is the Parent Other (*specify*): _____ of those minor children.
 c. Petitioner's address is:*

 3. a. Please select one:
 1. The physical legal custody of the children has been removed from
 (*list names*) _____ ; or
 2. Respondent has been awarded custody visitation of these minor children.
 b. Respondent: _____ is a parent of the children.
 Respondent: _____ is a parent of the children.
 Respondent: _____ is (*specify*): _____ of those minor children.
 c. Respondent's address (*state for each*):*

 4. a. Another person or agency (*specify name*): _____ has been awarded
 custody visitation of those minor children.
 b. That person or agency is the parent other (*specify*): _____ of these minor children.
 c. That person or agency's address is:*
- * If there are issues of domestic violence or child abuse, you may give a mailing address instead.
5. A completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105/GC-120) is attached to this registration.

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

6. I request that the attached out-of-state or tribal custody order be registered in this court.
- a. The court, county, and state where order was made are *(specify)*:
 - b. The date when the most recent order for child custody/visitation was made in that case *(specify)*:
 - c. Two copies, including one certified copy of that out-of-state or tribal order, are attached to this registration and made a part of it.
 - d. To the best of my knowledge and belief, this order has not been modified.

Date:

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

(TYPE OR PRINT NAME)



(SIGNATURE)

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

NOTICE OF REGISTRATION OF OUT-OF-STATE OR TRIBAL CUSTODY ORDER

1. To:
- a. Petitioner at address on 2 c on page 1
 - b. Respondent at address on 3 c on page 1
 - c. Other person who has been awarded custody or visitation in this custody order at address on 4(c) on page 1

2. The attached out-of-state or tribal custody order can be enforced as of the date of registration in the same manner as an order issued by a California court. **This means the attached order can be enforced today.**

3. If you want to contest the validity of this registered out-of-state or tribal custody order, you must request a hearing date that is within 20 days of the date that this notice was mailed to you (see clerk's date of mailing below). A request for a hearing must be in writing and filed in this case using *Request for Hearing of Out-of-State or Tribal Custody Order* (form FL-585).
4. If you do not request this hearing, the out-of-state or tribal order will be confirmed in California and you will not be able to challenge its validity in the future.

5. At the hearing, the court will confirm the out-of-state or tribal order unless you can prove one of the following:
- a. The issuing court did not have jurisdiction under chapter 2 of the California Family Code (commencing with section 3421).
 - b. The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under chapter 2 of the California Family Code (commencing with section 3421).
 - c. You were entitled to notice of the original order, but did not receive that notice in accordance with the standards of California Family Code section 3408 in the proceedings before the court that issued the order for which registration is sought.
6. **If you request a hearing, the attached order remains enforceable while you await the hearing.**

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this case and that a copy of this Registration of Out-of-State or Tribal Custody Order and all attachments were sent to each person named in item 1 above by first-class mail. The copies were enclosed in envelopes with postage fully prepaid. The envelopes were addressed to the persons named in item 1 at the addresses listed above, sealed, and deposited with the United States Postal Service.

At (*place*):

On (*date*):

Date: Clerk by: _____, Deputy

This form explains what to do if you want to register and enforce a child custody order made by the court of another state, an Indian tribe, or another country.

1. Where do I register the order?

You can register a child custody order from the court of another state, country, or tribal court with any superior court in California. You can find a listing of California courts here: www.courts.ca.gov/find-my-court.htm?query=browse_courts.

2. How do I register the order?

You can either bring the required documents to the court clerk's office for registration or you can mail them to the court. Before you mail the documents, you should contact the court to confirm the correct department and address for mailing the documents. (See Family Code, § [3445](#))

3. What documents do I need to give the court?

The documents you need to give the court to register your order are set out in Family Code section 3445(a):

- a. A letter or other document requesting registration. You may use form [FL-580](#), *Registration of Out-of-State or Tribal Custody Order and Notice of Registration*.
- b. Two copies of the out-of-state or tribal custody order that you want to register. One of the copies needs to be certified.
- c. A statement or declaration signed under penalty of perjury that, as far as you know, the order you are registering has not been modified or changed. This declaration is contained in item 6(d) of the [FL-580](#) form.
- d. Unless there have been allegations of domestic violence or child abuse, you must also include your address and the address of any parent or person acting as a parent who has been awarded custody or visitation of the child.

4. Is there a fee?

Unless you qualify for a fee waiver (see Government Code, § [68630](#)) you will need to pay the appropriate filing fee. (Ask the court what the required amount is.)

5. What can I ask the court to do?

If you want the assistance of the court and/or law enforcement to enforce the terms of the custody order because someone is violating the order, you can file a form FL-581, *Petition for Enforcement of Out-of-State or Tribal Custody Order*, either at the same time you register your custody order or later. The request must contain all the information set out in section [3448](#)(b) of the Family Code and be signed under penalty of perjury. You must attach to your request certified copies of the order you want enforced. At the time you request enforcement, you can also ask the court to order you physical custody of the child, attorney's fees, and assistance from law enforcement. Sometimes law enforcement can help locate the child or execute a warrant to take physical custody of the child. (See Family Code, §§ [3131](#), [3448](#)(b)(5).)

6. What happens after I register my order?

After you send or give your documents to the court, the court will file your order as a foreign judgment and give any other person you named that have, or claim a right to, custody or visitation with the child (or children) notice of the documents you have filed. (This notice is on page three of form FL-580.) The people who get notice have 20 days to ask for a hearing to object to the validity of the registered order. (See Family Code, § [3445](#)(b).)



7. What if another person objects to registration of the order?

If someone objects to the registration of the custody order, you will get notice of the time and date that the court has set for a hearing. You or your attorney should go to the hearing. At the hearing, the court will consider whether the court that issued the custody order had jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) to make the order; whether the order has ever been vacated, stayed, or modified by a court with jurisdiction; and whether the person objecting to the order received notice of the order before it was made. (See Family Code, § [3445](#)(d).)

8. When will my order be confirmed?

If at a hearing the court finds that the registered order is valid, or if no one contests the order within 20 days, the court will confirm the order and give notice of the confirmation to you and all the other people served with notice of registration of the order. (See Family Code, § [3445](#)(e).)

9. The registered order is enforceable from the date it is registered with the court unless and until the court finds the order is not valid. You do not have to wait for the court's confirmation. (See Family Code, §§ [3445](#)(c)(1), [3446](#).)**10. What happens if I ask for help with enforcement?**

If you ask the court for an order enforcing the custody order (see paragraph 5 above) either at the same time you register the order or later, the court will order the person who has the child in violation of the custody order to come to court, and will set a hearing for as soon after the person is served with that order as possible (usually the next court day). (See Family Code, § [3448](#)(c).)

11. What happens at the enforcement hearing?

You or your attorney must attend this hearing. At this hearing, the court will consider whether the child custody order has been registered and confirmed, and whether the order was later vacated, stayed, or modified by a court with jurisdiction. If the original order has not been registered and confirmed, the court will consider whether the court that issued it had jurisdiction under the UCCJEA, and whether the respondent was entitled to notice of the original order issued by the out-of-state or tribal court but did not receive it. (See Family Code, § [3448](#)(d).)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL 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:	
PLAINTIFF: RESPONDENT:	
PETITION FOR ENFORCEMENT OF OUT-OF-STATE OR TRIBAL CUSTODY ORDER <input type="checkbox"/> AND APPLICATION FOR WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD	CASE NUMBER:

1. A child custody determination was made by the (name of court): _____ Court on
 (insert date of order): _____
 A certified copy (or copy of a certified copy) and one additional copy of that order is attached.

2. The child custody determination referred to above (choose one) is registered simultaneously with this request for enforcement or was registered confirmed in California in the Superior Court of (insert name of county): _____ on (insert date of registration): _____ (Date of confirmation if applicable): _____
 Copies of the filed FL-580 and FL-105/GC-120 forms are attached. A certified copy (or copy of a certified copy) of any order confirming registration is attached.

3. The child custody determination referred to above gives me (other person specify): _____ the right to immediate physical custody of the following child:

Child's Name:	Date of Birth:

4. The respondent is violating that order because (explain): _____

5. The physical address where the respondent and the child can be found is (if unknown, write unknown): _____

6. The court that issued the child custody determination (check one):
 - Did not identify the jurisdictional basis it relied on;
 - Did identify the jurisdictional basis it relied on when it exercised jurisdiction, and that basis was: _____

PLAINTIFF: RESPONDENT:	CASE NUMBER:
---------------------------	--------------

7. The out-of-state or tribal child custody determination has not been vacated, stayed, or modified by a court whose decision must be enforced under California law.

8. To the best of my knowledge, there (check one) is is not another court case pending that could affect this case, including cases and hearings related to domestic violence, protective orders, termination of parental rights, and adoptions. If so, complete the following:

Name of Court:
Case Number:
Type of Case:
Date of Action:

9. I ask that the court (check all that apply):

- a. Order the respondent to bring the child to court at the time and place set for hearing of this petition.
- b. Issue a warrant to take physical custody of child prior to the hearing on this matter.
The child is immediately likely to suffer serious physical harm or to be removed from this state because:

- c. Authorize California law enforcement to help, if necessary, to enforce this court's order;
- d. Order respondent to pay attorney's fees.
- e. Other:

Date: _____

Type or print your name

▶ _____
Sign your name

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ EMAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council FL-585-01.18.2024-am
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
REQUEST FOR HEARING REGARDING REGISTRATION OF OUT-OF-STATE OR TRIBAL CUSTODY ORDER	CASE NUMBER:

NOTICE OF HEARING

1. A hearing on this application will be held as follows:

a. Date:	Time:	Dept.:	Div.:	Room:
----------	-------	--------	-------	-------

b. The address of court is: same as noted above other (specify):

2. I request that the registration of custody be vacated (canceled) because:

- a. The court or tribunal that issued the order did not have personal jurisdiction over me.
- b. The custody order has been vacated, stayed, or modified by a later order made by a court having jurisdiction to do so. (Please attach a copy of the later order.)
- c. I was entitled to notice of the original order, but did not receive that notice in the proceedings before the court that issued the order.
- d. Other (specify):

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the *Request for Hearing Regarding Registration of Out-of-State or Tribal Custody Order* was mailed first class, postage fully prepaid, in a sealed envelope addressed as shown below, and that the notice was mailed
 at (place): _____, California,
 on (date): _____

Date: _____

Clerk, By _____, Deputy

┌	┐	┌	┐
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┌	┐	┌	┐
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RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Juvenile Law: Restraining Orders

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Adopt Cal. Rules of Court, rule 5.632; amend rules 5.620, 5.625, and 5.630; adopt form JV-249; revise forms JV-245, JV-247; JV-250, JV-255, JV-258, JV-259, JV-260, JV-265, JV-268, and JV-272; revoke form JV-257

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Kerry Doyle, 415-865-8791, kerry.doyle@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023, amended February 9, 2024

Project description from annual agenda:

Item 4. Forms to Implement AB 1621 (Gipson) Firearms: unserialized firearms (Stats. 2022, ch. 76) in Juvenile Proceedings Effective July 1, 2022, California barred (1) the sale, possession, and purchase of the unserialized parts and kits used to build ghost guns, until they are treated as firearms under federal law, and (2) the possession of existing ghost guns that have not been serialized pursuant to California law after a six-month period. This law prohibits persons subject to a restraining order from possessing or owning certain firearm parts, including a "firearm precursor part," which the law redefines. The civil restraining order forms have been updated to implement AB 1621. Effective January 1, 2024, the domestic violence restraining order forms will mirror the civil forms. This proposal will update the juvenile forms, including the two request forms (JV-245, JV-248), the two TRO forms (JV-250, JV-255) and the two Restraining Order After Hearing forms (JV-255, JV-265). The joint info form DV-800-INFO/JV-270-INFO will have the new language as of January 1, 2024.

Item 11. Protective Orders and Other Forms: Implementation of Assembly Bill 92 Develop recommendations for form revisions to implement Assembly Bill 92 (Stats. 2023, Ch. 232). Under the statute, any person prohibited from possessing firearms is, also prohibited from possessing, owning, or buying body armor. This advisement needs to be added to forms in the Domestic Violence, Juvenile, Criminal, Civil Harassment, Elder Abuse, Workplace Violence, School Violence, and Gun Violence form series.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-22

Title

Juvenile Law: Restraining Orders

Action Requested

Review and submit comments by
May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 5.632;
amend rules 5.620, 5.625, and 5.630; adopt
form JV-249; revise forms JV-245, JV-247;
JV-250, JV-255, JV-257, JV-258, JV-259,
JV-260, JV-265, JV-268, and JV-272.

Proposed Effective Date

January 1, 2025

Contact

Kerry Doyle, 415-865-8791
kerry.doyle@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends amending several rules of the California Rules of Court and revising several forms to conform to recent statutory changes enacted by Assembly Bill 1621 (Gipson; Stats. 2022, ch. 76) and Assembly Bill 92 (Stats. 2023, ch. 232). AB 1621 redefines “firearm precursor parts” and AB 92 specifies that a person who is prohibited from possessing firearms is also prohibited from possessing, owning, or buying body armor. The committee also proposes a new notice of hearing form that is separate from the temporary restraining order forms and a new rule clarifying the requirement that the juvenile court that has jurisdiction of a child or youth must hear requests for restraining orders initiated by or brought against the child or youth.

Background

AB 1621 went into effect immediately upon approval on June 30, 2022. It expanded the prohibition on persons subject to a restraining order from possessing or owning certain firearm

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.

parts, to include a “firearm precursor part,” which it redefined.¹ Changes are needed to a number of forms to implement the new definition of firearm precursor part.²

AB 92 became effective January 1, 2024, and provides that a person prohibited from possessing firearms under state law is also prohibited from possessing, owning, or buying body armor.³ When advising a person of their firearm prohibition, courts must also advise them of the prohibition from possessing, owning, or buying body armor.⁴ The new law also requires the prohibited person to relinquish body armor that they possess.⁵

Additionally, the Family and Juvenile Law Committee proposes creating a new notice of court hearing form and removing the notice portions of the current temporary restraining orders. The council approved a similar division of the notice of hearing and temporary restraining order in the DV forms in recent years, so this will make the JV restraining order forms more consistent with those.

The Proposal

California Rules of Court

The committee is proposing that a new rule of court, rule 5.632, be adopted to clarify the requirement that the juvenile court that has jurisdiction of a child or youth must hear requests for civil harassment and work violence prevention orders.⁶ Although the committee has been moving away from repeating statutory requirements in the rules of court, these requirements are in the Code of Civil Procedure⁷ and thus may go unnoticed by juvenile court judges and lawyers who are focused on the Welfare and Institutions Code.

The committee is proposing that three rules of court—rules 5.620, 5.625, and 5.630—be amended to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260 referenced in those rules, and adding it as a separate form title, in light of the committee's proposal of a new notice form. Please see the discussion of those forms below.

The committee is also proposing that the option to modify a restraining order using *Change to Restraining Order After Hearing—Juvenile* (form JV-257) be removed from rule 5.630. The requirement to create a new restraining order after a modification would remain in the rule, and

¹ Pen. Code, § 16531(a).

² The definition of firearms precursor parts proposed for the JV forms is the same definition used in the current DV, criminal, and civil restraining orders.

³ Pen. Code, § 31360(b)(1) & (2).

⁴ Pen. Code, § 31360(b)(2).

⁵ *Ibid.*

⁶ See proposed rule 5.632 in this invitation to comment.

⁷ Code Civ. Proc., § 374.5.

the new restraining order could be entered into the California Law Enforcement Telecommunications System (CLETS) database.

Judicial Council forms

To conform to the statutory changes enacted by AB 92 and AB 1621 and to separate out the notice and order forms, the committee proposes adoption of one new form and revising several forms, to be effective January 1, 2025, as discussed below:

- *Notice of Court Hearing* (form JV-249) would be a new mandatory form to provide notice of a court hearing on a restraining order request. The form is designed to be used for orders against either an adult or a child.

Currently, the notice of hearing is combined with the temporary restraining order forms. This creates confusion and makes the temporary orders difficult to read and enforce because there are several items to which the order applies only if the temporary orders are granted. For example, on the current *Notice of Court Hearing and Temporary Restraining Order—Juvenile* (form JV-250) the warnings to the restrained person are titled “To the Person in 2, if 5b is checked.” Similarly, the instructions to law enforcement are titled “Instructions for Law Enforcement, if 5b is checked.” Having these caveats on the forms make the forms difficult to understand and follow. Separating out the notice of hearing, and any order denying the temporary restraining order, from the temporary restraining orders themselves would make the orders easier to issue, understand, and enforce. Separate notice and order forms would also make the juvenile forms consistent with other civil restraining order types, and the content of the proposed form mirrors the content of those other forms.

- *Request for Juvenile Restraining Order* (form JV-245) would be revised with the new definition of firearm precursor part in item 6 and item 13 and with information on a potential order prohibiting the possession of body armor at item 14.
- *Response to Request for Juvenile Restraining Order* (form JV-247) would be revised to include a reference to the proposed new *Notice of Court Hearing* (form JV-249) and to add an item for responsive information in light of the prohibition on body armor.
- *Notice of Court Hearing and Temporary Restraining Order—Juvenile* (form JV-250) would be retitled *Temporary Restraining Order—Juvenile*. It would also be revised to include the new definition of firearm precursor part, to include an order prohibiting the possession of body armor,⁸ and to remove the notice portion of the form, including current item 5, in which the court can indicate whether a requested temporary restraining order has been denied

⁸ The committee recommends adding a stand-alone item for body armor prohibitions that reads: “You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.” This same language will be included on all DV, civil, and criminal protective order forms.

(which would now be on the *Notice of Hearing*). The date of the court hearing would still be on the form, but now noted as the expiration date of the temporary restraining order.

- *Juvenile Restraining Order After Hearing* (form JV-255) would be revised to include the new definition of firearm precursor part and to include an order prohibiting the possession of body armor.
- *Change to Restraining Order After Hearing—Juvenile* (form JV-257) would be retitled *Order to End Restraining Order After Hearing* and could be used to terminate both juvenile restraining order after hearing types. It would also be converted into a plain language form, similar to the other juvenile restraining order forms.
- *Request for Juvenile Restraining Order Against a Child* (form JV-258) would be revised to include the new definition of firearm precursor part in the item requesting information about firearms and the potential order prohibiting them, add information on a potential order prohibiting body armor, and remove “Notice of Court Hearing and” from the title of form JV-260 in the instructional box at the end of the form.
- *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259) would be revised at item 9 to remove “Notice of Court Hearing and” from the title of form JV-260 and to add an item on the prohibition on body armor.
- *Notice of Court Hearing and Temporary Restraining Order Against a Child* (form JV-260) would be retitled *Temporary Restraining Order Against a Child*. It would also be revised to include the new definition of firearm precursor part, to include an order prohibiting the possession of body armor, and to remove the notice portion of the form, with revisions similar to those made to form JV-250.
- *Juvenile Restraining Order After Hearing—Against a Child* (form JV-265) would be revised with the new definition of firearm precursor part and to include an order prohibiting the possession of body armor.
- *Proof of Personal Service* (form JV-268) would be revised at item 4 to include new *Notice of Court Hearing* (form JV-249) and to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260.
- *Prohibited Items Finding and Orders* (form JV-272) would be revised at item 1 to remove “Notice of Court Hearing and” from the titles of forms JV-250 and JV-260.

Alternatives Considered

The committee considered not creating a new separate notice of hearing form. However, the committee concluded that the new form would be of assistance to parties, the courts, and law enforcement by making the temporary order forms easier to complete and understand. For the

reasons discussed above in this invitation to comment, the committee decided it was best to create a new form to provide notice that is separate from the temporary restraining order forms.

All other amendments and revisions were necessary for the forms to correctly reflect recent statutory changes, and so the option of taking no action was not considered for them.

Fiscal and Operational Impacts

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly approved forms. Courts will also incur costs to incorporate the forms into the paper or electronic processes.

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?
- Should the rules of court be amended to require notice in a specified way?

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. Cal. Rules of Court, rules 5.620, 5.625, 5.630, and 5.632, at pages 6–8
2. Forms JV-245, JV-247, JV-249, JV-250, JV-255, JV-257, JV-258, JV-259, JV-260, JV-265, JV-268, and JV-272, at pages 9–64
3. Link A: Assembly Bill 1621,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1621
4. Link B: Assembly Bill 92,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB92

Rules 5.620, 5.625, and 5.630 of the California Rules of Court would be amended and rule 5.632 would be adopted, effective January 1, 2025, to read:

1 **Rule 5.620. Orders after filing under section 300**

2
3 (a) * * *

4
5 (b) **Restraining orders (§ 213.5)**

6
7 After a petition has been filed under section 300, and until the petition is dismissed
8 or dependency is terminated, the court may issue restraining orders as provided in
9 rule 5.630. A temporary restraining order must be prepared on ~~Notice of Court~~
10 ~~Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250). An order
11 after hearing must be prepared on *Juvenile Restraining Order After Hearing* (form
12 JV-255).

13
14 (c)–(e) * * *

15
16
17 **Rule 5.625. Orders after filing of petition under section 601 or 602**

18
19 (a) **Restraining orders (§ 213.5)**

20
21 After a petition has been filed under section 601 or 602, and until the petition is
22 dismissed or wardship is terminated, the court may issue restraining orders as
23 provided in rule 5.630. A temporary restraining order must be prepared on ~~Notice~~
24 ~~of Court Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250) or, if
25 the restrained person is the subject of a petition under section 601 or 602, on ~~Notice~~
26 ~~of Court Hearing and Temporary Restraining Order Against a Child~~ (form JV-
27 260). An order after hearing must be prepared on *Juvenile Restraining Order After*
28 *Hearing* (form JV-255) or, if the restrained person is the subject of a petition under
29 section 601 or 602, on *Juvenile Restraining Order After Hearing—Against a Child*
30 (form JV-265).

31
32 (b)–(c) * * *

33
34
35 **Rule 5.630. Restraining orders**

36
37 (a)–(b) * * *

38
39 (c) **Application for restraining orders**

40
41 (1)–(7) * * *

Rules 5.620, 5.625, and 5.630 of the California Rules of Court would be amended and rule 5.632 would be adopted, effective January 1, 2025, to read:

1 (8) The temporary restraining order must be prepared on ~~Notice of Court~~
2 ~~Hearing and Temporary Restraining Order—Juvenile~~ (form JV-250) or, if
3 the restrained person is the subject of a petition under section 601 or 602, on
4 ~~Notice of Court Hearing and Temporary Restraining Order Against a Child~~
5 (form JV-260), and must state on its face the date of expiration of the order.
6

7 **(d) Continuance**

8
9 (1)–(3) * * *

10
11 (4) Either *Order on Request to Reschedule Restraining Order Hearing* (form JV-
12 253) can be used to grant or deny a request for a continuance or a new *Notice*
13 *of Court Hearing and* (form JV-249) and, if granted, Temporary Restraining
14 *Order—Juvenile* (form JV-250) can be issued. ~~must be used to grant or deny~~
15 ~~a request for continuance.~~ If the restrained person is the subject of a petition
16 under section 601 or 602, either form JV-253 can be used or a new *Notice of*
17 *Court Hearing and* (form JV-249) and, if granted, Temporary Restraining
18 *Order Against a Child* (form JV-260) can be issued. ~~must be used.~~
19

20 **~~(e)~~(e) Hearing on application for restraining order**

21
22 (1)–(4) * * *

23
24 **(f) Service of ~~restraining order~~ firearms prohibition forms**

25
26 When service of ~~Notice of Court Hearing and Temporary Restraining Order—~~
27 ~~Juvenile~~ (form JV-250), ~~Notice of Court Hearing and Temporary Restraining Order~~
28 ~~Against a Child~~ (form JV-260), ~~Juvenile Restraining Order After Hearing—~~
29 Juvenile Restraining Order After Hearing (form JV-255), or *Juvenile Restraining*
30 *Order After Hearing—Against a Child* (form JV-265) is made, it must be served
31 with a blank Receipt for Firearms, Firearm Parts, and Ammunition (form DV-
32 800/JV-270) and How Do I Turn In, Sell, or Store Firearms, Firearm Parts, and
33 Ammunition? (form DV-800-INFO/JV-270-INFO). Failure to serve form JV-270
34 or JV-270-INFO does not make service of form JV-250, form JV-255, form JV-
35 260, or form JV-265 invalid.
36

37 **(g)–(i) * * ***

38
39 **(j) Modification of restraining order**

40
41 (1) A restraining order may be terminated or modified on the court’s own motion
42 or in the manner provided for in section 388 or 778, as appropriate, and rule 5.570.

Rules 5.620, 5.625, and 5.630 of the California Rules of Court would be amended and rule 5.632 would be adopted, effective January 1, 2025, to read:

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- (2) A termination ~~or modification~~ order must be made on ~~Change to Restraining Order After Hearing~~ Order to End Restraining Order After Hearing (form JV-257).
- (3) ~~A modification must be made on a~~ A new Restraining Order After Hearing (form JV-255) or, if the restrained person is the subject of a petition under section 601 or 602, a new Juvenile Restraining Order After Hearing—Against a Child (form JV-265), ~~may be prepared in addition to form JV-257.~~

Rule 5.632. Civil harassment, workplace violence prevention, and domestic violence prevention orders

A proceeding for the following orders initiated by or brought against a child or youth who is under juvenile court jurisdiction must be heard in the juvenile court that has jurisdiction of the child or youth as required by Code of Civil Procedure section 374.5:

- (1) An order prohibiting harassment under Code of Civil Procedure section 527.6;
- (2) An order prohibiting violence in the workplace under Code of Civil Procedure section 527.8;
- (3) A protective order under division 10 (beginning with section 6200) of the Family Code; and
- (4) A protective order under Family Code sections 7710 and 7720.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-245.v5.021424.jh

When to use this form

Use this form to ask for a restraining order if a child in juvenile court needs protection, or you want a restraining order and you have a relationship to the child as listed in item 1b below. If you have a lawyer in this case, the lawyer should fill out this form. **Do not** use this form if you want a restraining order against a child in a juvenile justice (delinquency) case; instead use form JV-258, *Request for Juvenile Restraining Order Against a Child*.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

1 Person in Need of Protection

a. **Name:** _____

(If additional people need to be protected, list them in ④.)

Age: _____

b. **Relationship to child:**

- person in ① is the child child who lives in same household
- parent present caregiver of child
- guardian court-appointed special advocate
- social worker representative of Indian child's tribe
- probation officer other: _____

c. **Lawyer's information** (skip if you do not have a lawyer)

Name: _____ State Bar No.: _____

Firm name: _____

d. **⚠ Address where you or your lawyer can receive court papers**

(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their address.)

Address: _____

City: _____ State: _____ Zip: _____

e. **Your contact information** (optional) or **your lawyer's contact information**

(The court could use this information to contact you. If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information. If you don't have a lawyer, you may give your information but doing so is optional.)

Telephone: _____ Email Address: _____ Fax: _____

2 Person to Be Restrained

a. **Name:** _____

b. **Date of birth** (if known): _____ **Age** (give estimate if age unknown): _____

c. **Gender:** Male Female Nonbinary

d. **Race:** _____

e. **Relationship to person in ① a:** _____

This is not a Court Order.



3 Describe Why You Need a Restraining Order

a. **Did the person in ② do any of these things to the person in ①?**

Check all that apply
(Note: These are only some examples of why someone might need a restraining order.)

- Physically hurt or tried to physically hurt
- Sexually abused or tried to sexually abuse
- Used or threatened to use gun or weapon
- Stalked
- Harassed by phone, online, or by any other means
- Isolated the person in ① from friends or family
- Kept the person in ① from eating or getting other basic needs
- Destroyed property (examples: breaking phone, door, window)
- Other (please explain): _____

b. **Give details about what the person in ② did that was abusive or harassing.** Start with the most recent incident, then write about any other incidents. Be sure to include details like dates and any emotional or physical harm. Details can also include how often something happened, what was said, or whether weapons were used, etc.

Check here if you need more space to describe abuse or harassment. Attach a sheet of paper and write “JV-245, Item 3” at the top.

c. Check here if you know there is a report that supports your request that has been filed with the court, and complete the section below.

Who wrote the report and when was the report filed? (Check all that apply.)

- Social worker (date report was filed): _____
- Probation officer (date report was filed): _____
- Other (name): _____ (date report was filed): _____

This is not a Court Order.



4 Do other people need protection from the person in 2 ?

- No
- Yes (*If yes, list them.*)

a. <u>Full name</u>	<u>Age</u>	<u>Relationship to the child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Why do these people need protection?

- Check here if you need more space to list additional people or to describe why these people need protection. Attach a sheet of paper and write "JV-245, Item 4" at the top.

5 Did you provide notice to the person in 2 of this request for a restraining order?

(Skip this item if your request is based on domestic violence. To know what domestic violence is, see form [DV-500-INFO](#), page 2, "Am I Eligible?")

a. **No** (*If no, complete the section below.*)

(1) I did not notify the person in 2 or their attorney because I am afraid that the person in 2 will threaten or harm the person in 1a if they receive notice of this request before protection can be granted (*explain*):

(2) Other (*describe*):

b. **Yes** (*If yes, complete the section below.*)

(1) Who did you notify? Person in 2 Lawyer of person in 2

(2) When did you provide notice? (*date*): _____ (*time*): _____ a.m. p.m.

(3) How did you provide notice? (*Check all that apply.*)

Telephone (*area code and number*): _____

Fax (*area code and number*): _____

Email (*email address*): _____

Other (*describe*): _____

This is not a Court Order.



6 Does Person in 2 Have Firearms (Guns), Firearm Parts, or Ammunition?

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes (If you have information, complete the section below.)

	Describe firearms (guns), firearm parts, or ammunition	How many or what amount?	Location, if known
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____
(6)	_____	_____	_____

Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different. Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

7 Order to Not Abuse

I ask the judge to order the person in 2 to not do the following things to any person listed in 1 or 4: Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

If this restraining order is needed to prevent domestic violence, "disturbing the peace" includes coercive control. For more information on what domestic violence, disturbing the peace, and coercive control mean, read form DV-500-INFO, page 2, "Am I Eligible?"

8 No-Contact Order

I ask the judge to order the person in 2 to not contact any person listed in 1 or 4.

This is not a Court Order.



9 **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from the following persons and places:

(Check all that apply)

- Person listed in **(1)**
- Each person listed in **(4)**
- The home of any protected person
- The workplace of any protected person
- The vehicle of any protected person
- The school or child care of any protected person
- Other *(please explain)*: _____

b. How far do you want the person to stay away from all the places you checked above?

- 100 yards (300 feet)
- Other *(give distance in yards)*: _____

c. Do you and the person in **(2)** live together or live close to each other?

- No
- Yes *(If yes, check one)*:
 - Live together *(If you live together, you can ask that the person in **(2)** move out in **(10)**.)*
 - Live in the same building, but not in the same home
 - Live in the same neighborhood
 - Other *(please explain)*: _____

d. Do you and the person in **(2)** have the same workplace or go to the same school?

- No
- Yes *(If yes, check all that apply)*:
 - Work together at *(name of company)*: _____
 - Go to the same school *(name of school)*: _____
 - Other *(please explain)*: _____

10 **Order to Move Out**

*(You can make this request if the person in **(2)** lives with the child who is in juvenile court, **and** the person in **(1)** is the child in juvenile court, or has care, custody, and control of the child in juvenile court. Complete the section below if you want to ask for this order.)*

a. I ask the judge to order the person in **(2)** to move out of the home, located at:

Address: _____

b. What right does person in **(1)** have to live at the address listed above?

(Check all that apply)

The person in **(1)**:

- owns the home.
- is on the lease.
- lives at the address with a child in this case
- has lived at the address for _____ years, _____ months.
- pays for some or all of the rent or mortgage.
- other *(please explain)*: _____

This is not a Court Order.



11 **Visitation with Children**

Check this box if you have a child or children with the person in **(2)** and want the judge to make orders to protect your children.

a. The requested orders are:

b. The requested orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

c. The requested orders are in the attached document (*specify form or document*): _____

12 **Protect Animals**

a. (You may ask the judge to protect any animals that belong to the person in **(1)** or anyone who lives with that person.)

	Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____
(4)	_____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in **(2)** to:

(Check all that apply)

(1) Stay away from the animals by at least:
 100 yards (300 feet) Other (*give distance in yards*): _____

(2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.

(3) Give me sole possession, care, and control of the animals because:
 (*Check all that apply*)

Person in **(2)** abuses the animals. I take care of these animals.

I purchased these animals. Other (*please explain*): _____

This is not a Court Order.



Automatic Orders if the Judge Grants Restraining Order

In this section are orders that the person in ② would have to follow if the judge grants a restraining order.

13 No Firearms (Guns), Firearm Parts, or Ammunition

- Turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control.
- Prohibited from buying firearms (guns), firearm parts, and ammunition.

14 No Body Armor

- Not own, possess, or buy body armor.
- Relinquish any body armor in their possession.

15 Cannot Look for Protected People and Others

Not allowed to look for the address or location of any person protected by the restraining order or the location or the address of family members, caretakers, or guardians of the protected people unless the court finds good cause to not make this order.

16 Additional Pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

17 Your Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

Sign your name

18 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name

Lawyer's signature

Your Next Steps

1 You must complete at least two additional forms:

- [Form JV-250, Temporary Restraining Order—Juvenile \(only items 1, 2, and 3\)](#)
- [Form CLETS-001, Confidential Information for Law Enforcement](#)
- **If you are asking for child visitation orders and did not write the request on this form,** you must complete for [JV-205, Visitation \(Parenting Time\) Order—Juvenile](#), or attach another document with the requested visitation plan.

2 Turn in your completed forms to the court. Find out when your forms will be ready for pickup.

Clerk stamps date here when form is filed.

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JV-247.v5.021624.jh

Use this form if someone has asked for a restraining order against you, and you want to respond in writing. If you have a lawyer in this case, the lawyer should fill out this form. You will need a copy of the form JV-245, *Request for Juvenile Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

1 Name of Person Asking for Protection:

(See form JV-245, item 1 a):

2 Your Name:

! Address where you can receive court papers

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, work with them to fill out this form and give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court may use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)



Your hearing date is listed on form JV-249, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, attend your hearing. If you do not attend your hearing, the judge could grant a restraining order that could last up to three years.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Fill in case number:

Case Number:

This is not a Court Order.



How to complete this form: To answer the questions below, look at the form JV-245 filled out by the person in ①. Tip: When the restraining order forms say “the person in ②,” that means you, and “the person in ①” means the person who is asking for a restraining order against you.

4 Information About You (see ② on form JV-245)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

5 Your Relationship to the Person in ①

In item ② of form JV-245, has the person in ① correctly described your relationship with them?

Yes No If no, what is your relationship with the person in ①?:

6 Other Protected People

If the judge grants a restraining order, it can protect more than one person. See item ④ on form JV-245 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

7 Order to Not Abuse (see ⑦ on form JV-245)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

8 No-Contact Order (see ⑧ on form JV-245)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

9 Stay-Away Order (see ⑨ on form JV-245)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



10 **Order to Move Out** (see **10** on form JV-245)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

11 **Visitation of Children** (see **11** on form JV-245)

- a. I agree to the orders requested.
- b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205, *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

12 **Protect Animals** (see **12** on form JV-245)

- a. I agree to the orders requested.
- b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

13 **Firearms (Guns), Firearm Parts, or Ammunition** (see **13** on form JV-245)

If you were served with form JV-250, *Temporary Restraining Order*, you must follow the orders in **5** on form JV-250. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form JV-250. You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.

Check all that apply

- a. I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or control to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (*check all that apply*):
 - is attached has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)

(Give details, like what your job is and why you need a firearm: _____

This is not a Court Order.



14 No Body Armor (see 14 on form JV-245)

If you were served with form JV-250, *Temporary Restraining Order—Juvenile*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession. (Check all that apply).

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

15 Cannot Look for Protected People (see 15 on form JV-245)

- a. I agree to the order.
- b. I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to:

16 Additional Reasons I Do Not Agree With the Request (optional)

Explain why you do not agree to any of the orders requested by the person in 1 (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper and write “JV-247, Additional Reasons I Do Not Agree” at the top.

17 Additional Pages

Number of pages attached to this form, if any: _____

18 Your Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

Sign your name

19 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name

Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

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JV-249.v6.031324.jh

Instruction: The person asking for a restraining order must complete items ① and ②. The court will complete the rest of this form.

① Person Asking for Protection

Name: _____

Your lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:
Superior Court of California, County of

② Person to Be Restrained

Name: _____

③ Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in ②:

Court fills in case number when form is filed.
Case Number:



Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above: _____

You may attend your court date remotely, such as by phone or video conference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

To the person in ②:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to three years. After you receive a copy of the order, you could be arrested if you violate the order.

④ Temporary Restraining Orders (Any orders granted are attached on form JV-250 form JV-260)

a. Temporary Restraining Orders (any order requested under Welfare and Institutions Code section 213.5) (Check one)

- (1) All **granted** until the court hearing.
- (2) All **denied** until the court hearing. (Reasons for denial are given below in b.)
- (3) Partly **granted** and partly **denied** until the court hearing. (Reasons for denial are given in b.)



- 4 b. (1) The request is based on domestic violence and the reasons for denial of some or all of the orders requested are:
- (a) The facts given in the request do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
 - (b) The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
 - (c) Other reasons for denial:

- (2) The request is not based on domestic violence and the reasons for denial of some or all of the personal conduct and stay-away orders as requested are:
- (a) The facts as stated do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.
 - (b) Other reasons for denial: As stated on Attachment 4b.

5 Service of Documents by the Person in ①

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form (JV-249, Notice of Court Hearing) to the person in ② along with a copy of all the forms indicated below:

- a. JV-245, Request for Juvenile Restraining Order (file-stamped)
- b. JV-250, Temporary Restraining Order (file-stamped), **if granted**
- c. JV-247, Response to Request for Juvenile Restraining Order (blank form)
- d. JV-258, Request for Juvenile Restraining Order Against a Child
- e. JV-259, Response to Request for Juvenile Restraining Order Against a Child
- f. JV-260, Temporary Restraining Order Against a Child (file-stamped), **if granted**
- g. Other (specify): _____
- h. Other (specify): _____

Date: _____

 _____
Judicial Officer



To the Person in ① :

- The court cannot grant a long-term restraining order unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② as been served, the person who served the forms must fill form JV-268, *Proof of Personal Service*.
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents.

To the Person in ② :

- If you want to respond in writing, mail a copy of your completed form JV-247, *Response to Request for Juvenile Restraining Order*, or form JV-259, *Response to Request for Juvenile Restraining Order Against a Child*, to the person in ① and file it with the court. You cannot mail form JV-247 or JV-259 yourself. Someone age 18 or older — **not you** — must do it.
- To show that the person in ① has been served by mail, the person who mailed the form must fill out a proof of service form. Form JV-510, *Proof of Personal Service—Juvenile*, may be used. File the completed form with the court before the hearing and bring a copy with you to the hearing.
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. at the hearing, tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have.
- **At the hearing, the judge may make restraining orders against you that could last up to three years.**
- **The judge may also make other orders about your children, and may again order you to turn in, sell, or store any firearms (guns), firearm parts, or ammunition that you own or have.**



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Clerk’s Certificate
[seal]

—Clerk’s Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-250.v6.031324.jh**

Instruction: The person asking for a restraining order must complete items **①**, **②**, and **③** only. The court will complete the rest of this form.

Original Order **Amended Order**

① Protected Person (name): _____

② Restrained Person

***Full Name:** _____

***Gender:** M F Nonbinary

***Age:** _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

***Race:** _____

Relationship to person in **①**: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Type, number, and location of firearms or ammunition:

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

③ Other Protected People

In addition to the person named in **①**, the people listed below are protected by the orders listed in **⑧** through **⑪**.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write “JV-250, Other Protected People” at the top, and attach it to this form.

④ Your Hearing Date (Court Date)



This order expires at the end of the hearing listed below:

Hearing Date: _____ Time: _____ a.m. p.m.

This order must be enforced throughout the United States. See page 5.

This is a Court Order.



To the Person in ②

The judge has granted temporary orders. See items ⑤ through ⑭. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

If the judge makes a restraining order at the hearing that has the same orders as in this form, you will get a copy of that order by mail at the address in ②. If this address is not correct, or to find out if the orders were made permanent, contact the court.

⑤ No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.

⑥ Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



6 b. Ammunition


Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "JV-250, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

7 Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

In addition to the hearing listed in item 4, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in 5b) you still have or own, including any items listed in 6. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

Name and address of court, if different from court address listed on page 1

 Date: _____ Dept.: _____
 Time: _____ Room: _____

8 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

9 Cannot Look for Protected People and Others

You must not take any action to look for any person protected by this order or a protected person’s family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

10 Order to Not Abuse Not requested Denied until the hearing Granted as follows:

You must not do the following things to the person in 1 and any person listed in 3:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

•“Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.

This is a Court Order.



10 •“Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

11 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in **1** the persons in **3**
directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 11a:
- (1) You may have brief and peaceful contact with the person in **1** only to communicate about your children for court-ordered visits.
- (2) You may have contact with your children only during court-ordered contact or visits.
- (3) Other (*explain*): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

12 Stay-Away Order Not requested Denied until the hearing Granted as follows:

- a. You must stay at least (*specify*): _____ yards away from (*check all that apply*):
- | | |
|---|--|
| <input type="checkbox"/> Person in 1 . | <input type="checkbox"/> School of person in 1 . |
| <input type="checkbox"/> Home of person in 1 . | <input type="checkbox"/> Persons in 3 . |
| <input type="checkbox"/> Job or workplace of person in 1 . | <input type="checkbox"/> Children’s school or childcare. |
| <input type="checkbox"/> Vehicle of person in 1 . | <input type="checkbox"/> Other (<i>explain</i>): _____ |
- b. Exception to 12a:
- The stay-away orders do not apply:
- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) For you to contact or visit with your children for court-ordered contact or visits.
- (3) Other (*explain*): _____
- _____

13 Order to Move Out Not requested Denied until the hearing Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): _____

This is a Court Order.



14 **Visitation With Children** **Not requested** **Denied until the hearing** **Granted as follows:**

The court has ordered visitation with the children in this case.

- a. The visitation orders are (*specify*):

- b. The orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.
- c. The orders are in an attached document (*specify*): _____

15 **Protect Animals** **Not requested** **Denied until the hearing** **Granted as follows:**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.
- c. The person in **1** is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16 **Service**

- a. **No other service is needed.** The person in **2** attended the juvenile court hearing on (*date*): _____ when these orders were made.
- b. **The person in **2** must be personally served** with a copy of this order, a blank copy of *Response to Request for Juvenile Restraining Order* (form JV-247), and *Request for Juvenile Restraining Order* (form JV-245), if form JV-245 was filed, by (*date*): _____

17 **Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency. If the court designates someone, provide their name: _____

18 **Attached Pages**

Number of pages attached to this seven-page form: _____

Date: _____

Judicial Officer

This is a Court Order.



Certificate of Compliance With Violence Against Women Act for Temporary Orders

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (5), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

This is a Court Order.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.

2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (11) is an example of a no-contact order.

3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.

4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

—Clerk's Certificate—

*Clerk's Certificate
[seal]*

I certify that the foregoing *Temporary Restraining Order—Juvenile* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Original Order Amended Order

DRAFT
Not approved by
the Judicial Council
JV-255.v4.021424.jh

① **Protected Person (name):** _____

② **Restrained Person**

***Full Name:** _____

***Gender:** M F Nonbinary

***Age:** _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

***Race:** _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

③ **Other Protected People**

In addition to the person in ①, the following persons are protected by orders as indicated in items ⑪ through ⑭.

<u>Full name</u>	<u>Relationship to person in ①</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "JV-255, Other Protected People" at the top, and attach it to this form.

④ **Expiration Date**

This restraining order, except the orders noted below,* end on:

(date): _____ at (time): _____ a.m. p.m. or midnight

***Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.**

- If no date is written, the restraining order ends three years after the date of the hearing in item ⑤a.
- If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 6.

This is a Court Order.



5 Hearing

- a. The hearing was on (date): _____ with (name of judicial officer): _____
- b. These people were at the hearing (check all that apply):
 - The person in ① The lawyer for the person in ① (name): _____
 - The person in ② The lawyer for the person in ② (name): _____

6 Future Court Hearing



- The person in ① The person in ② must attend court on:
 Date: _____ Time: _____ a.m. p.m.
 Department: _____ to review (list issues): _____

 Name and address of court if different than on page 1: _____

To the Person in ②

The court has granted a long-term restraining order. See ⑦ through ⑰. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

7 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
 - (1) Firearms;
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.
- f. Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm (make, model, and serial number of firearm): _____ but must have it only during scheduled work hours and while traveling to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write “JV-255, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____ The court has not received a receipt or proof of compliance for all the items listed in **8**.

b. Notify Prosecutor
The court will immediately notify the following prosecuting agency of this violation.
(prosecuting agency): _____

10 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **6** to prove that you have properly turned in, sold, or stored all prohibited items (described in **7**b) you still have or own, including any items listed in **8**. If you do not attend the court hearing listed in **6**, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

This is a Court Order.



11 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

12 Cannot Look for Protected People and Others

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

13 Order to Not Abuse

You must not do the following things to the person in ① and any person listed in ③:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

14 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to 14a:

- (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
- (2) You may contact or visit with your children only during court-ordered contact or visits.
- (3) Other (explain): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



15 **Stay-Away Order**

a. You **must** stay at least (*specify*): _____ yards away from (*check all that apply*):

- The person in ①.
- Home of person in ①.
- Job or workplace of person in ①.
- Vehicle of person in ①.
- School of person in ①.
- Persons in ③.
- Children's school or childcare.
- Other (*specify*): _____

b. Exception to 14a:

The stay-away orders do not apply:

(1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.

(2) For you to contact or visit with your children for court-ordered contact or visits.

(3) Other (*explain*): _____

16 **Order to Move Out**

You must move out immediately from (*address*): _____

17 **Visitation With Children**

The judge has ordered visitation with the children in this case.

a. The orders are:

b. The orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

c. The orders are in an attached document (*specify other form or document*):

18 **Protect Animals**

a. You must stay at least _____ yards away from the animals listed below.

b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.

c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This is a Court Order.



19 Service

(Check a or b)

- a. **No other proof of service is needed.** The person in ② attended the hearing on (date): _____.
- b. **The person in ② did not attend the hearing.** Proof of service of form JV-245 and form JV-250 was presented to the court. (Check all that apply):
 - (1) This order can be served by mail. The judge’s orders in this form are the same as the orders in form JV-250 except for the expiration date. The person in ② must be served (given) a copy of this order, either by mail or in person.
 - (2) This order must be personally served. The judge’s orders in this form are different from the orders in form JV-250. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by (date): _____
 - (B) Mail at the person in ②’s last known address by (date): _____

20 Enter Restraining Order Into Database

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency. If the court designates someone, provide the person's name: _____

Date: _____

Judicial Officer

Certificate of Compliance With Violence Against Women Act

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

This is a Court Order.



Instructions for Law Enforcement

Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in item (5)a on page 2; or
- The date next to the judge's signature on page 5.

The orders *end* on the expiration date in item (4) on page 1. If no date is listed, they end three years from the hearing date in item (5)a on page 2.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (6), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Penal Code section 836(c)(1); Family Code section 6383.)

Consider the restrained person "served" (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b), (c).)

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

This is a Court Order.



Instructions for Law Enforcement**Conflicting Orders—Priorities for Enforcement**

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item ⑬ is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Juvenile Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

(Use this form to end (terminate) a juvenile restraining order (form JV-255 or JV-265).

DRAFT
Not approved by
the Judicial Council
3.12.24

Changes are substantial and
therefore not highlighted.

① **Protected Person (name):** _____

② **Restrained Person (name):** _____

Fill in court name and street address:

Superior Court of California, County of

③ **Court's Order**

The court has ended the (check one):

- Restraining Order After Hearing, form JV-255.
 Restraining Order After Hearing—Against a Child, form JV-265.

Fill in child's name

Child's name:

④ **Hearing**

Court fills in case number when form is filed.

Case Number:

a. The hearing was on (date): _____
with (name of judicial officer): _____

b. These people attended the hearing (check all that apply):

- The person in ① The lawyer for the person in ① (name): _____
 The person in ② The lawyer for the person in ② (name): _____

⑤ **Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
b. The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person's name: _____

Date: _____

Judicial Officer

This is a Court Order.

Case Number:

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Order to End Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-258.v5.021424.jh

When to use this form

Use this form if you want a restraining order **against a child or youth** in a juvenile justice (delinquency) case. If you have a lawyer in this case, the lawyer should fill out this form for you. If you want a restraining order in a juvenile case but against someone who is not the child, use form JV-245, *Request for Juvenile Restraining Order*.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

1 Person in Need of Protection

a. **Name:** _____
(If you are a lawyer asking for a restraining order for someone else, like a victim in this case, write your name below in ①e. If additional people need to be protected, list them in ④.)

b. **Age:** _____

c. **Ⓜ Address where you can receive court papers**
(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their address.)

Address: _____

City: _____ State: _____ Zip: _____

d. **Contact Information**
(The court could use this information to contact you, If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer give their information.)

Telephone: _____ Email Address: _____ Fax: _____

e. **Lawyer Making This Request** (if not the person in ①a)
Name: _____ Title: _____
Firm Name: _____ State Bar No.: _____

2 Child or Youth to Be Restrained

a. **Name:** _____
b. **Date of birth** (if known): _____ **Age** (give estimate, if age unknown): _____
c. **Gender:** Male Female Nonbinary
d. **Race:** _____
e. **Relationship to person in ①a:** _____

This is not a Court Order.



3 Describe Why You Need a Restraining Order

a. **Did the person in 2 do any of these things to the person in 1a?**



Check all that apply

(Note: These are only some examples of why someone might need a restraining order.)

- Physically hurt or tried to physically hurt
- Sexually abused or tried to sexually abuse
- Used or threatened to use gun or weapon
- Stalked
- Harassed by phone, online, or by any other means
- Isolated the person in 1a from friends or family
- Kept the person in 1a from eating or getting other basic needs
- Destroyed property *(examples: breaking phone, door, window)*
- Other *(please explain):* _____

b. **Give details about what the person in 2 did that was abusive or harassing.** Start with the most recent incident, then write about any other incidents. Be sure to include details like dates and any emotional or physical harm. Details can also include how often something happened, what was said, or whether weapons were used, etc.

Check here if you need more space to describe abuse or harassment. Attach a sheet of paper and write “JV-258, Item 3” at the top.

c. Check here if you know there is a report that supports your request that has been filed with the court, and complete the section below.

Who wrote the report and when was the report filed? *(Check all that apply.)*

- Social worker *(date report was filed):* _____
- Probation officer *(date report was filed):* _____
- Other *(name):* _____ *(date report was filed):* _____

This is not a Court Order.



4 Do Other People Need Protection From the Person in 2?

- No
- Yes (If yes, give their information below.)

a. <u>Full name</u>	<u>Age</u>	<u>Relationship to the child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Why do these people need protection?

5 Did You Provide Notice to the Person in 2 of This Request for a Restraining Order?
 (Skip this item if your request is based on domestic violence. To know what domestic violence is, see form [DV-500-INFO](#), page 2, “Am I Eligible?”)

- a. **No** (If no, complete the section below.)
- (1) I did not notify the person in 2 or their lawyer because I am afraid that the person in 2 will threaten or harm the person in 1 a if they receive notice of this request before protection can be granted (explain): _____
- _____
- (2) Other (describe): _____
- _____

- b. **Yes** (If yes, complete section below.)
- (1) Who did you notify? Person in 2 Lawyer of person in 2
- (2) When did you provide notice? (date): _____ (time): _____ a.m. p.m.
- (3) How did you provide notice? (Check all that apply.)
- Telephone (list number): _____ Fax (list number): _____
- Email or other electronic means (specify): _____
- Other (describe): _____

6 Does the Person in 2 Have Firearms (Guns), Firearm Parts, or Ammunition?
 (A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes (If you have information, complete the section below.)

Describe firearms, firearm parts, or ammunition	How many or what amount?	Location, if known
(1) _____	_____	_____
(2) _____	_____	_____

This is not a Court Order.



Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different.
Check all the orders that you want the judge to make (order).

7 **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not threaten, stalk, or disturb the peace of me or anyone listed in **(4)**.

If this restraining order is needed to prevent domestic violence, “disturbing the peace” includes coercive control. For more information on what domestic violence, disturbing the peace, and coercive control mean, read form [DV-500-INFO](#), page 2, “Am I Eligible?”

8 **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or any person listed in **(4)**.

9 **Protect Animals**

a. (You may ask the judge to protect animals that you own or are keeping for others, animals that the people in **(4)** own or are keeping for others, and animals that anyone who lives with you or the people in **(4)** own or are keeping for others.)

	Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____
(4)	_____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in **(2)** to:
(Check all that apply)

- (1) Stay away from the animals by at least:
 - 100 yards (300 feet) Other (give distance in yards): _____
- (2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) Give the me possession, care, and control of the animals because (check all that apply):
 - Person in **(2)** abuses the animals. I take care of these animals.
 - I purchased these animals. Other (please explain): _____

This is not a Court Order.



Automatic Orders if the Judge Grants Restraining Order

In this section are orders that the person in (2) would have to follow if the judge grants a restraining order.

10 No Firearms (Guns), Firearm Parts, or Ammunition

- Turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control.
- Prohibited from buying firearms (guns), firearm parts, and ammunition.

11 No Body Armor

- Not own, possess, or buy body armor.
- Relinquish any body armor in their possession.

12 Cannot Look for Protected People and Others

Not allowed to look for the address or location of any person protected by the restraining order or the location or the address of family members, caretakers, or guardians of the protected people unless the court finds good cause to not make this order.

13 Additional Pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

14 Your Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

15 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

1 You must complete two additional forms:

- [Form JV-260](#), *Temporary Restraining Order Against a Child (only items 1, 2, and 3)*
- [Form CLETS-001](#), *Confidential Information for Law Enforcement*

2 Turn in your completed forms to the court. Find out when your forms will be ready for pickup.

This is not a Court Order.

Clerk stamps date here when form is filed.

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JV-259.v5.021624.jh

Use this form if someone has asked for a restraining order against you, and you want to respond in writing. If you have a lawyer in this case, the lawyer should fill out this form. You will need a copy of the form JV-258, *Request for Juvenile Restraining Order Against a Child*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

1 Name of Person Asking for Protection:

(See form JV-258, item 1):

2 Your Name:

! Address where you can receive court papers

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, work with your lawyer to fill out this form and give your lawyer's information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)



Your hearing date is listed on form JV-249, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, go to your hearing. If you do not attend your hearing, the judge could grant a restraining order that could last up to three years.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Fill in case number:

Case Number:

This is not a Court Order.



How to complete this form: To answer the questions below, look at the form JV-258 filled out by the person in ①. Tip: When the restraining order forms say “the person in ②” that means you, and the “person in ①” means the person who is asking for a restraining order against you.

4 Information About You (see ② on form JV-258)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

5 **Other Protected People**

If the judge grants a restraining order, it can include other people. See ④ on form JV-258 to see if the person in ① is asking for other people to be protected by the restraining order.

a. I agree to the order requested.

b. I do not agree to the order requested.

Explain why you disagree; and/or describe a different order that you would agree to:

6 **Order to Not Abuse** (see ⑦ on form JV-258)

a. I agree to the order requested.

b. I do not agree to the order requested.

Explain why you disagree; and/or describe a different order that you would agree to:

7 **No-Contact Order** (see ⑧ on form JV-258)

a. I agree to the order requested.

b. I do not agree to the order requested.

Explain why you disagree; and/or describe a different order that you would agree to:

8 **Protect Animals** (see ⑨ on form JV-258)

a. I agree to the orders requested.

b. I do not agree to the orders requested.

Explain why you disagree; and/or describe a different order that you would agree to:

This is not a Court Order.



9 Firearms (Guns), Firearm Parts, or Ammunition (see 6 on form JV-258)

If you were served with form JV-260, *Temporary Restraining Order Against a Child*, you must follow the orders in 6 on form JV-260. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form JV-260. You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).

Check all that apply

- a. I do not own or have any prohibited items (guns, firearms, prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or control to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
 - is attached
 - has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)
(Give details, like what your job is and why you need a firearm.)

10 No Body Armor (see 11 on form JV-258)

If you were served with form JV-260, *Temporary Restraining Order Against a Child*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply)

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: this exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

11 Cannot Look for Protected People (see 11 on form JV-258)

- a. I agree to the order.
- b. I do not agree to the order.
Explain why you disagree; and/or describe a different order that you would agree to:

This is not a Court Order.



12 **Additional Reasons I Do Not Agree with the Request** *(optional)*

Explain why you do not agree to any of the orders requested by the person in **1** *(give specific facts and reasons)*:

Check here if you need more space. Attach a sheet of paper, and write “JV-259, Additional Reasons I Do Not Agree” at the top.

13 **Additional Pages**

Number of pages attached to this form, if any: _____

14 **Your Signature**

Date: _____

Type or print your name



Sign your name

15 **Your Lawyer's Signature** *(if you have one)*

Date: _____

Lawyer's name



Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

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JV-260.v6.031324.jh

Instruction: Use this form if you want a restraining order **against a child or youth** in a juvenile justice (delinquency) case. The person asking for a restraining order must complete ①, ②, and ③ only. The court will complete the rest of this form.

① **Protected Person** (*name*): _____

② **Restrained Person**

***Full Name:** _____

***Gender:** M F Nonbinary

***Age:** _____ (*Give estimate, if age unknown.*)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

***Race:** _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Type, number, and location of firearms or ammunition:

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

③ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑧ through ⑩.

Full name	Age	Relationship to child
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "JV-260, Other Protected People" at the top, and attach it to this form.

④ **Your Hearing Date (Court Date)**



This order expires at the end of the hearing listed below:

Hearing Date: _____ Time: _____ a.m. p.m.

This order must be enforced throughout the United States. See page 5.

This is a Court Order.



To the Person in 2

The judge has granted temporary orders. See items 5 through 11. If you do not obey these orders, you can be charged with a crime, go to juvenile hall, jail, or prison, and/or pay a fine.

If the judge makes a restraining order at the hearing that has the same orders as in this form, you will get a copy of that order by mail at the address in 2. If this address is not correct, or to find out if the orders were made permanent, contact the court.

5 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

6 Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance was received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



6 b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance was received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here if you need more space to list items. List them on a separate piece of paper, write “JV-260, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

7 Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance

In addition to the hearing listed in item (4), you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in (5)b) you still have or own, including any items listed in (6). If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

Name and address of court, if different from court address listed on page 1



Date: _____ Dept.: _____
 Time: _____ Room: _____

8 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

9 Cannot Look for Protected People and Others

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

10 Order to Not Abuse Not requested Denied until the hearing Granted as follows:

You must not threaten, stalk, or disturb the peace of the person in (1) and any person listed in (3).

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

This is a Court Order.



11 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 11a:
 - (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (*explain*): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

12 Protect Animals Not requested Denied until the hearing Granted as follows:

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals, listed below.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____

13 Service

- a. **No other service is needed.** The person in ② attended the hearing on (*date*): _____ when these orders were made.
- b. **The person in ② must be personally served** with a copy of this order, a blank copy of *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259), and *Request for Juvenile Restraining Order Against a Child* (form JV-258), if form JV-258 was filed, by (*date*): _____

14 Enter Restraining Order Into Database

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency. If the court designates someone, provide that person's name: _____

Date: _____

Judicial Officer

This is a Court Order.



Certificate of Compliance With Violence Against Woman Act for Temporary Orders

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in **(5)**, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

This is a Court Order.

Instructions for Law Enforcement**Conflicting Orders—Priorities for Enforcement**

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (11) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order Against a Child* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Original Order Amended Order

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JV-265.v6.021624.jh

① **Protected Person (name):** _____

② **Restrained Person (Child or Youth)**

*Full Name: _____

*Gender: M F Nonbinary

*Age: _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

*Race: _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

③ **Other Protected People**

In addition to the person in ①, the following persons are protected by orders as indicated in items ⑪ through ⑬.

Full name	Relationship to person in ①	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write “JV-265, Other Protected People” at the top, and attach it to this form.

④ **Expiration Date**

This restraining order, except the orders noted below,* end on:

(date): _____ at (time): _____ a.m. p.m. midnight.

*Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.

- If no date is written, the restraining order ends three years after the date of the hearing in item ⑤ a.
- If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 6.

This is a Court Order.



5 Hearing

- a. The hearing was on (date): _____ with (name of judicial officer): _____
- b. These people were at the hearing (check all that apply):
 - The person in ① The lawyer for the person in ① (name): _____
 - The person in ② The lawyer for the person in ② (name): _____

6 Future Court Hearing



The person in ① The person in ② must attend court on:

Date: _____ Time: _____ a.m. p.m.

Department: _____ to review (list issues):

Name and address of court if different than on page 1:

To the Person in ②

The court has granted a long-term restraining order. See ⑦ through ⑭. If you do not obey these orders, you can be charged with a crime, go to juvenile hall, jail, or prison, and be fined.

7 Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
 - (1) Firearms;
 - (2) Firearm parts, meaning, receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.

This is a Court Order.



8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here if you need more space to list items. List them on a separate piece of paper, write “JV-265, Restrained Person Has Prohibited Items” at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____

The court has not received a receipt or proof of compliance for all the items listed in **(8)**.

b. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation

(prosecuting agency): _____

10 **Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **(6)** to prove that you have properly turned in, sold, or stored all prohibited items (described in **(7)**b) you still have or own, including any items listed in **(8)**. If you do not attend the court hearing in **(6)**, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.



11 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

12 Cannot Look for Protected People and Others

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

13 Order to Not Abuse

You must not threaten, stalk, or disturb the peace of the person in ① and any person listed in ③.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

14 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to item 14a:

- (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
- (2) You may contact or visit with your children only during court-ordered contact or visits.
- (3) Other (explain): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



15 **Protect Animals**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16 **Service**

(Check a or b)

- a. **No other proof of service is needed.** The person in ② attended the hearing on (date): _____.
- b. **The person in ② did not attend the hearing.** Proof of service of form JV-258 and form JV-260 was presented to the court. (Check all that apply):
 - (1) This order can be served by mail. The judge’s orders in this form are the same as the orders in form JV-260 except for the expiration date. The person in ② must be served (given) a copy of this order either by mail or in person.
 - (2) This order must be personally served. The judge’s orders in this form are different from the orders in form JV-260. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by (date): _____
 - (B) Mail at the person in ②’s last known address by (date): _____

17 **Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person’s name: _____

Date: _____

Judicial Officer

This is a Court Order.



Certificate of Compliance With Violence Against Women Act

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in (5)a on page 2; or
- The date next to the judge’s signature on this page.

The orders *end* on the expiration date in item (4) on page 1. If no date is listed, they end three years from the hearing date in item (5)a on page 2.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (7), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Penal Code section 836(c)(1); Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b), (c).)

This is a Court Order.

JV-265, Page 6 of 7

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item ⑬ is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Juvenile Restraining Order After Hearing—Against a Child* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-268.v2.021624.jh

1 Name of Party Asking for Protection:

2 Name of Party to Be Restrained:

3 Notice to Server

You must:

- Be 18 years of age or older.
- Not be listed in item **1** or **2** of form JV-245, *Request for Juvenile Restraining Order*, or JV-258, *Request for Juvenile Restraining Order Against a Child*.
- Give a copy of all documents checked in **4** to the person in **2** (you cannot send them by mail). Then complete and sign this form, and give it to the party in **1**.

4 I gave the party in **2** a copy of all the documents checked:

- a. JV-245, *Request for Juvenile Restraining Order*
- b. JV-249, *Notice of Court Hearing*
- c. JV-258, *Request for Juvenile Restraining Order Against a Child*
- d. JV-250, *Temporary Restraining Order—Juvenile*
- e. JV-260, *Temporary Restraining Order Against a Child*
- f. JV-251, *Request to Reschedule Restraining Order Hearing*
- g. JV-253, *Order on Request to Reschedule Restraining Order Hearing*
- h. JV-255, *Juvenile Restraining Order After Hearing*
- i. JV-265, *Juvenile Restraining Order After Hearing—Against a Child*
- j. Other (specify): _____

5 I personally gave copies of the documents checked above to the party in **2** on:

- a. Date: _____ b. Time: _____ a.m. p.m.
- c. At this address: _____
City: _____ State: _____ Zip: _____

6 Server's Information

Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____
 (If you are a registered process server):
 County of registration: _____ Registration number: _____

7 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server's name

Server to sign here

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court clerk fills in case number when form is filed.

Case Number:

DRAFT Not approved by the Judicial Council JV-272.v2.021624.jh

This form is attached to (check one): JV-250 JV-255 JV-260 JV-265 Other: _____

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

- a. Listed on form JV-250, Temporary Restraining Order—Juvenile
b. Listed on form JV-260, Temporary Restraining Order Against a Child
c. Listed below:

Firearms (guns) and/or firearm parts

Table with 3 columns: Description, Location, if known, Proof of compliance received by the court. Rows 1-6.

Ammunition

Table with 4 columns: Description, Amount, if known, Location, if known, Proof of compliance received by the court. Rows 1-6.

Check here if you need more space to list items. List them on a separate piece of paper, write "JV-272, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

2 Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

The restrained person must attend the court hearing listed below to prove that all prohibited items have been properly turned in, sold, or stored. If the restrained person does not attend the court hearing listed below, a judge may find that the restrained person has violated the restraining order and notify a prosecuting attorney of the violation.

Name and address of court, if different from court address listed on the front of this order



Time: Room: Date: Dept.:



3 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that the restrained person has not fully complied with (obeyed) the orders previously granted on *(date)*: _____ . The court has not received a receipt or proof of compliance for all the items listed in **1**.

b. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency)*: _____ .

This is a Court Order.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:
Circulate for comment (January 1 cycle)

Title of proposal: Protective Orders: Rule and Form Changes to Implement Senate Bill 459

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho, 415-865-7662, frances.ho@jud.ca.gov and Gabrielle D.Selden, 415-865-8085, gabrielle.selden@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023 (Amended February 9, 2024)

Project description from annual agenda: Item 1b. Requires the Judicial Council, by January 1, 2025, to develop forms to be used to modify an order issued under the Domestic Violence Prevention Act

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-24

Title

Protective Orders: Rule and Form Changes to Implement Senate Bill 459

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 5.92; adopt forms DV-300, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, and DV-330; approve form DV-300-INFO; revise forms FL-300, FL-300-INFO, FL-320, and FL-320-INFO; revoke forms DV-400 and DV-400-INFO

Contact

Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Gabrielle D. Selden, 415-865-8085
gabrielle.selden@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

To implement Senate Bill 459 (Stats. 2023, ch. 874), the Family and Juvenile Law Advisory Committee proposes adopting a number of domestic violence restraining order forms to allow either party to request to change or end a domestic violence restraining order. The proposal also recommends changes to existing family law forms and a family law rule of court to reflect the new proposed process. The proposed changes would help parties, attorneys, and court professionals understand the changes in the procedures when a party wants to ask the court to change or end orders made in a domestic violence restraining order.

Background

Effective July 1, 2016, the Judicial Council implemented Family Code section 6345 to establish procedures for requesting and ordering the modification or termination of orders issued in

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.

Restraining Order After Hearing (form DV-130) (Link A). The procedures required that a party use *Request for Order* (form FL-300) to ask that the court modify or terminate the restraining orders in form DV-130. The council also adopted *Findings and Order to Terminate Restraining Order After Hearing* (form DV-400) and *How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?* (form DV-400-INFO).

SB 459 requires that the Judicial Council “create one or more specific forms for the purpose of requesting a modification of an existing restraining order” (Link B). According to the Senate Analysis dated September 8, 2023, “The author and supporters of the bill report that many victims of domestic violence find it difficult to navigate the modification process when they need to seek additional protections from the court.”¹

Family Code section 6345 requires the Judicial Council to create new forms on or before January 1, 2025, for the purpose of requesting a modification of an existing restraining order.

The Proposal

To implement the requirements of Family Code section 6345, the Family and Juvenile Law Advisory Committee proposes the following:

1. Amending rule 5.92 of the California Rules of Court, to reflect the new forms to be used for requesting a modification of an existing domestic violence restraining order;
2. Adopting nine new domestic violence (DV) forms:
 - *Request to Change or End Restraining Order* (form DV-300);
 - *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form DV-300-INFO);
 - *Request to Change Child Custody and Visitation Orders* (form DV-305);
 - *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* (form DV-310);
 - *Request to Reschedule Hearing to Change or End Restraining Order* (form DV-315);
 - *Order to Reschedule Hearing to Change or End Restraining Order* (form DV-316);
 - *Response to Request to Change or End Restraining Order* (form DV-320);
 - *Response to Request to Change Child Custody and Visitation Orders* (form DV-325);
 - *Order on Request to Change or End Restraining Order* (form DV-330);
3. Revising four family law (FL) forms to clarify they are not to be used to request a modification of an existing domestic violence restraining order:
 - *Request for Order* (form FL-300);
 - *Information Sheet for Request for Order* (form FL-300-INFO);
 - *Responsive Declaration to Request for Order* (form FL-320);

¹ Sen. Rules Com., Off. of Senate Floor Analyses, Sen. Bill 459 (2023–2024 Reg. Sess.) as amended Aug. 31, 2023, page 3.

- *Information Sheet: Responsive Declaration to Request for Order* (form FL-320-INFO); and
4. Revoking two existing forms:
- *Findings and Order to Terminate Restraining Order After Hearing (CLETS-CANCEL)* (form DV-400);
 - *How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?* (form DV-400-INFO).

Domestic violence forms proposal

Request to Change or End Restraining Order (form DV-300)

This form would be used by either party to ask to change or end a domestic violence restraining order that has been granted after a noticed hearing and is still in effect. This form could also be used to ask to change or end a juvenile restraining order based on domestic violence when the juvenile case has been closed.² Some situations in which this form and other DV-300 series forms would not be used include (1) when a party seeks to change an order in a restraining order that has expired (e.g., child custody order) that was granted in a domestic violence restraining order, like a child custody order, but the restraining order has expired;³ and (2) orders that were made as part of another family law action, like a divorce or custody case. In those situations, the party would continue to use form FL-300, *Request for Order*.

The form lists specific orders that the committee believes are most frequently requested, and the party would, for any order they want modified or ended, state what changes are requested and, at the end, give the reasons why. In item 5 of form DV-300, the party would indicate whether they are asking the court to grant temporary ex parte (without notice) orders. In the explanation for this item, the committee has listed three situations in which the court would have jurisdiction to issue temporary orders, without notice to the other side: if the protected party has requested additional protections to prevent domestic violence,⁴ if the court needs to make orders to prevent immediate harm to a child in the case,⁵ and if there is an immediate risk that a child in the case will be taken out of California.⁶ The committee is seeking specific comment on whether there are other situations in which the court would have the authority to make temporary orders, without notice.

² To change or end a juvenile restraining order within an open juvenile dependency case, parties would follow the process provided in rule 5.630(j).

³ Under Family Code section 6340, custody, visitation, and support orders made through a domestic violence restraining order survive the termination of the restraining order.

⁴ Fam. Code, § 6320 et seq.

⁵ Fam. Code, § 3064; Cal. Rules of Court, rule 5.151(b)(1).

⁶ Fam. Code, § 3064.

At page 5, “Your Next Steps” contains a placeholder for a *Self-Help Guide to the California Courts* webpage that has yet to be finalized. Other new forms in this proposal contain a similar placeholder. The committee anticipates that the placeholders will be replaced with URLs before the forms are recommended for adoption by the Judicial Council.

How Do I Ask to Change or End a Domestic Violence Restraining Order? (form DV-300-INFO)

This information form answers some frequent questions that parties might have about this process. On page 2, the form gives step-by-step instructions on how to make a request to change or end a domestic violence restraining order.

Request to Change Child Custody and Visitation Orders (form DV-305)

This form is an attachment to the request to change or end a restraining order (form DV-300). A party would complete this form if they are asking the court to change a child custody or visitation order made in a domestic violence restraining order matter, if the restraining order is still in effect. The committee notes that it is proposing a simpler format for visitation on this form versus form DV-105, which is used to request child custody and visitation in the initial restraining order request. For this process, it would be simpler for the party seeking a change to a visitation order to explain how the order should be changed rather than listing what the proposed order should be. If granted, the court would list the visitation order in detail on form DV-140.

The committee considered whether to use the existing form DV-105, *Request for Child Custody and Visitation Orders*, as an attachment to form DV-300. The committee decided against this approach as form DV-105 was designed to be used by the protected party and would require significant changes to allow either party to use it to request child custody or visitation orders.

Notice of Court Hearing and Temporary Order to Change or End Restraining Order (form DV-310)

This form provides both parties with notice of the court hearing on the request to change or end the restraining order, as well as any decision by the court to grant temporary orders prior to the hearing.

Request and order to reschedule court hearing (forms DV-315 and DV-316)

Either party may use form DV-315 to ask the court to reschedule the court hearing. The court would use form DV-316 to issue its decision on a request to reschedule the court hearing. Form DV-316 is substantially similar to other orders to reschedule a court hearing (forms DV-116 and DV-716). However, the committee notes one option in the service section of form DV-316 that is not provided on forms DV-116 or DV-716. Because the court has the authority to allow the

restrained party to serve the protected party by an alternative method of service, the committee has included this option in item 5b(3) on form DV-316.⁷

Response to Request to Change or End Restraining Order (form DV-320)

This form would be used by the party responding to the request to change or end the restraining order. The form allows the party to indicate whether they agree or disagree with the request to change or end the restraining order.

Response to Request to Change Child Custody and Visitation Orders (form DV-325)

This form is an attachment to the response form (DV-320). This form would be used by the party responding to a request to change or end child custody and visitation orders that have been included in the domestic violence restraining order. The form allows the party to indicate whether they agree or disagree with each order requested by the party seeking to change or end these orders.

Order on Request to Change or End Restraining Order (form DV-330)

After a noticed hearing on a request to change or end a domestic violence restraining order, the court would issue its decision, and any applicable orders. If the court grants the request to change the Restraining Order After Hearing, the court must sign a new form DV-130 and attach it to this form. If the court changes or ends the restraining order, the court must enter this order into the mandatory law enforcement database (CARPOS/CLETS)⁸ or transmit the order to the responsible law enforcement agency.

Revoke forms DV-400 and DV-400-INFO

Form DV-400 would no longer be needed as form DV-330 would be used to issue the court's decision on a request to change or end a restraining order. Form DV-400-INFO would no longer be needed as form DV-300-INFO would provide parties with information about the process.

Family law rule and forms proposal

Rule 5.92, Request for court order; responsive declaration

The committee proposes amending rule 5.92 to reflect the title of the proposed new form that a party must file to request that the court modify or terminate restraining orders in form DV-130. To this end, subdivision (a)(2) would be amended to delete the reference to *Request for Order* (form FL-300) and replace it with proposed form *Request to Change or End Restraining Order* (form DV-300).

⁷ Fam. Code, § 6345(d).

⁸ CARPOS (California Restraining and Protective Order System), formerly known as DVROS, is a database maintained by the California Department of Justice and is accessible via CLETS, the California Law Enforcement Telecommunications System.

Request for Order (form FL-300)

The committee proposes changing the form to remove the request for the court to change or end domestic violence restraining orders in form DV-130 because the form would no longer be used to make that request. Specifically,

- On page 1, the “Domestic Violence Order” check box in the caption would be deleted;
- A note under the caption on page 1 would be added to direct the user to forms FL-300-INFO (for help to complete form FL-300) and DV-300-INFO (for help to complete form DV-300);
- The information under item 3 on page 1 directing the user to forms FL-300-INFO and DV-400-INFO would be deleted;
- On page 4, item 7, “Domestic Violence Order,” would be deleted and items 8, 9, and 10 renumbered; and
- Some items in the form would be reformatted as needed to fill the space made available after deleting item 7 (for example, some items would be moved to a new page, or their blank fillable space would be increased).

Information Sheet for Request for Order (FL-300-INFO)

Items 1 and 2 on page 1 of the form would be revised to align with the changes proposed to form FL-300. In item 1, the second bullet point would be deleted because form DV-130 would no longer be used to ask the court to change or end domestic violence restraining orders. In item 2, “DO NOT USE *Request for Order* (form FL-300),” two new bullet points would be added, as follows:

- To ask for domestic violence restraining orders! Read *How to Ask for a Temporary Restraining Order* (form DV-505-INFO).
- To ask to change or end domestic violence restraining orders made in *Restraining Order After Hearing* (form DV-130)! Read *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form DV-300-INFO).

The committee proposes the following additional changes to the form:

- Minor changes to the instructions on page 1 (including, specifying in item 2 that the petition is for a *family law* case and adding “these forms” to the end of item 3 d, e, and f to be consistent with the other entries in item 3;
- On page 1, make item 4 easier to read by redrafting and repositioning the text;
- Update the image of form FL-300 on page 2; and
- Make items 13 and 15 gender neutral by replacing the references to binary pronouns.

Responsive Declaration to Request for Order (form FL-320)

The committee proposes deleting item 7, “Domestic Violence Order,” and renumbering items 8, 9, and 10.

Information Sheet: Responsive Declaration to Request for Order (form FL-320-INFO)

The committee proposes a few changes to this form to implement SB 459. On page 1, item 3 would include a new bullet point to let the party know not to use form FL-320 to respond to *Request to Change or End Restraining Order* (form DV-300) but to, instead, use *Response to Request to End or Change Restraining Order* (form DV-320).

In addition, on page 2:

- Item 6 would be changed to reflect that form FL-320 now has eight items (after deleting item 7, “Domestic Violence Order”);
- The image of form FL-320 would be updated; and
- The heading “Complete caption of the form” would be moved to item 5. The heading was inadvertently placed above item 5 in the current form.

Finally, on page 3, item 14 would be revised to include a reference and a link to a new information sheet about visitation (parenting time) orders (form FL-311-INFO) that the committee is proposing in an invitation to comment that would circulate for comment in the same spring cycle.

Alternatives Considered

In light of the legislative mandate to create specific forms in the DV series—and based on the feedback from the author and supporters of the bill that many victims of domestic violence find it difficult to navigate the modification process—the committee determined that taking no action to implement the legislation was not an option.

The committee considered limiting the use of the new form set (DV-300 series) to only those situations in which a party is asking to change the personal conduct, stay-away, or resident exclusion orders, that is, those orders that are only authorized under the domestic violence statutes. However, the committee decided against this approach as it would create an additional burden on parties, who are mostly self-represented. For example, a party seeking to change a stay-away order and a child custody order would be required to complete two sets of forms (the DV forms and the FL forms) and possibly be required to attend two separate hearings—even though the original orders were issued as part of a single proceeding. Because the Legislature sought to promote access to this process through SB 459, the committee believes that a single form set should be available when a party seeks to change or end any orders issued through a domestic violence restraining order, so long as the restraining order is still in effect.

Instead of proposing new continuance forms (DV-315 and DV-316), the committee considered utilizing existing continuance forms (DV-115/116, DV-715/DV-716). However, the committee rejected this approach because creating a form that would work for multiple processes would make the forms more complicated, with more options to choose from. Instead, the committee decided that a separate continuance form set for this new process would be more user-friendly.

Fiscal and Operational Impacts

The costs and operational impacts of this proposal are the result of specific Legislative mandate to create forms for this process. The impact to the courts would include costs to copy the revised forms, educate judicial officers and court staff about the new and revised rule and forms, revising Self-Help Center packets to include updated forms, and revising activities in case management systems to reflect appropriate order language and changes to form titles.

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?
- Are there other circumstances in which a court might have the legal authority to issue temporary (*ex parte*) orders as part of a request to change or end a domestic violence restraining order after hearing, that should be added to those listed on form DV-300, item 5?

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 5.92, at page 9
2. Forms DV-300, DV-300-INFO, DV-305, DV-310, DV-315, DV-316, DV-320, DV-325, DV-330, DV-400, DV-400-INFO, FL-300, FL-300-INFO, FL-320, and FL-320-INFO, at pages 10–60
3. Link A: Judicial Council report (Oct. 13, 2015),
[https://jcc.legistar.com/View.ashx?
M=F&ID=4102087&GUID=CDCF9602-7D6A-42C6-9056-505665197C34](https://jcc.legistar.com/View.ashx?M=F&ID=4102087&GUID=CDCF9602-7D6A-42C6-9056-505665197C34)
4. Link B: Sen. Bill 459,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB459

Rule 5.92 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 5.92. Request for court order; responsive declaration**

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(a) Application

(1) * * *

(2) In an action under the Domestic Violence Prevention Act, a ~~Request for Order (form FL-300)~~ Request to Change or End Restraining Order (form DV-300) must be used to request a modification or termination of all orders made after a hearing on *Restraining Order After Hearing* (form DV-130).

(3) ***

(b)–(g) * * *

Clerk stamps date here when form is filed.

3.8.24-Draft
Not approved by the
Judicial Council

Instructions

Use this form to ask a judge to change or end a domestic violence restraining order (form DV-130) that is still in effect (not expired). You can also use this form to ask to change or end a juvenile restraining order (form JV-255) based on domestic violence, if the juvenile case has been closed. For more information on this process, read form [DV-300-INFO](#) [link to be created], *How Do I Ask to Change or End a Domestic Violence Restraining Order?*

Do not use this form to ask to change or end orders if the order you want to change or end was not granted as part of your restraining order. For more information, read form [FL-300-INFO](#), *Information Sheet for Request for Order*.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Your Information

a. Name: _____

b. Who are you in this case? (Check one):
 Protected person Restrained person

c. **!** Address where you can receive court papers
(This address will be used by the court and the other party to send you official court dates, orders, and papers. You may use another address like a post office box, a Safe at Home address, or another person’s address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____
City: _____ State: _____ Zip: _____

d. **!** Your contact information (optional)
(The court could use this information to contact you. If you don’t want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____
Email Address: _____

e. Your lawyer’s information (if you have one)

Name: _____ State Bar No.: _____
Firm Name: _____

2 Information About Your Case

a. The other party in this case is (full name): _____

b. The current order expires on (date): _____
(Attach a copy of the current restraining order (form DV-130, DV-330, DV-730, or JV-255).)

This is not a Court Order.



(Check 3 or 4.)

3 Request to End Restraining Order

I ask the judge to end all the orders granted in the restraining order (form DV-130, DV-330, or JV-255).

4 Request to Change Restraining Order

I ask the judge to change or end some of the orders in the restraining order (form DV-130, DV-330, or JV-255).

(Check all the orders that you want the judge to make.)

a. Additional Protected People

(1) End this order

(2) Change this order (explain how you want it changed):

b. Cannot Look for Protected People

(1) End this order

(2) Change this order (explain how you want it changed):

c. Order to Not Abuse

(1) End this order

(2) Change this order (explain how you want it changed):

d. No-Contact Order

(1) End this order

(2) Change this order (explain how you want it changed):

This is not a Court Order.



4

e. Stay-Away Order

(1) End this order

(2) Change this order (*explain how you want it changed*):

f. Child Custody and Visitation Order

(1) End this order

(2) Change this order (*You must complete form DV-305, Request to Change Child Custody and Visitation Orders, and attach it to this form.*)

g. Protect Animals

(1) End this order

(2) Change this order (*explain how you want it changed*):

h. Child Support Order

(1) End this order

(2) Change this order (*explain how you want it changed*):

i. Spousal Support Order

(1) End this order

(2) Change this order (*explain how you want it changed*):

j. Limited Exception for Firearms Restriction (*for restrained person only*)

I ask for an exception to this order to allow me to have a firearm for work.

(Explain how you meet the legal requirements (Family Code section 6389(h)). Attach any documents you have that support your request. Note: Even if the judge grants an exception under California law, you may be subject to federal prosecution for possessing or controlling a firearm.)

This is not a Court Order.



k. Other Orders

List any orders you want to change or end (*example: property control of car*).

- | | | |
|-----------|------------------------------------|--|
| (1) _____ | <input type="checkbox"/> End order | <input type="checkbox"/> Change order* |
| (2) _____ | <input type="checkbox"/> End order | <input type="checkbox"/> Change order* |
| (3) _____ | <input type="checkbox"/> End order | <input type="checkbox"/> Change order* |
| (4) _____ | <input type="checkbox"/> End order | <input type="checkbox"/> Change order* |

*Explain how you want these orders changed:

Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 4k, Other Orders" for a title.

5 Do you want the judge to change or end the restraining order immediately?

(Usually, a judge makes a decision at a court hearing, when both sides have a chance to speak and give evidence. In some situations, a judge may make orders immediately: (1) if you are the protected party and temporary orders are needed to prevent abuse to you or anyone protected by the restraining order, (2) to prevent immediate harm to a child in this case, or (3) if there is an immediate risk that a child in this case will be taken out of California.)

- No.
 Yes. (*If yes, complete section below.*)

Describe the orders you are asking the judge to make immediately.

Explain why your request is an emergency.

This is not a Court Order.



9 Additional Pages

- a. How many additional pages are you attaching to this six-page form? _____
- b. Which forms are you attaching to this order? (*check at least one*):
- DV-130 DV-330 DV-730 JV-255 Other: _____

10 Your Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

11 Your Lawyer's Signature (*if you have one*)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- After you complete this form, complete items 1 and 2 of form [DV-310](#) [link to be created], *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*.
- File this form and form DV-310 with the court clerk. **You must do this before your restraining order expires.**
- Once you get your forms back from the court, follow the judge's orders on how to serve the other side (look at form DV-310, item 5). Have an adult (not you or anyone protected by the restraining order) serve the other side with a copy of your forms. You can also ask the sheriff to personally serve the papers and they will do this for free. See form SER-001, *Request for Sheriff to Serve Court Papers*. Learn more about service at [\[self-help webpage to be created\]](#)
- After the other side has been served, have the person who served your papers complete a form and file the completed form with the court:
 - If the papers were personally served, have your server complete form [DV-200](#), *Proof of Personal Service*.
 - If the papers were served by mail, have your server complete form [DV-250](#), *Proof of Service by Mail*.
- If you are asking to change child support or spousal support, you must also complete form [FL-150](#), *Income and Expense Declaration*. If you are only asking for child support, you may be eligible to fill out a simpler form, [FL-155](#), *Financial Statement (Simplified)*. Read form [DV-570](#) to see if you are eligible. Before your court date, turn in your completed form to the court and serve a copy on the other party.

This is not a Court Order.

How Do I Ask to Change or End a Domestic Violence Restraining Order?

Who can make a request?

The protected person or the restrained person can ask the judge to change or end the restraining order. Other people protected by the restraining order (listed on form DV-130, item 3), cannot ask to change or end the order.

How do I ask to change or end a domestic violence restraining order?

You will need to complete court papers and file them with the court. After you file your court papers, you will get a court date. You must attend your court date for the judge to decide whether to grant your request. See page 2 for step-by-step instructions.

Is there a court fee?

No. There is no court fee.

What if my restraining order has expired?

If the Restraining Order After Hearing (example: form DV-130) has expired, you cannot use this process to change your restraining order. If you need another restraining order, you will need to make a new request. For information on requesting a restraining order, read form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*.

What if I want change or end a juvenile restraining order?

If you have a juvenile restraining order (form JV-255) based on domestic violence, and the juvenile case has been closed (dismissed), follow the steps on page 2 to ask to change or end the juvenile restraining order.

If your juvenile case is still open, talk to your lawyer about how to change or end the restraining order.

If you have a juvenile restraining order that was granted in a juvenile justice (delinquency) case (form JV-265), ask your lawyer or the prosecutor about how to change or end the restraining order.

What orders can I ask to change or end?

You can ask to change or end any order granted in a Restraining Order After Hearing, except for orders related to firearms, ammunition, or body armor. The judge cannot remove the restriction on having firearms, ammunition, or body armor. If you need to carry a firearm for your job, the judge may grant you a limited exception but there are strict requirements. Ask a lawyer or your court self-help center for more information.

When will my restraining order change or end?

Only the court has the power to change or end the restraining order. The restraining order remains in effect and must be followed until a judge changes or ends the order.

What if I want to renew my restraining order?

If you are the protected person, you can ask the court to renew your restraining order. You must make your request before your restraining order expires. For information on how to renew your restraining order, read form DV-700-INFO, *How Do I Ask the Court to Renew My Restraining Order?*

If I ask to end the restraining order, what will happen to the child custody, visitation, support, or property orders?

If a judge ends the restraining order, any child custody, visitation (parenting time), child support, spousal support, support for a domestic partner, or property orders will remain in effect, unless the court also changes or ends those orders.

What if I want to change child custody orders?

If child custody orders were made through your restraining order, you can ask to change these orders. Note that a special law applies when there has been domestic violence. For more information, go to <https://selfhelp.courts.ca.gov/domestic-violence-child-custody>.



What if I have other family court orders that I want to change or end?

You can only use this process to change orders made in a domestic violence restraining order. If you want to change or end a court order that was not made in your domestic violence restraining order, read form [FL-300-INFO](#), *Information Sheet for Request for Order*. Do not use the forms listed below.

Steps to make a request**① Complete court forms:**

- Form [DV-300](#), *Request to Change or End Restraining Order*; and
- Form [DV-310](#), *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* (items 1 and 2 only).
- If you are asking to change child custody and visitation orders, you must complete form [DV-305](#), *Request to Change Child Custody and Visitation Orders*.

② File forms with court

File all forms with the court clerk. Make sure you include a copy of your current Restraining Order After Hearing with form DV-300. You can file in person or electronically. For more information on how or where to file, go to the court's website.

③ Get your papers back from the court

Once you get your papers back from the court, you will have a court date (see form DV-310). If you asked for any temporary orders, look at form DV-310 to see if the judge granted or denied that request. Make sure you get at least two copies back: one for you and one to have served on the restrained person. If you filed your papers electronically, the court will give the papers back to you electronically, unless you asked to pick them up or receive them by mail.

④ Have the other party served with papers

- If you are the restrained person, you must have the protected person personally served. This means you must have an adult personally give a copy of all the court papers (listed on form DV-310, item 4c) to the protected party. It cannot be you or anyone listed on the restraining order. Your server must then complete a proof of service (form DV-200). Make a copy of the completed form DV-200 and file it with the court.
- If you are the protected person, you can serve the restrained person by mail. This means you must have an adult mail a copy of all the court papers (listed on form DV-310, item 4c) to the restrained party. It cannot be you or anyone listed on the restraining order. Your server must then complete a proof of service (Form DV-250). Make a copy of the completed form DV-250 and file it with the court.

If you can't serve the other side before your court hearing, you will need to ask the judge to reschedule your court hearing. Fill out and file forms DV-315 and DV-316. The judge will review your request and decide whether to reschedule your court hearing. If you do not receive a signed copy of form DV-316 from the judge before your court date or the judge denied your request to reschedule your hearing, you *must* attend your court date (listed on form DV-310 or DV-316) if you still want to move forward with your request.

⑤ Get ready for and attend your court hearing

At your court hearing, the judge will decide whether to grant your request to change or end the restraining order. At the hearing, you and the other side will have the opportunity to tell your side of the story. Bring any evidence or witnesses you have. If you don't want to attend your court hearing in person, go to the court's website to find out more information about attending by phone or videoconference.



Where can I find a self-help center?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.selfhelp.courts.ca.gov/find. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

What if I need an interpreter?

You may use form [INT-300](#) to request an interpreter or ask the clerk how you can request one.

What if I have a disability and need an accommodation?

You may use form [MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

DV-305

Request to Change Child Custody and Visitation Orders

Case Number: _____

(Use this form to request to change child custody or visitation orders that were made through a domestic violence restraining order.)

This form is attached to form DV-300.

1 Protected Party

Name: _____

Relationship to children: Parent Legal Guardian Other (describe): _____

2 Restrained Party

Name: _____

Relationship to children: Parent Legal Guardian Other (describe): _____

3 Children Under 18 Years Old (list from oldest to youngest)

a. Name: _____ Date of birth: _____
 b. Name: _____ Date of birth: _____
 c. Name: _____ Date of birth: _____
 d. Name: _____ Date of birth: _____

(Check here if you need more space. Write "DV-305, Children" at the top and attach it to this form.)

4 City and State Where Children Lived

a. Have all the children listed in 3 lived together for the last five years?

- Yes (If yes, complete b, below.)
- No (If no, complete form DV-105(A). Do not complete the section below.)

b. List where the children have lived for the last five years. Start with their current location.

<u>Dates (month/year)</u>	<u>City and State</u> <i>(include tribal land, if applies)</i>	<u>Children lived with (check all that apply):</u>		
		<u>Person</u> <u>in 1</u>	<u>Person</u> <u>in 2</u>	<u>Other (relationship</u> <u>to child)</u>
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
	<input type="checkbox"/> Check here if this address is private (confidential). List the state only.			
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

This is not a Court Order.



5 History of Court Cases Involving Your Children

a. Do you know about any other case involving any child listed in 3?

- No
Yes (If yes, complete section below.)

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

- Custody
Divorce
Juvenile Court (child welfare, juvenile justice)
Guardianship
Criminal
Other (example: child support case)

b. If there is another parent or legal guardian besides the persons in 1 and 2, list their information below.

Name: Parent Legal Guardian

6 Request to Change Orders

I ask the judge to change or end some of the child custody or visitation orders.
(Check all the orders that you want the judge to make.)

- No Travel With Children Without Permission
(1) End this order
(2) Change this order (explain how you want it changed):

Blank lines for explanation of order changes.

- Stop Access to Children's School, Health, or Other Information
(1) End this order
(2) Change this order (explain how you want it changed):

Blank lines for explanation of order changes.

This is not a Court Order.



6 c. Order to Prevent Child Abduction (any order made on form DV-145)

- (1) End this order
- (2) Change this order (*explain how you want it changed*):

d. Child Custody

(There are two types of custody: legal and physical. Legal custody means the person that makes decisions about the child's health, education, and welfare. Physical custody means the person that the child regularly lives with. For both types of custody, parents can share custody (joint) or one parent can have full custody (sole). Complete the section below if you want the judge to change child custody orders.)

I ask the judge to change custody orders to (*check the orders that you want the judge to make*):

Legal Custody (*check one*):

- Sole to person in ①
- Sole to person in ②
- Jointly (shared) by persons in ① and ②.
- Other (*describe*):

Physical Custody (*check one*):

- Sole to person in ①
- Sole to person in ②
- Jointly (shared) by persons in ① and ②.
- Other (*describe*):

e. Visitation (Parenting Time) Order

I ask the judge to change the visitation (parenting time) order to (*explain how you want the order changed*):

This is not a Court Order.



6 f. Other Orders

List any orders for child custody or visitation you want to change or end.

- (1) _____ End order Change order*
- (2) _____ End order Change order*

*Explain how you want these orders changed:

Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 6f, Other Orders" for a title.

7 Reason for Request to Change Child Custody or Visitation Order

Explain why you want the orders changed:

Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 7, Reason for Request to Change Child Custody or Visitation Order" for a title.

This is not a Court Order.

Notice of Court Hearing and Temporary Order to Change or End Restraining Order

Clerk stamps date here when form is filed.

3.7.24- Draft
Not approved by the Judicial Council

Instruction: The person making the request must complete items 1 and 2. The court will complete the rest of this form.

1 Protected Party

Name: _____

Fill in court name and street address:

Superior Court of California, County of _____

2 Restrained Party

Name: _____

Fill in case number:

Case Number: _____

3 Notice of Hearing

A court hearing is scheduled on the request to change or end a domestic violence restraining order:

The current restraining order remains in full force and effect. Any temporary orders granted by the court below in 4 must be followed until the court hearing below:



Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above: _____

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

4 Court's Decision on Request for Temporary Orders

a. Denied. Reasons for denial: _____

b. Granted.

(1) The temporary orders listed below in (2) (check all that apply):

- Have been requested by the protected party and are needed to prevent domestic violence.
Are needed to help prevent (1) irreparable harm to a child in this case, or (2) a child from being removed from California.

(2) Temporary Orders

The following temporary orders remain in full force and effect until the hearing listed in 3:

Temporary orders listed on (give form number or name of attachment): _____

This is a Court Order.



5 Service

- a. Protected person Restrained person must have the other party served with a copy of all the forms listed in 5d by:
- b. (date of deadline): _____
- c. (1) This order can be served by mail because it is a request by the protected person.
 (2) This order must be personally served because it is a request by the restrained person.
 (3) This order must be personally served because the court has granted temporary orders.
- d. Forms to serve:
- DV-300, *Request to Change or End Restraining Order*;
 - DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* (this form); and
 - DV-320, *Response to Request to Change or End Restraining Order* (leave blank).

6 No Fee to Serve (Notify) Order

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001](#), *Request for Sheriff to Serve Court Papers*, and (2) give the completed form and a copy of this order to the sheriff.

7 Attached pages

All of the attached pages are part of this order.

- a. Number of pages attached to this three-page form: _____
- b. Attachments include forms (check all that apply):
 DV-140 DV-145 Other: _____

Judge's Signature

Date: _____

*Judge or Judicial Officer***This is a Court Order.**

To Person in 2

- **Respond in writing (optional):** You can respond in writing by completing form [DV-320](#) [link to be created], *Response to Request to Change or End Restraining Order*. File the original with the court, and have someone 18 or over—**not you**—mail a copy of it to the other party before the hearing. Also file form [DV-250](#), *Proof of Service by Mail*, with the court before the hearing, and bring a copy to the court hearing.
- **At the hearing:** Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making a decision. At the hearing, tell the judge why you agree or disagree with the request. Bring any evidence or witnesses you have.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office for *Request for Accommodations by Persons With Disabilities and Response* (form [MC-410](#)). (Civil Code, section 54.8.)

(Clerk will fill out this part.)

Instructions to Clerk: If the court made temporary orders in ④, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made. You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

Clerk’s Certificate
[seal]

—Clerk’s Certificate—

I certify that this *Notice of Court Hearing and Temporary Order to Change or End Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

3.11.24
Draft-Not approved by
the Judicial Council

Instructions

Either party may use this form to ask the court to reschedule the hearing (court date) listed on form DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*.

1 Your Information

a. Name: _____

Fill in court name and street address:

b. Who are you in this case?:

Superior Court of California, County of

Protected party (*skip to 2*).

Restrained party (*give your contact information below*).

! Address where you can receive court papers

(This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Fill in case number:

Case Number:

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (*optional*)

(The court could use this information to contact you. If you don't want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

Your lawyer's information (*if you have one*)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About Your Case

a. The other party in this case is (*full name*): _____

b. The court date is currently scheduled for (*date*): _____

This is not a Court Order.

3 Why does your court date need to be rescheduled?

- a. I need more time to have the other party served.
- b. Other reason:

4 Your Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

5 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Complete form [DV-316](#) [link to be created], *Order to Reschedule Hearing to Change or End Restraining Order* (only items 1 and 2).
- File this form and form DV-316 with the court. A judge will review your forms and decide whether to reschedule your court date.
- If the judge grants your request to reschedule your court date, you must have someone serve a copy of this form and any other form that the judge ordered you to serve (see form DV-316, item 5). Any adult who is not involved in the case can serve your papers. You can also ask the sheriff or marshal to serve your papers and they will do so for free. See form [SER-001](#), *Request for Sheriff to Serve Court Papers*. For more information, go to [self-help website to be created].
- If the judge denies your request to reschedule, you must attend your court hearing (listed on form DV-310). For information on how to prepare for your court date, go to [self-help webpage to be created].

This is not a Court Order.

Order to Reschedule Hearing to Change or End Restraining Order

Clerk stamps date here when form is filed.

3.11.24

Draft- Not approved by the Judicial Council

Instruction: Complete ① and ② only. The court will complete the rest of this form.

① **Protected Party:** _____

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied.** The request to reschedule the court date is denied.

(1) Your court date is: _____

(2) The Restraining Order After Hearing and any temporary orders made on form DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*, remain in full force and effect.

(3) Your court date is not rescheduled because:

b. **Granted.** The request to reschedule the court date is granted. Your court date is rescheduled for the date and time listed below.

The Restraining Order After Hearing and any temporary orders (form DV-310) stay in effect until the hearing date below or the original expiration date, whichever is later. See ④–⑦ for more information.



Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court, if different from above:

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

This is a Court Order.



4 Reason Court Date Is Rescheduled

a. The party asking to change or end the restraining order has not served the other party.

b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Protected party**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they were or their lawyer was at the court date or agreed to reschedule the court date.

(1) You do not have to serve the protected party because they were or their lawyer was at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of this order and all forms listed on form DV-310, item 5 by (date): _____

(2) You must have the protected party personally served with a copy of this order and all forms listed on form DV-310, item 5 by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) The court has found good cause to allow you to serve the protected party by: (describe service method that is reasonably designed to give protected party actual notice): _____

(3) Other: _____

(4) Other: _____

You must serve a copy this order and all forms listed on form DV-310, item 5 by (date): _____

This is a Court Order.



6 No Fee to Serve

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001](#), *Request for Sheriff to Serve Court Papers*, and (2) give form SER-001 and a copy of this order to the sheriff.

7 Other Orders

8 Attached Pages (*All of the attached pages are part of this order.*)

a. Number of pages attached to this three-page form: _____

b. Attachments include forms (*check all that apply*):

DV-310 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Instructions to Clerk: If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made. You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

—Clerk's Certificate—

Clerk's Certificate

[seal]

I certify that this *Order to Reschedule Hearing to Change or End Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

3.7.24

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the Judicial Council

Use this form if someone has asked to change or end a restraining order, and you want to respond in writing. You will need a copy of form DV-300, *Request to Change or End Restraining Order*, that was filled out by the other party in your case. There is no cost to file this form with the court.

1 **Your Name:** _____

Fill in court name and street address:

Superior Court of California, County of

! **Address where you can receive court papers**

(This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

Fill in case number:

Case Number:

! **Your contact information** (optional)

(The court could use this information to contact you. If you don't want the other party to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

2 **Name of Other Party:** _____

3 **Your Hearing Date (Court Date)**



Your hearing date is listed on form DV-310, *Notice of Court Hearing and Temporary Order to Change or End Restraining Order*. If you do not agree with the request, attend your hearing date. If you do not attend your hearing, the judge could grant the other party's request to change or end the restraining order.

This is not a Court Order.



How to complete this form: To answer the questions below, look at the request made by the other party (form DV-300, item ③ or ④). Use the space below to tell the judge whether you agree or disagree with the other party's request.

④ Your Response

(Check one)

- a. I agree to the request to end the restraining order. *(Skip to ⑦.)*
- b. I agree to the entire request to change the restraining order. *(This means you agree to all the requests made by the other party on form DV-300. Skip to ⑦.)*
- c. I do not agree to the request to end the restraining order. *(Skip to ⑥.)*
- d. I do not agree to some or all of the request to change the restraining order. *(Go to ⑤.)*

⑤ Response to Request to Change Restraining Order

(Look at form DV-300, completed by the other party. Go to item ④ to see which orders the other party wants the judge to change or end. For each item that the other party asked to change or end, tell the judge whether you agree or disagree with their request.)

- a. Additional Protected People
 - (1) I agree to the order requested.
 - (2) I do not agree to the order requested.
Explain why you disagree, or describe a different order that you would agree to: _____

- b. Cannot Look for Protected People
 - (1) I agree to the order requested.
 - (2) I do not agree to the order requested.
Explain why you disagree, or describe a different order that you would agree to: _____

- c. Order to Not Abuse
 - (1) I agree to the order requested.
 - (2) I do not agree to the order requested.
Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



d. No-Contact Order

- (1) I agree to the order requested.
(2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

e. Stay-Away Order

- (1) I agree to the order requested.
(2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

f. Child Custody and Visitation Order

- (1) I agree to the orders requested.
(2) I do not agree to the orders requested. *(Complete form DV-325, Response to Request to Change Child Custody and Visitation Orders, and attach it to this form.)*

g. Protect Animals

- (1) I agree to the order requested.
(2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

h. Child Support

- (1) I agree to the order requested.
(2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



i. Spousal Support

- (1) I agree to the order requested.
- (2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

j. Limited Exception for Firearms Restriction

(If the restrained person checked this box, they are asking the judge to allow them to have firearms for their work. The judge may only grant this type of order in limited situations (see Family Code section 6389(h)).

- (1) I agree to the order requested.
- (2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

k. Other Orders

- (1) I agree to the order requested.
- (2) I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

⑥ **Reasons I Do Not Agree with the Request** *(optional)*

Explain why you do not agree with the request to change or end restraining order:

Check here if you need more space. Attach a sheet of paper and write “DV-320, Reasons I Do Not Agree with the Request” at the top.

This is not a Court Order.



7 **Lawyer's Fees and Costs**

(Complete this item if the other party asked for lawyer's fees and costs or if you are asking for these fees.)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

- c. Check here if you want the other party to pay for some or all of your lawyer's fees and costs.

8 **Additional Pages**

Number of pages attached to this five-page form, if any: _____

9 **Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

10 **Your Lawyer's Signature** *(if you have one)*

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Turn in your completed form with the court.
- If the other party asked to change or end child support or spousal support orders, or asked for lawyer's fees, you must complete form [FL-150, Income and Expense Declaration](#).
- Have someone else (not you) mail the person in **1** a copy of your forms, and complete form [DV-250, Proof of Service by Mail](#). File form DV-250 with the court. (The person who mails this form must be at least 18 years old and cannot be you or someone protected on the restraining order.)
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at [\[self-help webpage to be created\]](#).

This is not a Court Order.

DV-325

**Response to Request to Change
Child Custody and Visitation Orders**

Case Number: _____

How to complete this form: To answer the questions below, look at the form DV-305 filled out by the other party. If you need more space to complete your answer, you can use a separate piece of paper and attach it to this form. Include a title at the top of the paper (example: "DV-325, Custody of Children").

This form is attached to form DV-320, *Response to Request to Change or End Restraining Order*.

1 Protected Party

- a. Name: _____
- b. Relationship to children: Parent Legal Guardian Other (*describe*): _____

2 Restrained Party

- a. Name: _____
- b. Relationship to children: Parent Legal Guardian Other (*describe*): _____

3 Children (see 3 on form DV-305)

- a. I am the parent of the child or children listed on form DV-305.
- b. I am **not** the parent of all the children listed on form DV-305.
- c. I am **not** the parent of the following children (*list names*):

- d. Other (*describe*): _____

4 City and State Where Children Lived (see 4 on form DV-305)

- a. I agree with the information given by the other party.
- b. I do not agree. (*Use form DV-105(A) to list where the children have lived.*)

5 History of Court Cases Involving Children (see 5 on form DV-305)

The other party may have listed other court cases involving your children. If information is incorrect or missing, use the space below to give information.

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

- Custody or Divorce _____
- Criminal _____
- Juvenile Court (*child welfare, juvenile justice*) _____
- Guardianship _____
- Other (*example: child support case*) _____

(If a judge has already made a custody or visitation order for children in this case, attach a copy of the order if you have one.)

This is not a Court Order.



- 6** **No Travel With Children Without Permission** (see **6**a on form DV-305)
- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____
- c. I would agree to a different order (describe the order you would agree to): _____

- 7** **Stop Access to Children's School, Health, and Other Information** (see **6**b on form DV-305)
- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____
- c. I would agree to a different order (describe the order you would agree to): _____

- 8** **Request for Orders to Prevent Child Abduction** (see **4**–**10** on form DV-108)
- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____
- c. I would agree to a different order (describe the order you would agree to): _____

- 9** **Custody of Children** (see **6**d on form DV-305)
- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____
- c. I would agree to a different order:

Legal Custody (The person that makes decisions about the child's health, education, and welfare.)
(check one):

- Sole to person in **1**
- Sole to person in **2**
- Jointly (shared) by persons in **1** and **2**.
- Other (describe): _____

Physical Custody (The person that the child regularly lives with.)
(check one):

- Sole to person in **1**
- Sole to person in **2**
- Jointly (shared) by persons in **1** and **2**.
- Other (describe): _____

This is not a Court Order.



10 **Visitation (Parenting Time) with Children** (see **6**e on form DV-305)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____

c. I would agree to a different order (complete section below):
Visitation for the (check one): person in **1** person in **2**
should be (describe a schedule and give as much detail as you can):

11 **Other Orders** (see **6**f on form DV-305)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____

- c. I would agree to a different order (describe the order you would agree to):

12 The statements made on this form are made under penalty of perjury as declared on form DV-320.

This is not a Court Order.

**Order on Request to
Change or End Restraining Order**

Clerk stamps date here when form is filed.

3.7.24

Draft-Not approved by
the Judicial Council

① **Protected Person** (name): _____

② **Restrained Person** (name): _____

Fill in court name and street address:

Superior Court of California, County of

③ **Court's Decision**

a. The request was made by the:

- (1) protected person restrained person to:
- (2) change the restraining order end the restraining order

Fill in case number:

Case Number:

b. The request is:

(1) **Granted** (check one):

- The court has changed the Restraining Order After Hearing. The new orders are listed on form DV-130, or JV-255, and attached to this form.
- The court has ended the Restraining Order After Hearing.

(2) **Denied.** The Restraining Order After Hearing set to expire on (date): _____ remains in full force and effect.

④ **Hearing**

a. The hearing was on (date): _____ with (name of judicial officer): _____

b. These people attended the hearing (check all that apply):

- The person in ① The lawyer for the person in ① (name): _____
- The person in ② The lawyer for the person in ② (name): _____

This is a Court Order.



5 Serving (Giving) Order to Other Party

The request to change or end the restraining order was made by the:

a. **Protected party**

- (1) You do not have to serve the restrained party because they were or their lawyer was at the court date or agreed to this order.
- (2) You must have the restrained party personally served with a copy of this order by (date): _____
- (3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____
- (4) Other: _____

b. **Restrained party**

- (1) You do not have to serve the protected party because they were or their lawyer was at the court date or agreed to this order.
- (2) You must have the protected party personally served with a copy of this order by (date): _____
- (3) You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (date): _____
- (4) Other: _____

c. **Court**

- (1) Further notice is not required.
- (2) The court will mail a copy of this order to all parties by (date): _____
- (3) Other: _____

6 No Fee to Serve (Notify) Order

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form [SER-001, Request for Sheriff to Serve Court Papers](#), and (2) give the completed form and a copy of this order to the sheriff.

7 Lawyer's Fees and Costs

The person in ____ must pay to the person in ____ the following amounts for:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
 Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

This is a Court Order.



8 **Attached pages**

All of the attached pages are part of this order.

a. Number of pages attached to this three-page form: _____

b. Attachments include forms (*check all that apply*):

- DV-130 DV-140 DV-145 FL-341(C) FL-342 FL-343
- JV-255 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

(Clerk will fill out this part.)

Instructions to Clerk: If the court granted the request (if ③b(1) is checked), the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made. You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Order on Request to Change or End Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Findings and Order to Terminate Restraining Order After Hearing

Clerk stamps date here when form is filed.

1.30.24-Draft
Not Approved by the Judicial Council

Complete only items 1 and 2. The remaining items are for court use.

1 Name of Protected Party: _____

2 Name of Restrained Party: _____

3 Court Findings (Fam. Code, § 6345 (a) & (d))

- a. The **Protected Party** filed the request to terminate the restraining orders in *Restraining Order After Hearing* (form DV-130). A proof of service (by mail or personal service) of the request on the Restrained Party is filed with the court.
- b. The **Restrained Party** filed the request to terminate restraining orders. The filed proof of service shows that the Protected Party received notice of the Request by:
 - 1. Personal service.
 - 2. Service on the Secretary of State (the Protected Person is registered in the Safe at Home Program).
 - 3. An alternative, court-ordered method of service that gives actual notice of the request and the hearing.
- c. The **Restrained Party** filed the request to terminate the restraining orders in form DV-130. The Protected Party was physically present in court on the hearing date, waived his or her right to notice and does not challenge the sufficiency of the notice.
- d. The **Protected Party** was physically present at the hearing and verified his or her identity.
- e. The **Protected Party and the Restrained Party** submitted a written stipulation (agreement) to terminate the restraining orders in *Restraining Order After Hearing* (form DV-130).
- f. Other (*specify*): _____

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

4 Court Orders

The protective orders in *Restraining Order After Hearing* (form DV-130) that were issued or modified on (date): _____ are terminated. This order is effective when made.

- a. Child custody, visitation (parenting time), and child support orders in *Restraining Order After Hearing* (form DV-130)
 - 1. Remain in effect.
 - 2. Have been modified on (date): _____
 - 3. Are also terminated.
- b. Spousal or domestic partner support orders in *Restraining Order After Hearing* (form DV-130)
 - 1. Remain in effect.
 - 2. Have been modified on (date): _____
 - 3. Are also terminated.
- c. Unless modified or terminated by court order, any existing orders for child custody, child visitation (parenting time), child support, and spousal or partner support made in a Domestic Violence Prevention Act case after a noticed hearing survive the termination of the protective order, and remain in effect. Family Code sections 6340(a), 6345(b).
- d. This order does not modify or terminate any existing criminal, juvenile, or probate court orders.

This is a Court Order.



5 **Hearings**

- a. The hearing was on *(date)*: _____ with *(name of judicial officer)*: _____
- b. These people were at the hearing *(check all that apply)*:

<input type="checkbox"/> The Protected Party	<input type="checkbox"/> Protected Party's lawyer <i>(name)</i> : _____
<input type="checkbox"/> The Restrained Party	<input type="checkbox"/> Restrained Party's lawyer <i>(name)</i> : _____
<input type="checkbox"/> Other <i>(name)</i> : _____	<input type="checkbox"/> Lawyer <i>(name)</i> : _____
<input type="checkbox"/> Other <i>(name)</i> : _____	<input type="checkbox"/> Lawyer <i>(name)</i> : _____

6 **CLETS Entry**

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Orders System via CLETS.

7 **Service of this Order**

- a. The **Protected Party** and the **Restrained Party** were at the hearing or agreed in writing to this order. No other proof of service is needed.
- b. The **Protected Party** (party who asked for the order) was at the hearing. The **Restrained Party** was not. Someone 18 or over—not anyone else protected or restrained by the restraining order—must personally “serve” the Restrained Party with a filed copy of this order.
- c. The **Restrained Party** (party who asked for the order) was at the hearing. The **Protected Party** was not. Someone 18 or over—not anyone else protected or restrained by the restraining order—must personally “serve” the Protected Party with a filed copy of this order.
- d. Other *(specify)*: _____

Date: _____

Judge (or Judicial Officer)

REVOKE

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Findings and Order to Terminate Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

DV-400-INFO**How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?**

- 1 Who can ask the court to change or end the *Restraining Order After Hearing*?**
- The Protected Party or the Restrained Party can ask to modify (change) or terminate (end) the restraining orders issued in *Restraining Order After Hearing* ([form DV-130](#)) before the orders expire.
 - Do not use form FL-300 to ask to renew the restraining orders in form DV-130 before they expire. Use *Request to Renew Restraining Order* ([form DV-700](#)).
- 2 What orders can be changed or ended?**
- A party may ask the court to change or end any of the orders made on form DV-130, including:
- The restraining orders that protect persons from violence or threat of violence by others (for example, the no contact, stay-away, move out, recording of unlawful communication orders);
 - The list of persons protected by the orders;
 - Child custody, child visitation (parenting time), or child support orders; and
 - Spousal or domestic partner support orders.
- 3 If I ask to end the restraining order, can I keep child custody, visitation, or support orders?**
- If the restraining order ends, any child custody, visitation (parenting time) support, or spousal or domestic partnership orders will remain in effect, unless the court also changes or ends those orders.
- 4 What if the Restrained Party wants to change or end the restraining orders?**
- A restrained party must not violate the restraining order to contact the protected party. There are strict requirements if the restrained party asks the court to change or end the orders as described in this form.
- 5 What forms do I fill out to ask to change or end the *Restraining Order After Hearing*?**
- To ask for an order to change or end your *Restraining Order After Hearing* (form DV-130):
 - Fill out [form FL-300](#), *Request for Order*.
 - To ask to change the child custody or visitation (parenting time) orders, you may need some of these forms:
 - [FL-105](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
 - [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
 - [FL-312](#), *Request for Child Abduction Prevention Orders*
 - [FL-341\(C\)](#), *Children's Holiday Schedule Attachment*
 - [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
 - [FL-341\(E\)](#), *Joint Legal Custody Attachment*
 - To ask the court to change the child support orders made in form DV-130, you need:
 - A current [form FL-155](#), *Income and Expense Declaration*. You may use [form FL-155](#), *Financial Statement (Simplified)*, instead of form FL-150 if you meet the requirements listed on page 2 of form FL-155.
 - To ask the court to change the spousal or partner support orders (or orders about your finances), you need:
 - A current [form FL-150](#), *Income and Expense Declaration*
 - To ask the court to make orders for attorney's fees and costs, you need:
 - A current [form FL-150](#), *Income and Expense Declaration*
 - [FL-319](#), *Request for Attorney's Fees and Costs Attachment* (or provide the information in a declaration)
 - [FL-158](#), *Supporting Declaration for Attorney's Fees and Costs* (or provide the information in a declaration)
 - If you plan on having witnesses testify at the hearing, you will need:
 - [FL-321](#), *Witness List*
 - Additional forms you may need are described on pages 3 and 4 of this information sheet.
- 6 What if I want to respond to a request to change or end the *Restraining Order*?**
- Complete, file, and serve [form FL-320](#), *Responsive Declaration to Request for Order*. See [form FL-320-INFO](#), *Information Sheet: Responsive Declaration to Request for Order* for more information.



DV-400-INFO

How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?

7 Complete form FL-300 (page 1)

Caption: Complete the top part of the form, including your name, address, telephone number, e-mail address, and the court address.

- **Write the names of the parties in the caption.** *If you already have a family law case, use the party names as they are in that case. If you are the Petitioner in that case, you will be the Petitioner on form FL-300. If you are the Respondent in the family law case, you will be the Respondent on form FL-300.*

If you do not already have a family law case, list yourself as the Petitioner on form FL-300 if you are the Protected Party on the restraining order. List yourself as the Respondent on form FL-300 if you are the Restrained Party on the restraining order.

- **Check all the boxes that apply to the orders you want.**

Check the “Change” box if you want to change the order. Below that, indicate the orders that you want to change; for example, domestic violence order, child custody, visitation (parenting time), spousal or partner support.

If you want to ask the court to end the domestic violence orders, check the box for “Domestic Violence Order.” Then, check “Other (specify)” and write “End restraining orders in form DV-130.”

Item 1: Write the name of the other parties in your case.

Item 2: Leave this blank. The court clerk will fill in the date, time, and location of the hearing.

Item 3: This is a notice to the other parties in the case.

Items 4-5: Leave these blank. The court will complete them if it grants the order.

Item 6: In some counties, the court clerk will check item 6 and provide the details for your required child custody mediation or recommending counseling appointment. Other courts require the party or the party’s attorney to make the appointment and then complete item 6 before filing form FL-300. Ask your court’s Family Law Facilitator or Self-Help Center to find out what your court requires.

Items 7-8: Leave these blank. The court will complete them if needed.

8 Complete form FL-300 (pages 2-4)

9 Complete additional forms and make copies

Complete any additional forms that you need to give to the court clerk when you file the *Request for Order*. Make at least three copies of your full packet.

10 File your completed forms

Take them to the clerk’s office in person, mail them, or e-file them (if available in your county). The clerk will keep the original and give you back the copies you made with a court date and time stamped on the first page of the *Request for Order*.

Note: To help schedule the hearing date, tell the clerk if the Protected Party is registered in the Safe at Home program. Extra time is needed for the Protected Party to receive notice after it is served on the Secretary of State.

11 Filing fee

Generally, there is no fee to file a request to change or end the orders included in *Restraining Order After Hearing* (form DV-130). However, after a restraining order is ended, the court may charge a fee if a party files a request to change the child custody, visitation, or support orders granted in form DV-130.



DV-400-INFO**How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?****12 Temporary Emergency (Ex Parte) Orders (nondomestic violence restraining orders)**

To address emergencies, courts can sometimes grant a party's request for temporary emergency orders with or without notice to the other party before the court hearing. The temporary orders last until the day of the hearing.

- *A request for temporary emergency orders must involve an immediate danger or irreparable harm to a party or children in the case, or an immediate loss or damage to property.*
- Ask your court's family law facilitator or self-help center to explain procedures for requesting temporary emergency orders at your court, and follow those procedures.
- By law, the court **CANNOT** grant a Restrained Party's request for temporary emergency orders to change or end the restraining orders before the noticed court hearing. However, the Restrained Party may seek a court order for a shorter time until the hearing or for a shorter time to serve the request on the Protected Party.

13 Serve the Request for Order documents

The other party must be "served" with a:

- Copy of the *Request for Order* and all the other forms and attachments filed with the court clerk.
- Copy of any temporary emergency orders granted.
- Blank form FL-320, *Response Declaration to Request for Order*
- Blank form FL-150, *Income and Expense Declaration* (if you served form FL-150 or FL-155).

14 General information about "service"

"Service" is the act of giving your legal papers to all persons named as parties in the case so that they know: what orders you are asking for; whether temporary emergency orders were made before the hearing; the date, time, and location of the hearing; and how to respond to your request.

NOTE: For questions about serving form FL-300, talk with a lawyer or contact your Family Law Facilitator or Self-Help Center <http://www.courts.ca.gov/1083.htm>.

15 Service deadlines

Unless the court orders a different deadline: Personal service (hand-delivery) must be completed at least *16 court days* before the hearing. Service by mail must be completed at least *16 court days, PLUS five calendar days*, before the hearing if service is done within the state.

16 Who can "serve" the documents

The server must be 18 years of age or older and not be anyone protected or restrained by the orders. You cannot serve the papers. The server can be a friend, a relative who is not involved in your case, a sheriff, or a professional process server. If serving by mail, the server must live or work in the county where the mailing took place.

17 When personal service is required

- A Restrained Party's request to change or end restraining orders must always be personally served (hand-delivered) on the Protected Party, unless the court allows another method.
- The court granted temporary emergency (ex parte orders) that start before the hearing date. Note: Special procedures apply for personal service on a Protected Party who has a confidential address with the Secretary of State's Safe at Home program. For more information, go to www.sos.ca.gov/registries/safe-home/applicants-and-participants/program-policies/#child-custody.

18 When service by mail is permitted

- A Protected Party's *Request for Order* to change or end the restraining orders in form DV-130 may be served on the restrained party by mail.
- Requests by either party only to change *temporary orders* in form DV-130 for child custody or visitation (parenting time), support, financial, or other orders (NOT protective orders), may be served by mail.
- Requests made by either party only to change "*permanent*" or "*final*" orders for child custody and visitation (parenting time), or child support in form DV-130 may be served by mail if an *Address Verification* is included (see form FL-334 at courts.ca.gov/documents/fl334.pdf).



DV-400-INFO**How Do I Ask to Change or End a Domestic Violence Restraining Order After Hearing?****19 Server must complete a *Proof of Service***

After the forms are personally served, the server must complete a proof of personal service and give it to you. [Form FL-330, Proof of Personal Service](#) may be used for this purpose. Give the server [form FL-330-INFO, Information Sheet for Proof of Personal Service](#) for instructions.

If service was by mail, the server may use [form FL-335, Proof of Service by Mail](#). Give the server [form FL-335-INFO, Information Sheet for Proof of Service by Mail](#) for instructions.

20 File the *Proof of Service* before your hearing

Make three copies of the proof of service. Give the original and copies to the court clerk as soon as possible (or e-file them) **before your hearing**.

The clerk will keep the original and give you back the copies stamped “Filed.” Bring a copy stamped “Filed” to your hearing. The filed *Proof of Service* shows the judge that the person received a copy of the *Request for Order* and all other documents or attachments.

21 Get ready for your hearing

Find more information about preparing for your hearing at <http://www.courts.ca.gov/1094.htm>.

22 Go to the court hearing

Take at least three copies of your filed forms to the hearing, including the proof of service. At the hearing, the judge will decide whether to change or end the restraining orders.

23 What if the judge changes or ends the restraining order at the hearing?

If the judge *changes (amends)* the orders, fill out a new [form DV-130, Restraining Order After Hearing](#) that shows the changed orders orders.

Check the “Amended” box on the top of the form. The court will write the number of the amendment on the form. For example, if it is the first time the order is changed, the court will write “1st” before the word “Amended.”

Give the court three copies of the proposed amended order.

If the judge *ends* the restraining order, give the court [form DV-400, Findings and Order to Terminate Restraining Order After Hearing](#). Complete only items 1 and 2, and give the court three copies.

After the judge signs the order, the clerk will file the original and give you three stamped copies.

24 Serve the court order

Have the other party personally served with a copy of the filed orders made on form DV-130 or form DV-400, unless the court orders another method of service or the other party was served at the hearing.

25 File the *Proof of Service*

The server must complete a proof of personal service, such as [form FL-330, Proof of Personal Service](#). Make three copies.

The original proof of personal service must then be filed with the court clerk. The clerk will file the original and give you back the copies you sent to the clerk stamped “Filed.”

Keep one copy with you and another in a safe place in case you need to show it to the police.

26 Get the order entered into the statewide Restraining Order Registry

The court will send the filed, amended form DV-130 or form DV-400 and proof of service to law enforcement for you. That way police across the state and the nation will know the order has changed or ended.

27 Need more help?

Ask the court clerk about free or low-cost legal help.

For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline at 1-800-799-7233 (TDD: 1-800-787-3224). It is free and private. They can help in more than 100 languages.

28 If you need protection in the future, you can always go back to court and ask for a restraining order.

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL v. 02/16/24
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
REQUEST FOR ORDER <input type="checkbox"/> CHANGE <input type="checkbox"/> TEMPORARY EMERGENCY ORDERS <input type="checkbox"/> Child Custody <input type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Spousal or Partner Support <input type="checkbox"/> Child Support <input type="checkbox"/> Property Control <input type="checkbox"/> Attorney's Fees and Costs <input type="checkbox"/> Other (specify):	CASE NUMBER:

Note: Form FL-300-INFO provides information about how to complete this form. To ask to change or end an order that was granted in a domestic violence restraining order, do not use this form; instead, see form DV-300-INFO.

NOTICE OF HEARING

1. TO (name(s)): _____
 Petitioner Respondent Other Parent/Party Other (specify):

2. **A COURT HEARING WILL BE HELD AS FOLLOWS:**

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room.:
b. Address of court <input type="checkbox"/> same as noted above <input type="checkbox"/> other (specify):			

3. **WARNING to the person served with the Request for Order:** The court may make the requested orders without you if you do not file a *Responsive Declaration to Request for Order* (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form FL-320-INFO for more information.)

COURT ORDER
(FOR COURT USE ONLY)

It is ordered that:

4. Time for service until the hearing is shortened. Service must be on or before (date):
5. A *Responsive Declaration to Request for Order* (form FL-320) must be served on or before (date):
6. The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows (specify date, time, and location):
7. The orders in *Temporary Emergency (Ex Parte) Orders* (form FL-305) apply to this proceeding and must be personally served with all documents filed with this *Request for Order*.
8. Other (specify):

Date: _____ JUDICIAL OFFICER _____

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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REQUEST FOR ORDER

Note: Place a mark in front of the box that applies to your case or to your request. If you need more space, mark the box for "Attachment." For example, mark "Attachment 2a" to indicate that the list of children's names and birth dates continues on a paper attached to this form. Then, on a sheet of paper, list each attachment number followed by your request. At the top of the paper, write your name, case number, and "FL-300" as a title. (You may use *Attached Declaration* (form [MC-031](#)) for this purpose.)

1. RESTRAINING ORDER INFORMATION

One or more domestic violence restraining/protective orders are now in effect between (specify):

Petitioner Respondent Other Parent/Party (Attach a copy of the orders if you have one.)

The orders are from the following court or courts (specify county and state):

- a. Criminal: County/state (specify): Case No. (if known):
- b. Family: County/state (specify): Case No. (if known):
- c. Juvenile: County/state (specify): Case No. (if known):
- d. Other: County/state (specify): Case No. (if known):

2. CHILD CUSTODY

I request temporary emergency orders

VISITATION (PARENTING TIME)

a. I request that the court make orders about the following children (specify):

<u>Child's Name</u>	<u>Date of Birth</u>	<input type="checkbox"/> <u>Legal Custody to</u> (person who decides: health, education, etc):	<input type="checkbox"/> <u>Physical Custody to</u> (person with whom child lives):
---------------------	----------------------	--	---

b. The orders I request for child custody visitation (parenting time) are:

[Attachment 2a.](#)

(1) Specified in the attached forms:

- Form [FL-305](#)
- Form [FL-311](#)
- Form [FL-312](#)
- Form [FL-341\(C\)](#)
- Form [FL-341\(D\)](#)
- Form [FL-341\(E\)](#)
- Other (specify):

(2) As follows (specify):

[Attachment 2b.](#)

c. The orders that I request are in the best interest of the children because (specify):

[Attachment 2c.](#)

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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2. **d.** This is a change from the current order for child custody visitation (parenting time).
- (1) The order for legal or physical custody was filed on *(date)*: . The court ordered *(specify)*:
- (2) The visitation (parenting time) order was filed on *(date)*: . The court ordered *(specify)*:

3. CHILD SUPPORT [Attachment 2d.](#)

(Note: An earnings assignment may be issued. See *Income Withholding for Support* (form [FL-195](#))

- a. I request that the court order child support as follows:
- | | | |
|-----------------------------|---|---|
| <u>Child's name and age</u> | <input type="checkbox"/> I request support for each child | <u>Monthly amount (\$) requested</u> |
| | | based on the child support guideline. (if not by guideline) |

- b. I want to change a current court order for child support filed on *(date)*: [Attachment 3a.](#)
 The court ordered child support as follows *(specify)*:

c. I have completed and filed with this *Request for Order* a current *Income and Expense Declaration* (form [FL-150](#)) or I filed a current *Financial Statement (Simplified)* (form [FL-155](#)) because I meet the requirements to file form FL-155.

- d. The court should make or change the support orders because *(specify)*: [Attachment 3d.](#)

4. SPOUSAL OR DOMESTIC PARTNER SUPPORT

(Note: An *Earnings Assignment Order for Spousal or Partner Support* (form [FL-435](#)) may be issued.)

- a. Amount requested *(monthly)*: \$
- b. I want the court to change end the current support order filed on *(date)*:
 The court ordered \$ _____ per month for support.
- c. This request is to modify (change) spousal or partner support after entry of a judgment.
 I have completed and attached *Spousal or Partner Support Declaration Attachment* (form [FL-157](#)) or a declaration that addresses the same factors covered in form FL-157.
- d. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) in support of my request.
- e. The court should should make, change, or end the support orders because *(specify)*: [Attachment 4e.](#)

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
---	--------------

5. PROPERTY CONTROL I request temporary emergency orders
- a. The petitioner respondent other parent/party be given exclusive temporary use, possession, and control of the following property that we own or are buying lease or rent (*specify*):
- b. The petitioner respondent other parent/party be ordered to make the following payments on debts and liens coming due while the order is in effect:
- Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- c. This is a change from the current order for property control filed on (*date*):
- d. Specify in [Attachment 5d](#) the reasons why the court should make or change the property control orders.

6. ATTORNEY'S FEES AND COSTS
- I request attorney's fees and costs, which total (*specify amount*): \$ _____ . I filed the following to support my request:
- a. A current *Income and Expense Declaration* (form [FL-150](#)).
- b. A *Request for Attorney's Fees and Costs Attachment* (form [FL-319](#)) or a declaration that addresses the factors covered in that form.
- c. A *Supporting Declaration for Attorney's Fees and Costs Attachment* (form [FL-158](#)) or a declaration that addresses the factors covered in that form.

7. OTHER ORDERS REQUESTED (*specify*): [Attachment 7.](#)

8. TIME FOR SERVICE / TIME UNTIL HEARING I urgently need:
- a. To serve the *Request for Order* no less than (*number*): _____ court days before the hearing.
- b. The hearing date and service of the the *Request for Order* to be sooner.
- c. I need the order because (*specify*): [Attachment 8.](#)

9. FACTS TO SUPPORT the orders I request are listed below. The facts that I write in support and attach to this request cannot be longer than 10 pages, unless the court gives me permission. [Attachment 9.](#)

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF APPLICANT)



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (form [MC-410](#)). (Civ. Code, § 54.8.)

1 USE Request for Order (form FL-300):

To schedule a court hearing and ask the court to make new orders or to change orders in your case. The request can be about child custody, visitation (parenting time), child support, spousal or partner support, property, finances, attorney’s fees and costs, or other matters.

2 DO NOT USE Request for Order (form FL-300):

- To ask for domestic violence restraining orders! Read *How to Ask for a Temporary Restraining Order* (form [DV-505-INFO](#)).
- To ask to change or end domestic violence restraining orders. For more information, read *How Do I Ask to Change or End a Domestic Violence Restraining Order?* (form [DV-300-INFO](#)).
- Before you have filed a Petition to start your family law case (form FL-300 may be filed with the Petition).
- If you and the other party have an agreement. For information about how to write up your agreement, get it approved by the court, and filed in your case, see www.courts.ca.gov/selfhelp-agreeFL, speak with an attorney, or get help at your court’s Self-Help Center or Family Law Facilitator’s Office.
- When specific Judicial Council forms must be used to ask the court for other orders. For example, to ask:
 - For an order for contempt, use form [FL-410](#).
 - To set aside a child support order, use form [FL-360](#) or form [FL-640](#).
 - To set aside a voluntary declaration of paternity, use form [FL-280](#).

3 Forms checklist

- a. Form [FL-300](#), *Request for Order*, is the basic form you need to file with the court. Depending on your request, you may need these additional forms:
- b. To request child custody or visitation (parenting time) orders, you may need to complete some of these forms:
 - [FL-105](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
 - [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
 - [FL-312](#), *Request for Child Abduction Prevention Orders*
 - [FL-341\(C\)](#), *Children’s Holiday Schedule Attachment*
 - [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
 - [FL-341\(E\)](#), *Joint Legal Custody Attachment*
- c. If you want child support, you need this form:
 - A current [FL-150](#), *Income and Expense Declaration*. You may use form [FL-155](#), *Financial Statement (Simplified)* instead of form FL-150 if you meet the requirements listed on page 2 of form FL-155.
- d. If you want spousal or partner support or orders about your finances, you need these forms:
 - A current [FL-150](#), *Income and Expense Declaration*
 - [FL-157](#), *Spousal or Partner Support Declaration Attachment* (if the request is to change a support judgment)
- e. If you want attorney’s fees and costs, you need these forms:
 - A current [FL-150](#), *Income and Expense Declaration*
 - [FL-319](#), *Request for Attorney’s Fees and Costs Attachment* (or provide the information in a declaration)
 - [FL-158](#), *Supporting Declaration for Attorney’s Fees and Costs* (or provide the information in a declaration)
- f. To request temporary emergency (ex parte) orders, you need these forms:
 - [FL-305](#), *Temporary Emergency Orders* to serve as the proposed temporary emergency orders.
 - Your declaration describing how and when you gave notice about the request for temporary emergency orders. You may use form [FL-303](#), *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders*.
 - Other forms required by local courts. See item 9 on page 3 of this form for more information.
- g. If you plan to have witnesses testify at the hearing, you need form:
 - [FL-321](#), *Witness List*
- h. If you want to request a separate trial (bifurcation) on an issue, you need form:
 - [FL-315](#), *Request or Response to Request for Separate Trial*



4 Complete form FL-300 (Page 1)

Caption: Complete the top part with your name, address, and telephone number. Below that, fill in the court's address.

Write the name of the Petitioner, Respondent, or Other Parent/Party. (You must use the party names as they appear in the petition).

In the next section, check "CHANGE" if you want to change an existing order. Check "TEMPORARY EMERGENCY (EX PARTE) ORDER" if you are asking that the court make emergency orders that will be effective until the hearing date.

Then, check the boxes that apply to the orders you are requesting. Finally, in the box on the right, write your case number.

Item 1: List the name(s) of the other person(s) in your case who will receive your request. In some cases, this might include a grandparent who is joined as a party in the case, a local child support agency, or a lawyer who represents a child in the case.

Item 2: Leave this blank. The court clerk will fill in the date, time, and location of the hearing.

Item 3: This is a notice to all other parties.

Items 4-5: Leave these blank. The court will complete them if the orders are granted.

Item 6: In some counties, the court clerk will check item 6 and provide the details for your required child custody mediation or recommending counseling appointment. Other courts require the party or the party's lawyer to make the appointment and then complete item 6 before filing form FL-300.

Ask your court's Family Law Facilitator or Self-Help Center to find out what your court requires.

Items 7-8: Leave these blank. The court will complete them, if needed.

5 Complete form FL-300 (pages 2-4)

6 Complete additional forms and make copies

Complete any additional forms that you need to file with the *Request for Order*. Make at least two copies of your full packet.

PARTY WITHOUT ATTORNEY OR ATTORNEY		STATE BAR NUMBER:	FL-300
NAME:		FOR COURT USE ONLY	
FIRM NAME:		DRAFT	
STREET ADDRESS:		NOT APPROVED BY THE JUDICIAL COUNCIL	
CITY:	STATE:	ZIP CODE:	v. 02/16/24
TELEPHONE NO.:	FAX NO.:		
EMAIL ADDRESS:			
ATTORNEY FOR (name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF			
STREET ADDRESS:			
MAILING ADDRESS:			
CITY AND ZIP CODE:			
BRANCH NAME:			
PETITIONER:			
RESPONDENT:			
OTHER PARENT/PARTY:			
REQUEST FOR ORDER <input type="checkbox"/>		CHANGE <input type="checkbox"/>	TEMPORARY EMERGENCY ORDERS <input type="checkbox"/>
<input type="checkbox"/> Child Custody		<input type="checkbox"/> Visitation (Parenting Time)	<input type="checkbox"/> Spousal or Partner Support
<input type="checkbox"/> Child Support		<input type="checkbox"/> Property Control	<input type="checkbox"/> Attorney's Fees and Costs
<input type="checkbox"/> Other (specify):			
		CASE NUMBER:	

Note: Form FL-300-INFO provides information about how to complete this form. To ask to change or end an order that was granted in a domestic violence restraining order, do not use this form; instead, see form DV-300-INFO.

NOTICE OF HEARING

1. TO (name(s)):

Petitioner Respondent Other Parent/Party Other (specify):

2. A COURT HEARING WILL BE HELD AS FOLLOWS:

a. Date: _____ Time: _____ Dept.: _____ Room: _____

b. Address of court same as noted above other (specify): _____

3. **WARNING to the person served with the Request for Order:** The court may make the requested orders without you if you do not file a Responsive Declaration to Request for Order (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form FL-320-INFO for more information.)

COURT ORDER

It is ordered that:

4. Time for service until the hearing is shortened. Service must be on or before (date): _____

5. A Responsive Declaration to Request for Order (form FL-320) must be served on or before (date): _____

6. The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows (specify date, time, and location): _____

7. The orders in Temporary Emergency (Ex Parte) Orders (form FL-305) apply to this proceeding and must be personally served with all documents filed with this Request for Order.

8. Other (specify): _____

Date: _____ JUDICIAL OFFICER _____

Note: You may file one form FL-150 to respond to items 3, 4, and 6.

7 File your documents

Give your paperwork and the copies you made to the court clerk to process. You may take them to the clerk's office in person, mail them, or, in some counties, you can e-file them.

The clerk will keep the original and give you back the copies you made with a court date and time stamped on the first page of the *Request for Order*. The procedure may be different in some courts if you are requesting temporary emergency orders.

8 Pay filing fees

A fee is due at the time of filing. If you cannot afford to pay the filing fee, and you do not already have a valid fee waiver order in this case, you can ask the court to waive the fee by completing and filing form [FW-001, Request to Waive Court Fees](#) and form [FW-003, Order on Court Fee Waiver](#).



9 Temporary Emergency (Ex Parte) Orders
(nondomestic violence restraining orders)

Courts can make temporary orders in your family law case to respond to emergencies that cannot wait to be heard on the court’s regular hearing calendar.

The emergency must involve an immediate danger or irreparable harm to a party or children in the case, or an immediate loss or damage to property.

To request these orders:

- Complete form FL-300. Describe the emergency and explain why you need the temporary emergency orders before the hearing.
- Complete form FL-305 to serve as your proposed temporary orders.
- Include a declaration describing how and when you notified the other parties (or why you could not give notice) about your request and the hearing (see form FL-303).
- Complete other forms if required by your local court rules.
- Follow your court’s local procedures for reserving the day for the hearing, submitting your paperwork, and paying filing fees.

12 Who can be a “server”

You cannot serve the papers. Have someone else (who is at least 18 years old) do it. The server can be a friend, a relative who is not involved in your case, a sheriff, or a professional process server.

13 “Personal Service”

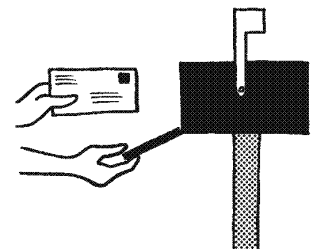
Personal service means that your server walks up to each person to be served, makes sure the right person is served, and then hand-delivers a copy of all the papers (and the blank forms). If the person served does not take the papers, the server may leave the papers near the person.



Note: Sometimes the papers may be personally served on the other party’s lawyer (if **the other party** has one) in the family law case.

14 “Service by mail”

Service by mail means that your server places copies of all the documents (and blank forms) in a sealed envelope and mails them to the address of each party being served (or to the party’s lawyer, if the party has one).



The server must be 18 years of age or over and live or work in the county where the mailing took place.

Important! For questions about personal service or service by mail, talk with a lawyer or check with your court’s Family Law Facilitator or Self-Help Center at www.courts.ca.gov/1083.htm.

10 General information about “service”

“Service” is the act of giving your legal papers to all persons named as parties in the case so that they know what orders you are asking for and have information about the hearing.

If the other parties are NOT properly served, the judge cannot make the orders you requested on the date of the hearing.

11 Serve the Request for Order and blank forms

The other party must be “served” with a:

- Copy of the *Request for Order* and all the other forms and attachments filed with the court clerk.
- Copy of any temporary emergency orders granted.
- Blank form [FL-320](#), *Responsive Declaration to Request for Order*.
- Blank form [FL-150](#), *Income and Expense Declaration* (if you served form FL-150 or FL-155).



15 When to use personal service or service by mail

Personal Service

Personal service is the best way to make sure the other adults in your case are correctly served. Sometimes you **must** use personal service.

You **must** use personal service when the court:

- Ordered personal service;
- Granted temporary emergency orders;
- Does not yet have the power to make orders that apply to the other party because **the person** has either NOT previously:
 - Been served with a *Summons* and *Petition*;*

OR
 - Appeared in the case by filing a:
 - a. *Response to a Petition*;
 - b. *Appearance, Stipulations, and Waivers*;
 - c. Written notice of appearance;
 - d. Request to strike all or part of the *Petition*; or
 - e. Request to transfer the case.

*Note: A *Request for Order* may be served at the same time as the family law *Summons* and *Petition*.

1. After serving, the server must fill out a *Proof of Personal Service* (form [FL-330](#)) and give it to you. If the server needs instructions, give **them** form [FL-330-INFO](#), *Information Sheet for Proof of Personal Service*.
2. Take the completed *Proof of Personal Service* form to the clerk’s office (or e-file it, if available in your court) at least 5 court days before your hearing.

Deadline: The deadline for personal service is **16 court days** before the hearing date, unless the court orders a different deadline.

Service by Mail

If you are not required to use personal service, you may use service by mail.

Important! Check with your court’s Family Law Facilitator’s Office or Self-Help Center, or ask a lawyer to be sure you are allowed to use service by mail in your case.

A *Request for Order* to change a judgment or final order on the issue of child custody, visitation (parenting time), or child support may be served by mail if:

- The documents do not include temporary emergency orders;
- The court did not order personal service; and
- You have verified the other party’s current residence or office address. (You may use *Address Verification* (form [FL-334](#)).)

To change a judgment or final order on any other issue, including spousal or domestic partner support, the *Request for Order* may need to be personally served on the other party.

1. After serving, the server must fill out a *Proof of Service by Mail* (form [FL-335](#)) and give it to you. If the server needs instructions, give **them** *Information Sheet for Proof of Service by Mail* (form [FL-335-INFO](#)).
2. Take the completed *Proof of Personal Service* form to the clerk’s office (or e-file it, if available in your court) at least 5 court days before your hearing.

Deadline: Unless the court orders a different time, service by mail must be completed at least **16 court days PLUS 5 calendar days** before the hearing date (if service is in California). Other time lines apply for service outside of California.

16 Get ready for your hearing

- Take at least two copies of your documents and filed forms to the hearing. Include a filed *Proof of Service* form.
- Find more information about preparing for your hearing at www.courts.ca.gov/1094.htm.
- For information about having the other party testify in court, go to www.courts.ca.gov/29283.htm.

17 After the hearing, the order made on form [FL-340](#) *Findings and Order After Hearing*, must be filed and served.

18 Do you have questions or need help?

- Find a lawyer through your local bar association, the State Bar of California at calbar.ca.gov, or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to www.lawhelpca.org.
- Contact the Family Law Facilitator or Self-Help Center for information and assistance, and referrals to local legal services providers. Go to www.courts.ca.gov/selfhelp-courtresources.htm.

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL v. 2/16/24
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
RESPONSIVE DECLARATION TO REQUEST FOR ORDER	CASE NUMBER:
HEARING DATE: TIME: DEPARTMENT OR ROOM:	

Read *Information Sheet: Responsive Declaration to Request for Order* (form [FL-320-INFO](#)) for more information about this form.

1. RESTRAINING ORDER INFORMATION
 - a. No domestic violence restraining/protective orders are now in effect between the parties in this case.
 - b. I agree that one or more domestic violence restraining/protective orders are now in effect between the parties in this case.

2. CHILD CUSTODY
 VISITATION (PARENTING TIME)
 - a. I consent to the order requested for child custody (legal and physical custody).
 - b. I consent to the order requested for visitation (parenting time).
 - c. I do not consent to the order requested for child custody visitation (parenting time)
 but I consent to the following order:

3. CHILD SUPPORT
 - a. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) or, if eligible, a current *Financial Statement (Simplified)* (form [FL-155](#)) to support my responsive declaration.
 - b. I consent to the order requested.
 - c. I consent to guideline support.
 - d. I do not consent to the order requested but I consent to the following order:

4. SPOUSAL OR DOMESTIC PARTNER SUPPORT
 - a. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) to support my responsive declaration.
 - b. I consent to the order requested.
 - c. I do not consent to the order requested but I consent to the following order:

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
---	--------------

5. PROPERTY CONTROL

- a. I consent to the order requested.
- b. I do not consent to the order requested but I consent to the following order:

6. ATTORNEY'S FEES AND COSTS

- a. I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) to support my responsive declaration.
- b. I have completed and filed with this form a *Supporting Declaration for Attorney's Fees and Costs Attachment* (form [FL-158](#)) or a declaration that addresses the factors covered in that form.
- c. I consent to the order requested.
- d. I do not consent to the order requested but I consent to the following order:

7. OTHER ORDERS REQUESTED

- a. I consent to the order requested.
- b. I do not consent to the order requested but I consent to the following order:

8. TIME FOR SERVICE / TIME UNTIL HEARING

- a. I consent to the order requested.
- b. I do not consent to the order requested but I consent to the following order:

9. FACTS TO SUPPORT my responsive declaration are listed below. The facts that I write and attach to this form cannot be longer than 10 pages, unless the court gives me permission. [Attachment 10.](#)

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date: _____

_____ _____

(TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

1 If you received a Request for Order (form FL-300):

- Carefully read the papers you received to make sure you understand what orders are being requested.
- Note the date, time, and location of the court hearing.
- Check to see if the court ordered a specific date for filing and serving your *Responsive Declaration to Request for Order* (form FL-320).
- If you need more time before the hearing to prepare a responsive declaration or talk with a lawyer, you may ask the court to continue the hearing date. For more information, consult with a lawyer or contact the the Family Law Facilitator or Self-Help Center in your court (see item **16**).

2 USE Responsive Declaration to Request for Order (form FL-320)

Use form FL-320 to let the court and the other party know that you agree or disagree with each of the requests made in the *Request for Order* (form FL-300).

- If you disagree, use form FL-320 to describe the orders you would like the court to make.
- If you do not file and serve form FL-320, the court can still make orders without your input.

3 DO NOT USE Responsive Declaration to Request for Order (form FL-320) to:

- Ask for court orders that were not requested in the *Request for Order* (form FL-300). Instead, file and serve your own *Request for Order* (form [FL-300](#)) to ask for orders about other issues.
- Respond to *Request for Domestic Violence Restraining Order* (form [DV-100](#)). Instead, you must use *Response to Request for Domestic Restraining Order* (form [DV-120](#)).
- Respond to *Request to Change or End Restraining Order* (form [DV-300](#)). Instead, you must use *Response to Request to End or Change Restraining Order* (form [DV-320](#)).

4 Forms checklist

- Form [FL-320](#), *Responsive Declaration to Request for Order*, is the basic form you need. Depending on the requests made in the *Request for Order* (form FL-300), you may need other forms.
- For child custody or visitation (parenting time) orders, you may need to complete some of these forms:
 - [FL-105](#), *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*
 - [FL-311](#), *Child Custody and Visitation (Parenting Time) Application Attachment*
 - [FL-312](#), *Request for Child Abduction Prevention Orders*
 - [FL-341\(C\)](#), *Children’s Holiday Schedule Attachment*
 - [FL-341\(D\)](#), *Additional Provisions—Physical Custody Attachment*
 - [FL-341\(E\)](#), *Joint Legal Custody Attachment*
- For child support, you need:
 - A current form [FL-150](#), *Income and Expense Declaration*. You may use form [FL-155](#), *Financial Statement (Simplified)*, instead of form FL-150 if you meet the requirements listed on page 2 of form FL-155.

Notice:

 - The court will order child support based on the income of the parents.
 - Child support normally continues until the child is 18 years and has graduated from high school.
 - You must give the court information about your finances. If you do not, the child support order will be based on information about your income that the court receives from other sources.
- For spousal or domestic partner support or orders about your finances, you need these forms:
 - [FL-150](#), *Income and Expense Declaration*
 - [FL-157](#), *Spousal or Partner Support Declaration Attachment* (if the request is to change a support judgment)
- For attorney’s fees and costs, you need these forms:
 - [FL-150](#), *Income and Expense Declaration*
 - [FL-158](#), *Supporting Declaration for Attorney’s Fees and Costs* (or provide the information in a declaration)
 - [FL-319](#), *Request for Attorney’s Fees and Costs Attachment* (or provide the information in a declaration)
- If you plan on having witnesses testify at the hearing, you need this form:
 - [FL-321](#), *Witness List*



To respond to a Request for Order, you must:

5 Complete the top part (caption) of the form

Complete the top portion including your name, address, and telephone number, the court address, the names of all the parties in the case, and the case number. Also, print or type the same hearing date, time, and department that appears on the *Request for Order* (form FL-300).

6 Specify a response to orders requested

Items 1–8: Each item on the form matches the item numbers on the *Request for Order* (form FL-300). Complete item 1. Next, mark the same box that is marked on form FL-300. Then, specify if you consent (agree) or do not consent to (disagree with) the orders requested. If you disagree, describe the order you would like the court to make. *Note: You may file one form FL-150 to respond to items 3, 4, and 6.*

Item 9: Use the space to explain your responses to items 1–8. Include the reasons why you do not agree with the orders requested by the other party and why the court should make the orders you described. If you need more space, write your responses on a separate sheet of paper and attach it to the form (*Attached Declaration* (form MC-031) may be used for this purpose).

Sign and date: Print your name, sign, and write the date you signed form FL-320.

7 Next steps: file or serve your paperwork

You must file your paperwork with the court clerk at least 9 court days before the hearing. If the court orders a shorter time to file your papers, file them by the date specified in the order.

Make 2 copies of your original paperwork. Then, do one of the following before the filing deadline:

- Take your paperwork and copies to the court clerk to process (or e-file them, if available in your county). The clerk will keep the original and give you back copies with a court stamp on them. Have a stamped copy served; or
- Have an unstamped copy of your paperwork served *before* you take (or e-file) the originals and copies to the court clerk to file. Be sure the original documents are not served.

PARTY WITHOUT ATTORNEY OR ATTORNEY		STATE BAR NUMBER:	FOR COURT USE ONLY	
NAME:				<p>DRAFT</p> <p>NOT APPROVED BY THE JUDICIAL COUNCIL</p> <p>v. 2/18/24</p>
FIRM NAME:				
STREET ADDRESS:				
CITY:		STATE:	ZIP CODE:	
TELEPHONE NO.:		FAX NO.:		
EMAIL ADDRESS:				
ATTORNEY FOR (name):				
SUPERIOR COURT OF CALIFORNIA, COUNTY OF				
STREET ADDRESS:				
MAILING ADDRESS:				
CITY AND ZIP CODE:				
BRANCH NAME:				
PETITIONER:				
RESPONDENT:				
OTHER PARENT/PARTY:				
RESPONSIVE DECLARATION TO REQUEST FOR ORDER				CASE NUMBER:
HEARING DATE:		TIME:	DEPARTMENT OR ROOM:	

- Read *Information Sheet: Responsive Declaration to Request for Order* (form [FL-320-INFO](#)) for more information about this form.
- RESTRAINING ORDER INFORMATION
 - No domestic violence restraining/protective orders are now in effect between the parties in this case.
 - I agree that one or more domestic violence restraining/protective orders are now in effect between the parties in this case.
 - CHILD CUSTODY VISITATION (PARENTING TIME)
 - I consent to the order requested for child custody (legal and physical custody).
 - I consent to the order requested for visitation (parenting time).
 - I do not consent to the order requested for child custody visitation (parenting time)

 but I consent to the following order:
 - CHILD SUPPORT
 - I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) or, if eligible, a current *Financial Statement (Simplified)* (form [FL-155](#)) to support my responsive declaration.
 - I consent to the order requested.
 - I consent to guideline support.
 - I do not consent to the order requested but I consent to the following order:
 - SPOUSAL OR DOMESTIC PARTNER SUPPORT
 - I have completed and filed a current *Income and Expense Declaration* (form [FL-150](#)) to support my responsive declaration.
 - I consent to the order requested.
 - I do not consent to the order requested but I consent to the following order:

8 Pay filing fees

Generally, you do not have to pay a fee to file the *Responsive Declaration*. However, if you have never filed any papers in the case, you may have to pay a “first appearance fee,” which, in general, everyone has to pay when filing court papers in a case for the first time.

If you cannot afford to pay the filing fee, you can ask the court to waive the fees. To do so, complete and file form [FW-001](#), *Request to Waive Court Fees*, and form [FW-003](#), *Order on Court Fee Waiver*.

9 Serve your papers on the other party

“Service” is the act of giving your legal papers to all persons named as parties in the case so that they know what orders you want the court to make. *Note:* If a party has a lawyer in the case, the papers should be served on that party’s lawyer.

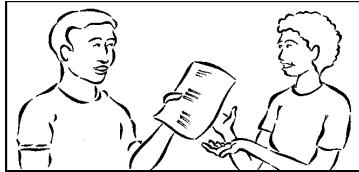


10 How to “serve”

Server. You cannot serve the papers. Have someone else (who is at least 18 years old) do it. The “server” can be a friend, a relative who is not involved in your case, a county sheriff, or a professional process server.

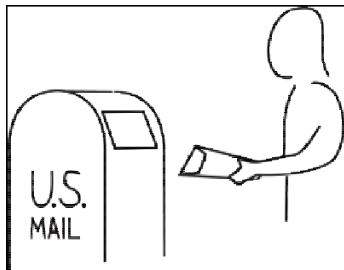
Personal service.

Your papers may be served by “personal service.” Personal service means that your server walks up to each person to be served, makes sure **they** are the right person, and then gives a copy of all the papers to **each person.**



Service by mail.

“Service by mail” means that your server places copies of all the documents in a sealed envelope and mails them to the address of each party being served (or to the party’s lawyer, if **applicable.**) The server must be 18 years of age or over and must live or work in the county where the mailing took place.



11 Deadline for service

Personal service or service by mail on the other party must be completed at least *9 court days* before the court hearing. If the court has ordered a shorter time to serve your responsive papers, be sure to have them served by the date specified in the court order.

12 Server must complete a Proof of Service

After personal service, the server should complete a form [FL-330](#), *Proof of Personal Service*. Form [FL-330-INFO](#), *Information Sheet for Proof of Personal Service*, has instructions to help the person complete the form.

After service by mail, the server should complete form [FL-335](#), *Proof of Service by Mail*. Form [FL-335-INFO](#), *Information Sheet for Proof of Service by Mail*, has instructions to help the person complete the form.

13 File the Proof of Service before your hearing date

The *Proof of Service* shows the judge that the person received a copy of your *Responsive Declaration to Request for Order*. Make three copies of the completed *Proof of Service*. Take the original and copies to the court clerk as soon as possible **before your hearing.**

The clerk will keep the original and give you back the copies stamped “Filed.” Bring a copy stamped “Filed” to your hearing. (If unstamped copies of your paperwork were served, you can file the completed *Proof of Service* when you file the original *Responsive Declaration*.)

14 Participate in child custody mediation or child custody recommending counseling

If the *Request for Order* includes a court order for you to attend mediation or child custody recommending counseling, the date, time, and location is found on page 1 of the *Request for Order*. For more information, read *Child Custody Information Sheet* (form [FL-313-INFO](#) or form [FL-314-INFO](#)). For information about visitation (parenting time) orders, read form [FL-311-INFO](#).

15 Get ready for your hearing

- Take at least two copies of your documents and filed forms to the hearing. Include a filed *Proof of Service* form.
- Find more information about preparing for the hearing at www.courts.ca.gov/1094.htm.

16 Still have questions or need help?

- Contact the Family Law Facilitator or Self-Help Center for information, local rules, and referrals to local legal services providers. Go to www.courts.ca.gov/1083.htm/.
- Talk to a lawyer if you want legal advice, someone to go to court with you, or other legal help. Find an attorney through your local bar association, the State Bar of California at calbar.ca.gov, or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to lawhelpcalifornia.org.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Approve form DV-105-INFO; revise forms DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho, 415-865-7662, frances.ho@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023 (amended February 9, 2024 to include implementation of AB 92)

Project description from annual agenda: Item 1g and 7: Implement SB 599 and provide information on virtual visitation on Judicial Council information form. Item 11: Revise forms to include new requirement regarding body armor (AB 92).

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-25

Title

Protective Orders: Changes to Domestic Violence Forms to Implement New Laws SB 599 and AB 92

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Proposed Rules, Forms, Standards, or Statutes

Approve form DV-105-INFO; revise forms DV-100, DV-105, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, EPO-001

Contact

Frances Ho, 415-865-7662
frances.ho@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulseley, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends the approval and revision of a number of domestic violence restraining order forms to comply with new requirements for child custody and visitation orders (Senate Bill 599), and include body armor prohibitions (Assembly Bill 92).

Background

Senate Bill 599

Effective January 1, 2024, Senate Bill 599 (Stats. 2023, ch. 493) made changes to the Family Code that impact child custody and visitation orders made in a domestic violence (DV) restraining order (see Link A). Specifically:

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.

- When granting sole or joint custody to the restrained party, the court must state in writing or on the record that the order “protects the safety of the parties and the child.”¹
- If the court finds that a parent is living in a DV shelter or other confidential location, the court must consider a number of factors in deciding whether in-person visitation is in the best interest of the children.²
- If the court grants a domestic violence restraining order, the court must consider whether the restrained party’s parenting time, if any, should be suspended, denied, supervised, or virtual.³ Virtual visitation is defined as the “use of audiovisual electronic communication tools to provide contact between a parent and their children as part of a parenting plan or custody order.”⁴ Virtual visitation may be supervised or unsupervised, based on the court’s determination of what is in the best interest of the child.”⁵

Assembly Bill 92

Effective January 1, 2024, a person prohibited from possessing firearms under state law is also prohibited from possessing, owning, or buying body armor.⁶ When advising a person of their firearm prohibition, courts must also advise them of the prohibition from possessing, owning, or buying body armor.⁷ The new law also requires the prohibited person to relinquish body armor that they possess.⁸ However, unlike the relinquishment procedures for firearms and ammunition under the Domestic Violence Prevention Act, there is no relinquishment procedure outlined in the new law.

The Proposal

This proposal is necessary to implement new changes in the law. Because most litigants in domestic violence restraining order proceedings represent themselves, it is particularly important for the council to act quickly to ensure that litigants have access to the new remedies provided by the Legislature.

- Approve a new Judicial Council form:
 - *What Are Child Custody and Visitation Orders?* (form DV-105-INFO);
- Revise 11 existing Judicial Council forms:

¹ Fam. Code, § 3011a(2)(B)(5)(A).

² Fam. Code, § 3100(d)(2).

³ Fam. Code, § 3100(b).

⁴ Fam. Code, § 3100(e).

⁵ *Ibid.*

⁶ Pen. Code, § 31360(b)(1)–(2).

⁷ Pen. Code, § 31360(b)(2).

⁸ *Ibid.*

- *Request for Domestic Violence Restraining Order* (form DV-100);
- *Request for Child Custody and Visitation Orders* (form DV-105);
- *City and State Where Children Lived* (form DV-105(A));
- *Notice of Court Hearing* (form DV-109);
- *Temporary Restraining Order* (form DV-110);
- *Response to Request for Domestic Violence Restraining Order* (form DV-120);
- *How Can I Respond to a Request for Domestic Violence Restraining Order* (form DV-120-INFO);
- *Restraining Order After Hearing (Order of Protection)* (form DV-130);
- *Child Custody and Visitation Order* (form DV-140);
- *Can A Domestic Violence Restraining Order Help Me?* (form DV-500-INFO);
- and
- *Emergency Protective Order* (EPO-001).

Form changes to implement SB 599

Revisions to order form (DV-140)

Under SB 599, if the court grants the restrained party sole custody, joint custody, or unsupervised visits, the court must find that the order protects the safety of the parties and the children, in addition to being in the best interest of the child. To comply with SB 599, the committee recommends including the following language on the order form in the item for child custody (item 7), and as part of the item for unsupervised visits (item 11).⁹

Example of language from form DV-140, item 7:

This order is in the best interest of the children listed in ③ and protects their safety and the safety of the parties because *(check all that apply)*:

(1) *(Give reasons)*

(2) *Judge's reasons are attached to this order.*

(3) *Judge explained their reasons at the court hearing, with a court reporter present (ask court for transcript).*

The committee also recommends including an option for the court to attach its reasons to the order (shown above in (2)).

Under SB 599, if the court finds that a party is living in a DV shelter or other confidential location, the court must consider a number of factors in deciding whether in-person visitation is in the best interest of the children. The committee recommends adding an item for mandatory

⁹ Because SB 599 impacts family law orders as well as domestic violence orders, the committee is also recommending adding the same language to applicable family law (FL) forms in a separate proposal, *Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599* (SPR24-26), available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

findings, to give courts the option of including any necessary findings on the order form. The committee is seeking specific comment on whether the information provided in this proposed item is sufficient and will help the court identify any applicable factors that it must consider under the Family Code.

Form DV-140, item 14:

14 **Mandatory Findings**
(Any findings required under Family Code sections 3011, 3044, and 3100 may be included here.)

Judge's findings are attached to this order.

Lastly, SB 599 requires the court to consider virtual visitation as an option, when making visitation orders that must be in the child’s best interest. If the court makes an order for virtual visitation, the committee recommends including this order in “Other Orders,” as shown below.

13 **Other Orders**
Describe additional orders (examples: virtual visitation, holiday schedule). If you want to use a separate form, like form **FL-341(C), Children's Holiday Schedule Attachment**, write "see attached FL-341(C)" in the space below and attach that form.

New INFO form on child custody and visitation (DV-105-INFO)

The committee proposes a new information form on child custody and visitation orders. Commenters in a previous forms proposal suggested approval of this type of INFO form, which the committee agreed would be beneficial to parties. In domestic violence cases, it is particularly important for parties to be informed of the various options for visitation (e.g., supervised visits, supervised exchanges) and laws around child custody. This new form would also include information on virtual visitation (at page 2).¹⁰

¹⁰The committee, in a separate proposal, is also recommending approval of another version of this information sheet, a new family law INFO form that also addresses visitation and that would also include information on virtual visits (proposed form FL-311-INFO). In that proposal, the proposed INFO form would include a worksheet that a parent could use to help prepare for a virtual visit. The committee is recommending two slightly different INFO forms because virtual visits are less commonly ordered in domestic violence cases than other types of visitation (e.g., supervised in-person visitation), and so the committee is recommending this DV version not include the worksheet, but instead include a link to the Self-Help Guide where the worksheet will be made available. The separate proposal, *Family Law: Child Custody Forms and a Standard of Judicial Administration Under Senate Bill 599* (SPR24-26), is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

Request for child custody and visitation form (DV-105)

Form DV-105 would refer people to the new INFO form on child custody and visitation.

AB 92

To implement AB 92 (see Link B), the committee recommends revisions to three order forms (DV-110, DV-130, EPO-001), a request form (DV-100), a response form (DV-120), and two information forms (DV-500-INFO and DV-120-INFO).

Order forms (DV-110, DV-130, EPO-001)

For forms DV-110 and DV-130, the committee recommends adding a standalone item for the body armor prohibition, as shown below.¹¹ This same language will be included on all civil and criminal protective order forms.

No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

For form EPO-001, the committee recommends using substantially similar language.¹²

Request and response forms (DV-100 and DV-120)

These forms would include a new item to inform both parties of the body armor prohibition that would apply if the court grants a restraining order.¹³

INFO forms (DV-120-INFO and DV-500-INFO)

The information forms require a simple revision—adding body armor to the list of items that a restrained person would be prohibited from having if the court grants a restraining order.

Other changes

Form DV-109 and DV-130

Under Family Code section 6340(a)(1), the court must consider whether failure to make any orders in a domestic violence restraining order may jeopardize the safety of the protected party and the children for whom the custody or visitation orders are sought. Similarly, Family Code section 6341(a) and (c) require the court to consider whether failure to make child or spousal support orders may jeopardize the safety of the protected party and the children for whom child support is requested, including safety concerns related to the financial needs of the protected party and the children. Both statutes require that the Judicial Council provide notice of these

¹¹ See item 8, on form DV-110, and item 11, on form DV-130.

¹² At item 3(f), on form EPO-001, the committee recommends adding “YOU MUST NOT own, possess, or buy body armor. You must relinquish any body armor that you have in your possession.”

¹³ See item 30, on form DV-100, and item 27, on form DV-120.

provisions on the council forms. To comply with those requirements, the committee recommends adding these notices to the notice of hearing and order after hearing forms.¹⁴

Form DV-140

Under Family Code section 3100(c), if the court issues visitation orders, the order must refer to any criminal protective order that takes precedence in enforcement. To comply with this requirement, the committee recommends adding a new item to allow the court to list any relevant criminal protective orders.¹⁵

The committee also recommends restructuring the item on professionally supervised visitation, item 9. Professional providers have reported issues with courts making orders that may not be possible based on the provider’s availability (e.g., Mondays from 5–6 p.m.). When these issues arise, providers refer parties back to court to have the order changed, causing delays in following the order. To remedy this, the item has been revised to include an instruction that the court bypass the visitation chart at item 12, and instead instructs the court to give the frequency and duration of each visit. Additionally, the committee understands that in some counties parties are provided with a list of providers to choose from and proposes adding this as an option on the form.¹⁶ Finally, this item would also specify that the professional provider would decide on a safe location for the visit. The committee is seeking specific comment on whether providers and parties would benefit from the proposed changes to item 9, and if there should be more information or options provided in this item.

Item 10 has been reorganized to create separate subitems for professional and nonprofessional providers. In item 11, the committee proposes adding as an instruction, “These orders must include times and days for visits, and details about child exchanges.”¹⁷ Lastly, the committee proposes allowing form DV-140 to be used as an attachment to new form DV-310, *Notice of Court Hearing and Temporary Orders to Change or End Restraining Order*, which is being proposed in a separate proposal, and would be issued after a request to change or end a restraining order has been submitted to the court.¹⁸ Form DV-310 has been added as an option on the top of the first page of form DV-140 (as shown below).

DV-140	Child Custody and Visitation Order	Case Number:
This form is attached to (<i>check one</i>): <input type="checkbox"/> DV-110 <input type="checkbox"/> DV-130 <input checked="" type="checkbox"/> DV-310		

¹⁴ See item 3, on form DV-109, and item 5(c), on form DV-130.

¹⁵ See item 15, on form DV-140.

¹⁶ See item 9(b)(2)(A)(2), on form DV-140.

¹⁷ Fam. Code, § 6323(c).

¹⁸ The proposal, *Domestic Violence and Family Law: Changes to Rule and Forms to Implement Senate Bill 459* (SPR24-xx), is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

Form DV-105(A)

This form may be used by either party to list the residence history for minor children, for purposes of establishing the court’s jurisdiction to make child custody and visitation orders. Minor revisions are needed to this form to allow the form to be used by either party. This form could also be used with the new DV-specific form set being proposed by the committee in a separate proposal.¹⁹

Notice regarding free copies of orders

The committee also proposes adding an instruction to the clerk on order forms DV-110 and DV-130 that up to three free certified, stamped, and endorsed copies must be provided to the protected party.²⁰ The committee would recommend adding this same instruction to other DV order forms, as they are revised. This instruction would help remind court clerks of the requirement to provide the protected party with a certain number of free copies.

Alternatives Considered

In implementing SB 599, the committee considered adding a specific item to the child custody and visitation request and order forms for virtual visitation. The committee decided against this approach as it would require significant revisions to the request (DV-105) and order (DV-140) forms.

In implementing the new body armor prohibition, the committee considered providing more guidance on how “relinquishment” can be satisfied (e.g., deadline, who to give it to, whether destruction of body armor qualifies). However, the committee decided against this approach as the statute does not define relinquishment or provide a framework for compliance.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the newly approved and revised forms. Courts will also incur costs to incorporate the revised forms into the paper or electronic processes.

¹⁹ The proposal, *Domestic Violence and Family Law: Changes to Rule and Forms to Implement Senate Bill 459* (SPR24-24), is available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

²⁰ Fam. Code, § 6387.

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?
- Would professional supervised visitation providers and parties benefit from the proposed revisions to item 9, on form DV-140. Should more information or other options be provided in this item?
- Is the language proposed in item 14 (“Mandatory Findings”), on form DV-140, sufficient to help the court identify any applicable factors that it must consider when making orders under Family Code sections 3011, 3044, and 3100?

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. DV-100, DV-105, DV-105-INFO, DV-105(A), DV-109, DV-110, DV-120, DV-120-INFO, DV-130, DV-140, DV-500-INFO, and EPO-001 at pages 9–74
2. Link A: Sen. Bill 599,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB599
3. Link B: Assem. Bill 92,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB92

Clerk stamps date here when form is filed.

2.15.24

Draft- Not approved by the Judicial Council

Instructions

To ask for a domestic violence restraining order, you will need to complete this form and other forms (see page 12 for list of forms). If this case includes sensitive information about a minor child (under 18 years old), see form DV-160-INFO, Privacy Protection For a Minor (Person Under 18 Years Old) Domestic Violence Prevention for more information on how to protect the child’s information.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Person Asking for Protection

a. Your name: _____

b. Your age: _____

c. ! Address where you can receive court papers

(This address will be used by the court and by the person in 2 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person’s address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

d. ! Your contact information (optional)

(The court could use this information to contact you. If you don’t want the person in 2 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

e. Your lawyer’s information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Person You Want Protection From

a. Full name: _____

b. Age (give estimate if you do not know exact age): _____

c. Date of birth (if known): _____

d. Gender: M F Nonbinary

e. Race: _____

This is not a Court Order.



3 Your Relationship to the Person in 2

(If you do not have one of these relationships with the person in 2, do not complete the rest of this form. You may be eligible for another type of restraining order. Learn more at <https://selfhelp.courts.ca.gov/restraining-orders>.)

(Check all that apply)

- a. We have a child or children together (*names of children*): _____
- b. We are married or registered domestic partners.
- c. We used to be married or registered domestic partners.
- d. We are dating or used to date.
- e. We are or used to be engaged to be married.
- f. We are related. The person in 2 is my (*check all that apply*):
 - Parent, stepparent, or parent-in-law
 - Child, stepchild, or legally adopted child
 - Child's spouse
 - Brother, sister, sibling, step-sibling, or sibling in-law
 - Grandparent, step-grandparent, or grandparent-in-law
 - Grandchild, step-grandchild, or grandchild-in-law
- g. We live together or used to live together. (*If checked, answer question below*):
 Have you lived together with the person in 2 as a family or household (more than just roommates)?
 Yes No (*If no, you do not qualify for this kind of restraining order unless you checked one of the other relationships listed above.*)

4 Other Restraining Orders and Court Cases

- a. Are there any restraining orders currently in place or that have expired in the last six months (examples: Did the police give you a restraining order that lasts a few days? Do you have one from the criminal court?)
 - No
 - Yes (*If yes, give information below and attach a copy if you have one.*)
 - (1) (*date of order*): _____ (*date it expires*): _____
 - (2) (*date of order*): _____ (*date it expires*): _____
- b. Are you involved in any other court case with the person in 2?
 - No
 - Yes (*If you know, list where the case was filed (city, state, or tribe), the year it was filed, and case number.*)
 - Custody _____
 - Divorce _____
 - Juvenile (*child welfare or juvenile justice*): _____
 - Guardianship _____
 - Criminal _____
 - Other (*what kind of case?*): _____

This is not a Court Order.



Describe Abuse

In this section, explain how the person in (2) has been abusive. The judge will use this information to decide your request. Listed below are some examples of what "abuse" means under the law. **It is not a complete list** of all examples of abuse. Give information on any incident that you believe was abusive.

- made repeated unwanted contact with you
- tracked, controlled, or blocked your movements
- kept you from getting food or basic needs
- isolated you from friends, family, or other support
- made threats based on actual or suspected immigration status
- made you do something by force, threat, or intimidation
- stopped you from accessing or earning money
- tried to control/interfere with your contraception, birth control, pregnancy, or access to health information
- harassed you
- hit, kicked, pushed, or bit you
- injured you or tried to
- threatened to hurt or kill you
- sexually abused you
- abused a pet or animal
- destroyed your property
- choked or strangled you
- abused your children

5 Most recent abuse

- a. Date of abuse (give an estimate if you don't know the exact date): _____
- b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____
- c. Did the person in (2) use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____
- d. Did the person in (2) cause you any emotional or physical harm?
 No Yes (If yes, describe harm): _____

- e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in (4).)
- f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

- g. How often has the person in (2) abused you like this?
 Just this once 2 –5 times Weekly Other: _____
 Give dates or estimates of when it happened, if known:

This is not a Court Order.



6 Has the person in 2 abused you in a different way from the abuse you described in 5? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

This is not a Court Order.



7 Is there other abuse by the person in 2 that you want the judge to know about? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

Check this box if you need more space to describe the abuse. You can use form [DV-101, Description of Abuse](#), and turn it in with this form. You can also use a separate sheet of paper, write "Describe Abuse" abuse at the top, and turn it in with this form.

This is not a Court Order.



8 Other Protected People

Do you want the restraining order to protect your children, family, or someone you live with?

- a. No
- b. Yes (If yes, complete the section below):

(1) <u>Full name</u>	<u>Age</u>	<u>Relationship to you</u>	<u>Lives with you?</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Check this box if you need to list more people. Use a separate piece of paper and write "DV-100, Other Protected People" at the top. Turn it in with this form.

(2) Why do these people need protection?

9 Does Person in (2) Have Firearms (Guns), Firearm Parts, or Ammunition?

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver or frame or any item that may be used as or easily turned into a receiver or frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes (If you have information, complete the section below.)

<u>Describe Firearms (Guns), Firearm Parts, or Ammunition</u>	<u>Number or Amount</u>	<u>Location, if known</u>
---	-------------------------	---------------------------

(1) _____	_____	_____
(2) _____	_____	_____
(3) _____	_____	_____
(4) _____	_____	_____
(5) _____	_____	_____
(6) _____	_____	_____

This is not a Court Order.



Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different.
Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

10 **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not do the following things to me or anyone listed in **(8)**:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace. (For more information on what "disturbing the peace" means, read form [DV-500-INFO](#), *Can A Domestic Violence Restraining Order Help Me?*)

11 **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or anyone listed in **(8)**.

12 **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from:

(Check all that apply)

- | | | |
|---|--|--|
| <input type="checkbox"/> Me. | <input type="checkbox"/> My vehicle. | <input type="checkbox"/> My children's school or childcare. |
| <input type="checkbox"/> My home. | <input type="checkbox"/> My school. | <input type="checkbox"/> Other <i>(please explain)</i> : _____ |
| <input type="checkbox"/> My job or workplace. | <input type="checkbox"/> Each person in (8) . | _____ |

b. How far do you want the person to stay away from all the places you checked above?

- 100 yards (300 feet) Other *(give distance in yards)*: _____

c. Do you and the person in **(2)** live together or live close to each other?

- No Yes *(If yes, check one)*:
- Live together *(If you live together, you can ask that the person in (2) move out in (13) .)*
- Live in the same building, but not in the same home
- Live in the same neighborhood
- Other *(please explain)*: _____

d. Do you and the person in **(2)** have the same workplace or go to the same school?

- No Yes *(If yes, check all that apply)*:
- Work together at *(name of company)*: _____
- Go to the same school *(name of school)*: _____
- Other *(please explain)*: _____

This is not a Court Order.



13 **Order to Move Out**

a. I ask the judge to order the person in **(2)** to move out of the home, located at:

(Give address): _____

b. I have a right to live at this address because:

(Check all that apply)

- I own the home.
- I have lived at this address for _____ years, _____ months.
- My name is on the lease.
- I pay for some or all the rent or mortgage.
- I live at this address with my child(ren).
- Other (please explain): _____

14 **Other Orders**

(Describe any additional orders you want the judge to make to keep you, your children, or the people in **(8)** safe.):

15 **Child Custody and Visitation**

(Check this box if you have a child with the person in **(2)** and want the judge to make or change a child custody or visitation order. **You must fill out form DV-105, Request for Child Custody and Visitation Orders, and attach it to this form.**)

Orders that you can request on form DV-105 include:

- Child custody
- No visits with your children
- Stop person in **(2)** from accessing your child's school or medical information
- Supervised (monitored) visits with your children
- Unsupervised (unmonitored) visits with your children

This is not a Court Order.



16 **Protect Animals**

a. (You may ask the court to protect your animals, your children’s animals, or the person in ②’s animals.)

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in ② to:

(Check all that apply)

- (1) Stay away from the animals by at least: 100 yards (300 feet) Other (number of yards): _____
- (2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) Give me sole possession, care, and control of the animals because (check all that apply):
 - Person in ② abuses the animals. I take care of these animals.
 - I purchased these animals. Other (please explain): _____

17 **Control of Property**

a. I ask the judge to give **only me** temporary use, possession, and control of the property listed here (describe):

b. Explain why you want control of the property you listed:

18 **Health and Other Insurance**

I ask the judge to order the person in ② to **not** make any changes to any insurance or other coverage for me, the person in ②, or our children, including not being allowed to cancel, cash, borrow against, transfer, dispose of, or change the beneficiaries for the insurance.

19 **Record Communications**

I ask the judge to allow me to record calls or communications the person in ② makes to me, when those calls or communications violate this restraining order.

This is not a Court Order.



20 **Property Restraint** *(only if you are married or a registered domestic partner with the person in 2.)*

I ask the judge to order the person in 2 not to borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in 2 to notify me of any new or big expenses and to explain them to the court.

21 **Extend My Deadline to Give Notice to Person in 2**

(Usually, the judge will give you about two weeks to give notice, or to "serve" the person in 2 of your request. If you need more time to serve, the judge may be able to give you a few extra days.)

I ask the judge to give me more time to serve the person in 2 because *(explain why you need more time)*:

22 **Pay Debts (Bills) Owed for Property**

(If you want the person in 2 to pay any debts owed for property, list them and explain why. The amount can be for the entire bill or only a portion. Some examples include rent, mortgage, car payment, etc.)

a. I ask the judge to order the person in 2 to make these payments while the restraining order is in effect:

- (1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

Explain why you want the person in 2 to pay the debts listed above:

b. **Special decision (finding) by the judge if you did not agree to the debt** *(optional)*

(If you did not agree to the debt or debts listed above, you can ask the judge to decide (find) that one or more debts was made without your permission and resulted from the person in 2's abuse. This may help you defend against the debt if you are sued in another case.)

Do you want the judge to make this special decision (finding)?

No Yes *(If yes, answer the questions below.)*

(1) Which of the debts listed above resulted from the abuse? *(check all that apply)*:

- a(1) a(2) a(3)

(2) Do you know how the person in 2 made the debt or debts?

- No Yes

(If yes, explain how the person in 2 made the debt or debts):

This is not a Court Order.



Orders That You Want a Judge to Make at Your Court Date

Below is a list of orders that a judge cannot make right away but can make at your court date in a few weeks. The person in (2) must be notified of your court date before the judge can consider making any of the orders listed below. Check all the orders that you want the judge to make at your court date.

(23) Pay Expenses Caused by the Abuse

I ask the judge to order the person in (2) to pay for things **caused directly** by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). Bring proof of these amounts to your court date.

Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____

(24) Child Support *(this only applies if you have a minor child with the person in (2))*

(Check all that apply)

- a. I do not have a child support order and I want one.
- b. I have a child support order and I want it changed *(attach a copy if you have one)*.
- c. I now receive or have applied for TANF, Welfare, or CalWORKS.

(25) Spousal Support

(You must be married or a registered domestic partner with person in (2).)

I ask the judge to order the person in (2) to give me financial assistance.

(26) Lawyer's Fees and Costs

I ask that the person in (2) pay for some or all of my lawyer's fees and costs. (If you ask for fees and costs and the court grants your restraining order, the court must award you fees and costs if the respondent can afford to pay.)

This is not a Court Order.



27 **Batterer Intervention Program**

I ask the judge to order the person listed in (2) to go to a 52-week batterer intervention program. (The goal of this program is to stop abuse. There are weekly classes on accountability, abuse effects, and gender roles. If ordered, the person in (2) has to show the judge that they enrolled and completed the program.)

28 **Transfer of Wireless Phone Account**

(If the person in (2) holds the rights to your cell phone account, you can ask the judge to transfer your number or your child's number to you. This means you will be financially responsible for these accounts. If you want to have control over a mobile device, like a cell phone, make this request at (17).)

I ask the judge to order the wireless service provider to transfer the billing responsibility and rights to the wireless phone numbers listed below to me because the account currently belongs to the person in (2) :

- a. My number Number of child in my care (including area code): _____
- b. My number Number of child in my care (including area code): _____
- c. My number Number of child in my care (including area code): _____
- d. My number Number of child in my care (including area code): _____

Automatic Orders if the Judge Grants Restraining Order

In this section are orders that the person in (2) would have to follow if the judge grants a restraining order.

29 **No Firearms (Guns), Firearm Parts, or Ammunition**

- Turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control.
- Prohibited from buying firearms (guns), firearm parts, and ammunition.

30 **No Body Armor**

- Not own, possess, or buy body armor.
- Relinquish any body armor in their possession.

31 **Cannot Look for Protected People**

Not allowed to look for the address or location of any person protected by the restraining order, unless the court finds good cause not to make this order.

This is not a Court Order.

32 Additional Pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

33 Your Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

34 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps**1 You must complete at least three additional forms:**

- Form [DV-110](#), *Temporary Restraining Order (only items 1, 2 and 3)*
- Form [DV-109](#), *Notice of Court Hearing (only items 1 and 2)*
- Form [CLETS-001](#), *Confidential CLETS Information*
- **If you are asking for child custody and visitation orders**, you must complete form [DV-105](#), *Request for Child Custody and Visitation Orders*, and form [DV-140](#), *Child Custody and Visitation Order*.

2 Turn in your completed forms to the court. Find out when your forms will be ready for you.

3 Once you get your forms back from the court, have someone "serve" a copy of all forms on the person in **(2)**. The sheriff or marshal can do this for free. See form SER-001, *Request for Sheriff to Serve Court Papers*. Learn more about service at <https://selfhelp.courts.ca.gov/sheriff-serves-your-request-restraining-order>.

4 If you are asking for child support or spousal support you must also complete form [FL-150](#), *Income and Expense Declaration*. If you are only asking for child support, you may be eligible to fill out a simpler form, [FL-155](#). Read form [DV-570](#) to see if you are eligible. Turn in your completed form to the court before your court date. You must also have someone mail or personally deliver a copy to the person in **(2)**.

This is not a Court Order.

DV-105

Request for Child Custody and Visitation Orders

Case Number: _____

(Use this form to request orders for children you have with the person in ②. For more information on the orders you can request, read form [DV-105-INFO](#), What Are Child Custody and Visitation Orders?)

This form is attached to form DV-100.

① Your Information

Name: _____
 Relationship to children: Parent Legal Guardian Other (describe): _____

② Person You Want Protection From

Name: _____
 Relationship to children: Parent Legal Guardian Other (describe): _____

③ Children Under 18 Years Old (list from oldest to youngest)

a. Name: _____ Date of birth: _____
 b. Name: _____ Date of birth: _____
 c. Name: _____ Date of birth: _____
 d. Name: _____ Date of birth: _____

(Check here if you need more space. Write "DV-105, Children" at the top and attach it to this form.)

④ City and State Where Children Lived

a. Have all the children listed in ③ lived together for the last five years?
 Yes (If yes, complete b, below.)
 No (If no, complete form DV-105(A). Do not complete the section below.)

b. List where the children have lived for the last five years. Start with their current location.

<u>Dates (month/year)</u>	<u>City and State</u> <i>(include tribal land, if applies)</i>	<u>Children lived with</u> (check all that apply):		
		<u>Me</u>	<u>Person in ②</u>	<u>Other (relationship to child)</u>
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/> Check here if this address is private (confidential). List the state only.		
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This is not a Court Order.



5 History of Court Cases Involving Your Children

a. Do you know about any other case involving any child listed in ③?

- No
- Yes *(If yes, complete section below.)*

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

- Custody _____
- Divorce _____
- Juvenile Court *(child welfare, juvenile justice)* _____
- Guardianship _____
- Criminal _____
- Other *(example: child support case)* _____

b. Is there a current order for custody or visitation in effect?

- No
- Yes *(Complete the section below.)*

What did the judge order? *(Examples: who has custody of the children and what is the visitation schedule)*

(Attach a copy of the order, if you have one.)

Why do you want to change the order?

c. If there is another parent or legal guardian besides you and the person in ②, list their information below.

Name: _____ Parent Legal Guardian

This is not a Court Order.



Orders a Judge Can Make to Protect Your Children

To ask for orders to protect your children, answer the questions below.

6 Do you want to limit where the person in 2 can travel with your children?

- No
 Yes (*Complete the section below*):

I ask the judge to order that the person in 2 must have written permission from me, or a court order, to take the children outside:

- The county of (*list*): _____
 California
 Other places (*list*): _____

7 Do you want the person in 2 to have access to the children's records or information?

- Yes
 No (*Complete the section below*):

a. I ask the judge to order that the person in 2 **not** access or have access to the records or information for:

- All the children listed in 3.
 Only the children listed here (*names*): _____

b. For the following records or information (*check all that apply*):

- Medical, dental, and mental health
 School and daycare
 Extracurricular activity, including summer camps and sports teams
 Child's employment (including volunteer and unpaid positions)
 Other (*describe*): _____

(If the judge makes this order, providers will not be able to release the protected information to the person in 2.)

8 Do you believe the person in 2 might abduct (kidnap) your children?

- No
 Yes (To ask for orders to help prevent abduction, you must complete form [DV-108](#), *Request for Orders to Prevent Child Abduction*, and attach it to this form.)

This is not a Court Order.



Child Custody

You can ask a judge to make custody orders for your children. There are two types of custody in California: legal and physical custody.

- **Legal custody** means the person that makes decisions about the child's health, education, and welfare.
 - **Physical custody** means the person that the child regularly lives with.
- For both types of custody, parents can share custody (joint) or one parent can have full custody (sole).

9 Do you want the judge to make child custody orders?

- No
- Yes (Complete the section):

Legal Custody (check one):

- Sole to me
- Sole to person in ②
- Jointly (shared) by me and person in ②.
- Other (describe):

Physical Custody (check one):

- Sole to me
- Sole to person in ②
- Jointly (shared) by me and person in ②.
- Other (describe):

Visitation (Parenting Time) with Children

You can ask a judge to make decisions about when your child spends time with the person in ②. This is called parenting time or visitation. It means the schedule and exact times each parent spends with the child. If a parent does not get custody, that parent can have parenting time (visitation) with the child if a judge believes it is safe and in the child's best interest. Answer the questions below to tell the judge what parenting time you want right now for person in ②. Any orders the judge makes are temporary for now. They last until the court date (about three weeks away). On your court date, the judge can change or extend the orders.

10 Do you want the person in ② to have visits (parenting time) with the children?

- No, I ask the judge to order that person in ② have no visits. (Stop here. You have finished completing this form.)
- Yes (Go to ⑪.)

11 Do you want visits with the children to be supervised (monitored) by a third-party?

(To learn about supervised visitations, go to: <https://selfhelp.courts.ca.gov/guide-supervised-visitation>.)

- Yes (Go to ⑫.)
- No (Go to ⑬.)



12 Details of Supervised (Monitored) Visits

(Complete a and b):

a. Who do you want to supervise the visits?

(Check one):

Nonprofessional, like a trusted relative or friend (list name, if known): _____

Professional (list name, if known): _____

Professional fees paid by: Me _____ % Person in **(2)** _____ % Other: _____ %

b. How often and how long should the visits be?:

(Check one):

Once a week, for (number of hours): _____

Twice a week, for (number of hours): _____ each visit.

Other (describe): _____

Check here if you want to use the chart listed below for a schedule. _____

Schedule for Supervised Visits

(List the days and times the person in **(2)** should visit with the children.)

	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: End, if applies:		
Tuesday	Start: End, if applies:		
Wednesday	Start: End, if applies:		
Thursday	Start: End, if applies:		
Friday	Start: End, if applies:		
Saturday	Start: End, if applies:		
Sunday	Start: End, if applies:		

Follow the schedule listed above (check one):

Every week Every other week Other _____

Start date for visits (month, day, year) _____

! If you completed **(12)**, you are done completing this form. Do not complete **(13)**.



13 Details of Unsupervised Visits

(Complete a and b):

a. If the judge allows the person in ② to have unsupervised visits with your children, you will have to tell the judge how you want to handle drop-off and pick-up of the children, also called child exchanges.

Do you want child exchanges to be supervised by a third-party?

No

Yes (Complete the section below):

Who do you want to supervise the exchanges? (Check one):

Nonprofessional, like a trusted relative or friend (list name, if known): _____

Professional (list name, if known): _____

Professional fees paid by: Me _____ % Person in ② _____ % Other: _____ %

b. Describe the parenting time you want the person in ② to have with the children.

(Use the lines or chart below to explain what days and times the person in ② should visit with the children. Give details including when visits will happen, how often the visits should be, and who will be responsible for transporting the children.)

Schedule for Unsupervised Visits			
	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: ----- End, if applies:		
Tuesday	Start: ----- End, if applies:		
Wednesday	Start: ----- End, if applies:		
Thursday	Start: ----- End, if applies:		
Friday	Start: ----- End, if applies:		
Saturday	Start: ----- End, if applies:		
Sunday	Start: ----- End, if applies:		
Follow the schedule listed above (check one): <input type="checkbox"/> Every week <input type="checkbox"/> Every other week <input type="checkbox"/> Other _____			
Start date for visits (month, day, year) _____			

DV-105(A) City and State Where Children Lived

Case Number: _____

This form is attached to (check one):

- DV-105 (For person in ①): Use this form if you have children that have not lived together for the last five years.)
- DV-125 (For person in ②): Use this form to list where your children have lived for the last five years.)
- DV-305 (Use this form if you have children that have not lived together for the last five years.)
- DV-325 (Use this form to list where your children have lived for the last five years.)

(Use the space below to list where the child or children have lived for the last five years. Start with their current location.)

Name of child or children: _____

Dates (month/year)	City and State <i>(include tribal land, if applies)</i>	Children lived with (check all that apply):		
		Person in ①	Person in ②	Other (relationship to child)
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Check here if this address is private (confidential). List the state only.				
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(Use the space below to list another child or children who have not lived with the child or children listed above. List where they have lived for the last five years. Start with their current location.)

Name of child or children: _____

Dates (month/year)	City and State <i>(include tribal land, if applies)</i>	Children lived with (check all that apply):		
		Person in ①	Person in ②	Other (relationship to child)
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Check here if this address is private (confidential). List the state only.				
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Check here to list other children with a different residence history than the children you've already listed. Use another form DV-105(A) and attach it to this form.

This is not a Court Order.

DV-105-INFO What Are Child Custody and Visitation Orders?

What are child custody and visitation orders?

A decision by a judge that tells parents how they will be responsible for taking care of their children. The judge must grant orders that are in your child's best interests.

What is child custody?

There are two types of child custody:

- **Physical custody:** The person that the child lives with on a regular basis.
- **Legal custody:** The right for a person to make important decisions about the child's health care, education, and welfare.

For both types of custody, parents can share custody (joint custody) or one parent can have full custody (sole custody). A judge grants custody based on what's in the best interest of a child. Note that a parent can still have parenting time (visitation), even if the judge does not grant them custody. And if the judge finds that there has been domestic violence in your case, a special law on child custody will apply. For more information on the law, go to <https://selfhelp.courts.ca.gov/domestic-violence-child-custody>.

What is visitation or parenting time?

It is a schedule of how your children will spend time with each parent. A judge must decide on a schedule that is best for your children. If you have safety concerns, tell the judge by writing them in your court papers.

How do I ask for child custody and visitation orders?

To ask for these orders with a restraining order, complete form [DV-105](#), *Request for Child Custody and Visitation Orders*, and turn it in with the other court papers you must complete to ask for a restraining order. For more information on how to ask for a restraining order, read form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*.

Does this request cost money to file?

No, filing this request with the court is free.

Types of Visitation

• Unsupervised visits

A parent and child visit freely, without anyone else present. This may be a good option if the visiting parent is not a risk to the children.

• Supervised visits

A parent and child have a neutral third person watching and listening during the visit. The neutral third person can be a professional or nonprofessional.

Professional provider

A professional provider is a person with special training that has passed a background check. Professional providers charge a fee. They are also mandated reporters, which means that they must report suspected child abuse to the local child welfare department (CPS). Professional providers can be used for short visits (example: 1–2 hours). Your local court may have a list of local professional providers.

Nonprofessional provider

A nonprofessional is usually a friend or family member who does not have special training, and does not get paid for supervising visits. If it would be dangerous for your child to be alone with the other parent, this may not be the best option.

For more information on supervised visits, go to <https://selfhelp.courts.ca.gov/guide-supervised-visitiation>.



- **Virtual Visits**

A parent and child visit using electronic communication where they can see and hear each other (examples: Zoom, FaceTime, WhatsApp). Virtual visits require the child and visiting parent to have access to the internet during the visit. Virtual visits may be a good option if you have safety concerns, or if the other parent lives far away from the children. It can also be a good option if the other parent hasn't seen the children in a long time. Virtual visits can be supervised or unsupervised. The length of each visit should also depend on the child's age (example: a younger child may not be able to pay attention for a long visit). For more information on virtual visits, go to [\[self-help webpage to be created.\]](#)

- **No Visits**

In some situations, it may not be safe for your child to visit with the other parent.

Will I have to meet the other parent for child exchanges?

If the other parent has unsupervised visits, then they will need to pick up the children from you, or someone else. You can ask for orders that would not require you to meet the other parent, like having the other parent pick up the children from school or daycare. Or you can ask for supervised exchanges. Like supervised visits, supervised exchanges means that a neutral third person is involved and will help you exchange the children with the other parent so you don't have to meet with the other parent.

What if I am worried that the other parent will kidnap our children?

You can ask for the custody and visitation orders that will best protect your children. There are also other orders you can ask for to prevent abduction. If you want to ask for these orders, complete form [DV-108](#), *Request for Orders to Prevent Child Abduction*, and turn it in with your completed form [DV-105](#), and other required forms for your restraining order request.

Where can I find free legal help?

Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Find your local court's self-help center at www.selfhelp.courts.ca.gov/find.


Information about the court process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

What if I need an interpreter?

 If you need an interpreter, use form [INT-300](#) to request an interpreter or ask the court clerk how you can request one.

I have a disability. How can I get help?

You may use form [MC-410](#) to request assistance. Contact the disability or ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

Clerk stamps date here when form is filed.

Instruction: The person asking for a restraining order must complete items ① and ②. The court will complete the rest of this form.

Draft- Not Approved by the
Judicial Council
3.13.24

① Person Asking for Protection

Name: _____

Fill in court name and street address:

Superior Court of California, County of

② Person to Be Restrained

Name: _____

Court fills in case number when form is filed.

Case Number:

③ Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in ② :



Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above: _____

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to: www.courts.ca.gov/find-my-court.htm.

At the hearing, the court must consider whether failure to make any of the orders requested by the person in ① might risk the safety of the person in ① or any children listed on form DV-105. If child or spousal support was requested, the court must consider whether failure to make support orders would risk the safety of the person in ①.

To the person in ②:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.



4 Temporary Restraining Orders (Any orders granted are attached on form DV-110.)

- a. Temporary Restraining Orders (*any order requested under Family Code section 6320*): (check one)
- (1) All **granted** until the court hearing.
 - (2) All **denied** until the court hearing. (*Reasons for denial are given below in b.*)
 - (3) Partly **granted** and partly **denied** until the court hearing. (*Reasons for denial are given in b.*)
- b. Reasons for denial of some or all of the orders requested on form DV-100.
- (1) The facts given in the request (form DV-100) do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
 - (2) The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
 - (3) Other reasons for denial:
-

5 Confidential Information Regarding Minor

- a. A *Request to Keep Minor's Information Confidential* (form DV-160) was made and **granted** (see form DV-165, *Order on Request to Keep Minor's Information Confidential*, served with this form.)
- b. **If the request was granted, the information described on the order (form DV-165, item 7) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

6 Service of Documents by the Person in 1

At least five _____ days before the hearing, someone age 18 or older—**not you or anyone to be protected**—must personally give (serve) a court file-stamped copy of this form (DV-109, *Notice of Court Hearing*) to the person in 2 along with a copy of all the forms indicated below:

- a. DV-100, *Request for Domestic Violence Restraining Order* (file-stamped)
- b. DV-110, *Temporary Restraining Order* (file-stamped), **if granted**
- c. DV-120, *Response to Request for Domestic Violence Restraining Order* (blank form)
- d. DV-120-INFO, *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- e. DV-170, *Notice of Order Protecting Information of Minor*, and DV-165, *Order on Request to Keep Minor's Information Confidential* (file-stamped), **if granted**
- f. Other (*specify*): _____

Judge's Signature

Date: _____

Judicial Officer

To the Person in ① :

- **At the hearing:** The judge will decide if a restraining order is needed to keep you or your children safe. If the judge grants you a restraining order at the hearing, it can last up to five years. You must attend the hearing if you want the judge to make any of the orders you requested on form DV-100. Bring any evidence or witnesses you have. For more information, read form [DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*.
- **Option to cancel hearing:** If item ④ a(2) or ④ a(3) is checked, you have the option of canceling the hearing. If you cancel the hearing, your request for restraining order will not move forward. Any temporary orders made will expire on the day of the hearing. If you want to cancel the hearing, use form [DV-112](#), *Waiver of Hearing on Denied Request for Temporary Restraining Order*.
- **Before the hearing:** You must have someone personally serve (give) the person in ② a copy of all the papers listed in ⑥ by the deadline listed in ⑥. For more information, read form DV-200-INFO, *What Is "Proof of Personal Service"?* You may ask to reschedule the hearing if you are unable to serve the person in ② and need more time to serve the documents, or for other good reasons. Read form [DV-115-INFO](#), *How to Ask for a New Hearing Date*.

To the Person in ② :

- **Respond in writing** (optional): You can respond in writing by completing form DV-120, *Response to Request for Domestic Violence Restraining Order*. For more information, read form [DV-120-INFO](#), *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- **At the hearing:** Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. At the hearing, tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have. Read form [DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*.
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date. Read form [DV-115-INFO](#), *How to Ask for a New Hearing Date*.



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

Clerk’s Certificate
[seal]

—Clerk’s Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

Original Order Amended Order

Clerk stamps date here when form is filed.

2.16.24
Draft- Not Approved by the
Judicial Council

Instruction: The person asking for a restraining order must complete ①, ②, and ③ only. The court will complete the rest of this form.

① **Protected Person (name):** _____

② **Restrained Person**

*Full Name: _____

*Gender: M F Nonbinary *Race: _____

*Age: _____ (estimate, if age unknown) Date of Birth: _____

Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Firearms, firearm parts, or ammunition that restrained person may have:
(Include information from form DV-100, item 9)

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

③ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑨ through ⑫.

Full name	Relationship to person in ①	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "DV-110, Other Protected People" at the top, and attach it to this form.

(The court will complete the rest of this form)

④ **Your Hearing Date (Court Date)**



This order expires at the end of the hearing listed below:

Hearing Date: _____ Time: _____ a.m. p.m.

This order must be enforced throughout the United States. See page 7.

This is a Court Order.



To the Person in ②: The judge has granted temporary orders. See ⑤ through ②1. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

⑤ No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use form [DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

⑥ Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description (<i>include serial number, if known</i>)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



7 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed on form DV-109, item **3**, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in **5**b) you still have or own, including any items listed in **6**. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.



Date: _____ Dept.: _____
Time: _____ Room: _____

Name and address of court, if different than court address listed on page 1

8 **No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

9 **Cannot Look for Protected People**

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

10 **Order to Not Abuse** Not requested Denied until the hearing Granted as follows:

You must not do the following things to the person in **1** and any person listed in **3**:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

This is a Court Order.



11 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 11a:
 - (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (explain): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

12 Stay-Away Order Not requested Denied until the hearing Granted as follows:

- a. You must stay at least (specify): _____ yards away from (check all that apply):

<input type="checkbox"/> Person in ①.	<input type="checkbox"/> School of person in ①.
<input type="checkbox"/> Home of person in ①.	<input type="checkbox"/> Persons in ③.
<input type="checkbox"/> Job or workplace of person in ①.	<input type="checkbox"/> Children’s school or child care.
<input type="checkbox"/> Vehicle of person in ①.	<input type="checkbox"/> Other (explain): _____
- b. Exception to 12a:
The stay-away orders do not apply:
 - (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
 - (2) For you to visit with your children for court-ordered contact or visits.
 - (3) Other (explain): _____

13 Order to Move Out Not requested Denied until the hearing Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (address): _____

14 Other Orders Not requested Denied until the hearing Granted as follows:

This is a Court Order.



15 Child Custody and Visitation Not requested Denied until the hearing Granted as follows:
 Granted on the attached form [DV-140](#), *Child Custody and Visitation Order*, and
 (list other form): _____.

16 Protect Animals Not requested Denied until the hearing Granted as follows:

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

17 Control of Property Not requested Denied until the hearing Granted as follows:
 Until the hearing, **only** the person in ① can use, control, and possess the following property:

18 Health and Other Insurance Not requested Denied until the hearing Granted as follows:

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties —or their children, if any— for whom support may be ordered, or both.

19 Record Communications Not requested Denied until the hearing Granted as follows:

The person in ① may record communications made by the person in ② that violate this order.

This is a Court Order.



20 Property Restraint Not requested Denied until the hearing Granted as follows:

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted ⑪, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

21 Pay Debts Owed for Property Not requested Denied until the hearing Granted as follows:

The person in ② must make these payments until this order ends:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

22 Orders That May Be Made at the Hearing Date (Court Date)

If the person in ① checked any of these orders on form DV-100, a judge could grant them at your court date.

- Child Support • Lawyer’s Fees and Costs • Batterer Intervention Program
- Spousal Support • Pay Expenses Caused by Abuse • Transfer of Wireless Phone Account

23 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, complete form SER-001, *Request for Sheriff to Serve Court Papers*. Give SER-001 and a copy of this order to the sheriff.

24 **Attached pages** (*All of the attached pages are part of this order.*)

- a. Number of pages attached to this nine-page form: _____
- b. Attachments include forms (*check all that apply*):
- DV-140 DV-145 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Warnings and Notices to the Restrained Person in ②

Your Address to Receive Court Orders

If the judge makes a restraining order at the hearing (court date), which has the same orders as in this Temporary Restraining Order, you will get a copy of that order by mail at your last known address, which is written in ② on page 1. If your address was not listed on this form or is incorrect, contact the court. If you did not attend your hearing and want to know if the judge granted a restraining order against you, contact the court.

Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not attend your hearing (court date), the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve form [FL-150, Income and Expense Declaration](#), or form [FL-155, Financial Statement \(Simplified\)](#), if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve form [FL-150, Income and Expense Declaration](#), so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

Firearms (Guns), Firearm Parts, and Ammunition

Under California law, you cannot have any firearms (guns), certain firearm parts, or ammunition. (Family Code sections 6216 and 6389(a)). Ask the court for information on how to properly turn in, sell, or store these items in your city or county. You can also contact your local police department for instructions.

This is a Court Order.



Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (6), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.

Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at (11) and (12) of this order to see if the judge granted an exception for brief and peaceful contact with the person in (1) as needed to follow court-ordered visits. Contact by the person in (2) that is **not** brief and peaceful is a violation of this order. **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item **11** is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Instructions to Clerk: You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

2.23.24

Draft-Not approved by the
Judicial Council

Use this form if someone has asked for a domestic violence restraining order against you, and you want to respond in writing. You will need a copy of form DV-100, *Request for Domestic Violence Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

Do not use this form if you want to ask for your own restraining order. Read form [DV-500-INFO](#), *Can a Domestic Violence Restraining Order Help Me?* to find out more about this type of restraining order.

Fill in court name and street address:

Superior Court of California, County of

1 Name of Person Asking for Protection:

(See form DV-100, item 1):

2 Your Name:

Fill in case number:

Case Number:

! Address where you can receive court papers

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)

Your hearing date is listed on form DV-109, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, attend your hearing date. If you do not attend your hearing, the judge could grant a restraining order that could last up to five years.

This is not a Court Order.

How to complete this form: To answer the questions below, look at the form DV-100 filled out by the person in ①. Tip: When the restraining order forms say "the person in ②" that means you, and the "person in ①" means the person who is asking for a restraining order against you.

4 Information About You (see item ② on form DV-100)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

5 Your Relationship to the Person in ①

In item ③ of form DV-100, has the person in ① correctly described your relationship with them?

Yes No If no, what is your relationship with the person in ①?:

6 History of Court Cases and Restraining Orders (see item ④ on form DV-100)

The person in ① may have listed other court cases or restraining orders involving you. If information is incorrect or missing, use the space below to give information.

Check here if you are including a copy of restraining order or court order that you want the judge to know about.

7 Other Protected People

If the judge grants a restraining order, it can include family or household members of the person in ①. See item ⑧ on form DV-100 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

8 Order to Not Abuse (see item ⑩ on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



9 **No-Contact Order** (see item 11 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

10 **Stay-Away Order** (see item 12 on form DV-100)

- a. I agree to the orders requested.
- b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

11 **Order to Move Out** (see item 13 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

12 **Other Orders** (see item 14 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

13 **Child Custody and Visitation** (see item 15 on form DV-100 and DV-105)

- a. I am **not** the parent of the child listed in form DV-105, *Request for Child Custody and Visitation Orders*
- b. I am the parent of the child or children listed in form DV-105 (check one):
 - (1) I agree to the orders requested.
 - (2) I do not agree to the orders requested. (Complete form DV-125, *Response to Request for Child Custody and Visitation Orders*, and attach it to this form.)

This is not a Court Order.



14 **Protect Animals** (see item 16 on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**15** **Control of Property** (see item 17 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**16** **Health and Other Insurance** (see item 18 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**17** **Record Communications** (see item 19 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

18 **Property Restraint** (see item 20 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**19** **Pay Debt (Bills) Owed for Property** (see item 22 on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**This is not a Court Order.**

20 **Pay Expenses Caused by the Abuse** (see item 23 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

21 **Child Support** (see item 24 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.
c. I agree to pay guideline child support. (Learn more about guideline child support at www.courts.ca.gov/selfhelp-support.htm.)

22 **Spousal Support** (see item 25 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

23 **Lawyer's Fees and Costs**

If the person in 1 checked item 26 on form DV-100, this means that they have asked the judge to order you to pay their lawyer's fees and costs. You may also ask for lawyer's fees and costs. The judge can order the person in 1 to pay for your lawyer's fees and cost if:

- (1) The person in 1's request for restraining order is denied;
- (2) The judge decides that the request was frivolous or was made only to abuse, intimidate, or cause unneeded delay; and
- (3) The person in 1 can afford to pay for your lawyer's fees and costs.

Check here if you want the person in 1 to pay for some or all of your lawyer's fees and costs.

This is not a Court Order.



24 **Batterer Intervention Program** (see item 27 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

25 **Transfer Wireless Phone Account** (see item 28 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

26 **Firearms (Guns), Firearm Parts, or Ammunition** (see item 29 on form DV-100)

If you were served with form DV-110, *Temporary Restraining Order*, you must follow the orders in 5 on form DV-110. You must file a receipt with the court from the law enforcement agency or a licensed gun dealer within 48 hours after you received form DV-110. You may use form [DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.

(Check all that apply):

- a. I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or own to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
- is attached
 - has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements. Note: Even if the judge grants an exception under California law, you may be subject to federal prosecution for possessing or controlling a firearm.)

(Give details, like what your job is and why you need a firearm): _____

This is not a Court Order.



27 No Body Armor (see item 30 on form DV-100)

If you were served with form DV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: this exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

28 Cannot Look for Protected People (see item 31 on form DV-100)

- a. I agree to the order.
- b. I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to: _____

29 **Additional Reasons I Do Not Agree with the Request** (optional)

Explain why you do not agree to any of the orders requested by the person in 1 (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper and write “DV-120, Additional Reasons I Do Not Agree with the Request” at the top.

This is not a Court Order.

30 **My Out-of-Pocket Expenses**

If the request for restraining order is denied by the judge at the court hearing, I ask the judge to order the person in ① to pay my out-of-pocket expenses because the temporary restraining order was granted without enough supporting facts. The expenses are:

For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____

31 **Additional Pages**

Number of pages attached to this form, if any: _____

32 **Your Signature**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

33 **Your Lawyer's Signature** *(if you have one)*

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- Turn in your completed form with the court.
- If the person in ① asked for child support, spousal support, or lawyer's fees, you must complete form [FL-150, Income and Expense Declaration](#). If the person in ① is only asking for child support (item 24 on form DV-100), you may be eligible to fill out a simpler form, form [FL-155](#). Read form [DV-570](#) to see if you are eligible to fill out form FL-155. Before your court date, you must file form FL-150 or FL-155 with the court.
- Have someone else (not you) mail the person in ① a copy of your forms, and complete form [DV-250, Proof of Service by Mail](#). File form DV-250 with the court. *(The person who mails this form must be at least 18 years old and cannot be you or someone protected on the restraining order.)*
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at <https://selfhelp.courts.ca.gov/respond-domestic-violence-restraining-order>. More information is also available on form [DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?](#)

This is not a Court Order.

DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

I was served with form DV-100, DV-109, or DV-110. What does this mean?

Someone has asked for a domestic violence restraining order against you. On the forms, you are the "person in ②" and the person who wants a restraining order against you is listed in ① on all the forms.

Form DV-100: This form has all the orders that the person in ① has asked the judge to order.

Form DV-109: Your court hearing (court date) is listed on this form. You should attend the court hearing if you do not agree to the orders requested. If you do not attend, the judge can make orders against you without hearing from you.

Form DV-110: If you were served with form DV-110, it means that the judge granted a temporary restraining order against you. You must follow the orders.

What is a Domestic Violence Restraining Order?

It is a court order that can help protect people who have been abused by someone they have been intimate with, or are closely related to. To be eligible, the person asking for the restraining order must be:

- Someone you date or used to date
- A spouse, ex-spouse, registered domestic partner, or ex-domestic partner
- Someone you live or lived with (more than a roommate)
- Your parent, sibling, child, grandparent, or grandchild related by blood, marriage, or adoption

What can a restraining order do?

A restraining order can include orders for you to:

- Not contact or harm the protected person, including children or others listed as protected people
- Stay away from all protected people and places
- Not have any firearms (guns), firearm parts, ammunition, or body armor. This includes homemade or untraceable guns, like "ghost guns."
- Move out of the place that you share with the protected person
- Follow custody and visitation orders
- Pay child support
- Pay spousal support
- Pay debt for property
- Give control of property (examples: cell phone, car, home) to the person asking for protection.

What if I have children with the person asking for a restraining order?

A restraining order can include orders for your children, including listing them as protected persons. It can also include child custody and visitation orders and orders to limit your ability to travel with your children.

How long does the order last?

If the judge granted a temporary restraining order (form DV-110), it will last until the hearing date. At your court hearing, the judge will decide whether to extend the order or cancel the order. The judge can extend the order for up to five years. Custody, visitation, child support, and spousal support orders can last longer than five years and they do not end when the restraining order ends.



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

What do I do next?

Part 1: Turn in or sell prohibited items

If there is a temporary restraining order against you (see form DV-110), then you must immediately turn in, sell, or store any prohibited items you have or own.



Prohibited items include:

- **Firearms**, including any handgun, rifle, shotgun, and assault weapon
- **Firearm parts**, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame
- **Ammunition**, including bullets, shells, cartridges, and clips

You must then prove to the court that you've complied with the orders. Bring form [DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#), to a gun dealer or law enforcement when you turn in your items. After DV-800/JV-270 is complete, file it with the court. You may ask the court for information on how to turn in, sell, or store these items in your city or county. You can also read form [DV-800-INFO/JV-270-INFO, How Do I Turn In, Sell, Or Store My Firearms, Firearm Parts, and Ammunition?](#)

Part 2: Respond in writing (optional)

"Respond" means to let the judge and the other side know whether you agree or disagree with the request for restraining order, and why. Responding in writing is optional and there is no penalty if you don't. If you need more time to prepare for your case, talk to a lawyer or self-help center staff before you file a response.

If you want to respond in writing, complete form [DV-120, Response to Request for Domestic Violence Restraining Order](#). After you complete the form, file it with the court. There is no court fee to file this form. Then "serve" the form on the person asking for the restraining order. "Serve" means to have someone 18 years old or older mail a copy to the person asking for the restraining order. You cannot be the one to mail your papers. The person who mails your form must fill out form [DV-250, Proof of Service by Mail](#). After form DV-250 is completed, file it with the court.

Part 3: Get ready and go to your court hearing

Your court hearing is listed on form DV-109, *Notice of Court Hearing*. You have the option of attending your hearing in-person or remotely (by phone, or videoconference if available). For information on how to attend your hearing remotely, go to the court's website. Some courts may require advance notice. At the hearing, you and the other side will have the opportunity to tell your side of the story. For more information, read form [DV-520-INFO, Get Ready for the Restraining Order Court Hearing](#). If you need more time to prepare your case, you may ask the judge for a new court date. The judge will decide whether to grant your request. Read form [DV-115-INFO, How to Ask For a New Hearing Date](#), for more information. Note that if the judge does give you a new court date and if there is a temporary restraining order against you, the judge will usually extend the temporary restraining order until the next court date.

What if I need an interpreter?



You may use form [INT-300](#) to request an interpreter or ask the clerk how you can request one.

What if I have a disability and need an accommodation?

You may use form [MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

Do I need a lawyer?

It's possible to go through this process without a lawyer. But having a restraining order against you may have a lot of consequences, and you may want to hire a lawyer. If you don't hire a lawyer, you can get free help from your court's self-help center.

What if I was arrested or have criminal charges against me?

Anything you write in your court papers or say at a hearing for this case and for any criminal case can be used against you. Talk to a lawyer if you have any concerns about what you can do and say.

Where can I find a self-help center?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.selfhelp.courts.ca.gov/find. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine. You must still follow the orders even if you are not a U.S. citizen. If you are worried about your immigration status, talk to an immigration lawyer.

Can I use the restraining order to get divorced or end a domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

What if I want to leave the county or state?

You must still comply with the restraining order, including custody and visitation orders. The restraining order is valid anywhere in the United States.

What if I have more than one restraining order against me?

If the police are called to enforce the order, they will need to follow the rules of enforcement (see "Priority of Enforcement" listed on the back of form DV-110, DV-130, and CR-160). If you have questions about any of the orders against you, contact your local self-help center or talk to a lawyer. Find your local court's self-help center at www.selfhelp.courts.ca.gov/find.

What if I am a victim or survivor of domestic violence?

The National Domestic Violence Hotline provides free and private safety tips. Help is available in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

What if I need a restraining order against the other person?

Do not use form DV-120 to request a domestic violence restraining order. For information on how to file your own restraining order, read form [DV-505-INFO](#). You can also ask the court clerk about free or low-cost legal help.

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/respond-to-DV-restraining-order>

Restraining Order After Hearing (Order of Protection)

Clerk stamps date here when form is filed.

2.22.24- Draft- Not approved by Judicial Council

Original Order Amended Order

1 Protected Person (name):

2 Restrained Person

*Full Name: *Gender: *Race: *Age: Date of Birth: Height: Weight: Hair Color: Eye Color: Relationship to person in 1: Address of restrained person: City: State: Zip: (Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

3 Other Protected People

In addition to the person in 1, the following persons are protected by orders as indicated in 12 through 15.

Table with 3 columns: Full name, Relationship to person in 1, Age

Check here if you need to list more people. List them on a separate piece of paper, write "DV-130, Other Protected People" at the top, and attach it to this form.

4 Expiration Date

This restraining order, except the orders noted below,* end on: (date): at (time): a.m. p.m. or midnight. Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. Custody, visitation, and child support orders usually end when the child is 18. If no date is written, the restraining order ends three years after the date of the hearing in 5a. If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 9.

This is a Court Order.



5 Hearing

- a. The hearing was on *(date)*: _____ with *(name of judicial officer)*: _____
- b. These people attended the hearing *(check all that apply)*:
- The person in ① The lawyer for the person in ① *(name)*: _____
- The person in ② The lawyer for the person in ② *(name)*: _____
- c. In making this order, the court has considered whether failure to make any of the orders requested might risk the safety of the person in ① or any children listed on form DV-105. If child or spousal support was requested, the court has considered whether failure to make support orders would risk the safety of the person in ①.

6 Future Court Hearing

The person in ① person in ② must attend court on:

Date: _____ Department: _____ Time: _____ a.m. p.m.
to review *(list issues)*: _____

To the Person in ②: The court has granted a long-term restraining order. See ⑦ through ③①. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

7 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
- (1) Firearms;
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use form [DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.
- f. Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm *(make, model, and serial number of firearm)*: _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



Case Number: _____

8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "DV-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____
The court has not received a receipt or proof of compliance for all the items listed in **8**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation
(law enforcement agency or agencies): _____

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation
(prosecuting agency): _____

10 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **6** to prove that you have properly turned in, sold, or stored all prohibited items (described in **7** b) you still have or own, including any items listed in **8**. If you do not attend the court hearing listed in **6**, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.

This is a Court Order.



11 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

12 Cannot Look for Protected People

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

13 Order to Not Abuse

You must not do the following things to the person in ① and any person listed in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- “Disturb the peace” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

14 No-Contact Order

- a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 14a:
- (1) You may have brief and peaceful contact with the person in ① to only communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (*explain*): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



15 **Stay-Away Order**

a. You **must** stay at least (*specify*): _____ yards away from (*check all that apply*):

- Person in ①.
- Home of person in ①.
- Job or workplace of person in ①.
- Vehicle of person in ①.
- School of person in ①.
- Persons in ③.
- Children’s school or child care.
- Other (*specify*): _____

b. Exception to 15a:

The stay-away orders do not apply:

- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) For you to visit with your children for court-ordered contact or visits.
- (3) Other (*explain*): _____

16 **Order to Move Out**

You must move out immediately from (*address*):

17 **Other Orders**

18 **Child Custody and Visitation Order**

The judge has granted orders regarding minor children. The orders are included on **form DV-140**, and (*list other form*): _____

19 **Protect Animals**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This is a Court Order.



20 **Control of Property**

Only the person in ① can use, control, and possess the following property:

21 **Health and Other Insurance**

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their children, if any, for whom support may be ordered, or both.

22 **Record Communications**

The person in ① may record communications made by the person in ② that violate this order.

23 **Property Restraint**

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted the order in ⑭, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

24 **Pay Debts (Bills) Owed for Property**

a. You must make these payments until this order ends:

(1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
(2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
(3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

b. The court finds that the debt or debts listed above in a(1) a(2) a(3) were the result of abuse in this case, and made without the person in ①'s agreement.

This is a Court Order.



25 **Pay Expenses Caused by the Abuse**

You must pay the following:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

26 **Child Support**

Child support is ordered on the attached form [FL-342](#), *Child Support Information and Order Attachment* or (*list other form*): _____

27 **Spousal Support**

Spousal support is ordered on the attached form [FL-343](#), *Spousal, Partner, or Family Support Order Attachment* or (*list other form*): _____

28 **Lawyer's Fees and Costs**

You must pay the following lawyer's fees and costs:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

29 **Batterer Intervention Program**

- a. The person in **(2)** must go to and pay for a probation certified 52-week batterer intervention program and show proof of completion to the court.
- b. The person in **(2)** must enroll by (*date*): _____ or if no date is listed, must enroll within 30 days after the order is made.
- c. The person in **(2)** must complete, file, and serve form [DV-805](#), *Proof of Enrollment for Batterer Intervention Program*.

30 **Transfer of Wireless Phone Account**

The court has made an order transferring one or more wireless service accounts from you to the person in **(1)**. These orders are contained on form [DV-900](#), *Order Transferring Wireless Phone Account*.

This is a Court Order.



31 Service

(Check a, b, or c)

- a. **No other proof of service is needed.** The people in ① and ② attended the hearing, either physically or remotely (by telephone or videoconference), or agreed in writing to this order.
- b. **The person in ② was not present.** Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. (Check all that apply):
 - (1) This order can be served by mail. The judge's orders in this form are the same as in form DV-110 except for the expiration date. The person in ② must be served, either by mail or in person.
 - (2) This order must be personally served. The judge's orders in this form are different from the orders in form DV-110, or form DV-110 was not issued. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (a) Personal service by (date): _____
 - (b) Mail at the person in ②'s last known address by (date): _____
- c. **Proof of service of form FL-300 to modify the orders in form DV-130 was presented to the court.**
 - (1) The people in ① and ② attended the hearing or agreed in writing to this order. No other proof of service is needed.
 - (2) The person in ① in ② did not attend the hearing and must be personally served (given) a copy of this amended (modified) order.

32 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free. If you want the sheriff to serve your papers, (1) complete form SER-001, *Request for Sheriff to Serve Court Papers*, and (2) give the completed form and a copy of this order to the sheriff.

33 Attached Pages

All of the attached pages are part of this order.

- a. Number of pages attached to this 10-page form: _____
- b. Attachments include forms (check all that apply):
 - DV-140 DV-145 DV-900 FL-341(C) FL-342 FL-343 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

Start Date and End Date of Orders

This order starts on the earlier of the following dates:

- The hearing date in (5)a on page 2; or
- The date next to the judge’s signature on this page.

This order ends on the expiration date in (4). If no date is listed, they end three years from the hearing date.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (7)b, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person attended the hearing (see (31)) or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b)–(c).)

This is a Court Order.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at 14 and 15 of this order to see if the judge granted an exception for brief and peaceful contact with the person in 1 as needed to follow court-ordered visits. Contact by the person in 2 that is not brief and peaceful is a violation of this order.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 14 is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Instructions to Clerk: You must give up to three free (certified, stamped, and endorsed) copies of this order to the protected party.

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

DV-140

Child Custody and Visitation Order

Case Number: _____

This form is attached to (check one): DV-110 DV-130 DV-310

1 Name of Protected Person: _____

Relationship to children: Parent Legal Guardian Other (describe): _____

2 Name of Restrained Person: _____

Relationship to children: Parent Legal Guardian Other (describe): _____

3 Children Under 18 Years Old

a. Name: _____ Date of birth: _____

b. Name: _____ Date of birth: _____

c. Name: _____ Date of birth: _____

d. Name: _____ Date of birth: _____

(Check here if you have more children to list. On a separate piece of paper write "DV-140, Children" at the top and attach it to this form.)

4 No Travel With Children Without Permission

Person in **1** Person in **2** Other (name): _____

must have written permission from the other parent, or a court order, to take the children outside of:

a. County of (list): _____

b. State of California

c. United States

d. Other place(s) (list): _____

This is a Court Order.



5 **Stop Access to Children's School, Health, and Other Information**a. The person in **(2)** must not access or have access to the records or information for: All the children listed in **(3)**. Only the children listed here (*names*): _____b. From the following (*check all that apply*): Medical, dental, and mental health providers School and daycare providers Extracurricular activity providers, including summer camps and sports teams Child's employers (including volunteer and unpaid positions) Other (*describe*): _____**!** If you are a provider listed above, you must not release information or records regarding the children listed in **(5)a** to the person in **(2)**.**6** **Judge's Decision on Request for Orders to Prevent Child Abduction** (*attach form DV-145*)**7** **Child Custody**a. Legal Custody (*The person that makes decisions about the child's health, education, and welfare.*) Sole to Person in **(1)** Jointly (shared) by persons in **(1)** and **(2)**. Sole to Person in **(2)** Other (*describe*): _____b. Physical Custody (*The person that the child regularly lives with.*) Sole to Person in **(1)** Jointly (shared) by persons in **(1)** and **(2)**. Sole to Person in **(2)** Other (*describe*): _____c. Reason for court's decision (*Completed by the judge if the person in **(2)** is granted sole or joint custody.*)This order is in the best interest of the children listed in **(3)** and protects their safety and the safety of the parties because (*check all that apply*):(1) (*Give reasons*)_____
_____(2) Judge's reasons are attached to this order.(3) Judge explained their reasons at the court hearing, with a court reporter present (*ask court for transcript*).**8** **Person in **(2)** must have no visitation with children until further order of the court.**(If this form is attached to form DV-110, *Temporary Restraining Order*, this means that the judge has stopped your right to visit with your children temporarily. If you do not agree with this order, attend your court hearing.)**This is a Court Order.**

9 **Supervised (Monitored) Visitation with Children**

- a. Person to be supervised:
 - Person in ① Person in ②

b. Provider (Person) to Supervise Visits

(1) **Nonprofessional Provider**

Name: _____
 Relationship to child: _____
 Address (if known): _____
 Telephone (if known): _____

Safe location for visits: _____
 (For more information on safe locations, go to <https://selfhelp.courts.ca.gov/guide-supervised-visitation>.)

Schedule for visits (check one):
 Follow the Visitation Schedule listed in ⑫.
 Other schedule (give a detailed schedule): _____

(2) **Professional Provider** (complete the section below and skip to ⑬)

(A) Provider who will supervise visits (check 1, 2, or 3):

(1) Name of provider: _____
 Telephone: _____ Address (if known): _____
 Person in ① contact provider by (date): _____
 Person in ② contact provider by (date): _____

(2) A list of providers was given to the: Person in ① Person in ②
 A provider must be chosen and contacted by: Person in ① Person in ②
 by (date of deadline): _____

(3) Other: _____

(B) Fees paid by: Person in ① _____ % Person in ② _____ % Other: _____ %

(C) Frequency of visits (check one):
 Once a week, for (number of hours): _____
 Twice a week, for (number of hours): _____ each visit.
 Other (describe): _____

(D) Location of visits to be decided by provider.

This is a Court Order.



10 **Supervised (Monitored) Child Exchanges** (Use item 11 to describe visitation schedule.)

- a. Person to be supervised:
 Person in 1 Person in 2

b. Provider (Person) to Supervise Exchanges

- (1) Nonprofessional Provider

Name: _____
Relationship to child: _____
Address (if known): _____
Telephone (if known): _____
Safe location for exchanges: _____
(For more information on safe locations, go to <https://selfhelp.courts.ca.gov/guide-supervised-visitation>.)

- (2) Professional Provider

Name of provider (if known): _____
Address (if known): _____
Telephone (if known): _____
Fees paid by: Person in 1 _____ % Person in 2 _____ % Other: _____ %
Person in 1 contact provider by (date): _____
Person in 2 contact provider by (date): _____
Location of exchanges to be decided by provider.

11 **Visits With No Supervision (Unmonitored)**

- a. Reason for court's decision

This order is in the best interest of the children listed in 3 and protects their safety and the safety of the parties because (check all that apply):

- (1) (Give reason below)

- (2) Judge's reasons are attached.

- (3) Judge explained their reason at the court hearing, with a court reporter present (ask court for transcript).

This is a Court Order.

11 **Visits With No Supervision (Unmonitored) (continued)**

(These orders must include times and days for visits, and details about child exchanges.)

b. Person in **1** Person in **2** will visit with the children as follows:

(1) Visitation schedule described below:

(2) Follow the Visitation Schedule listed in **12**.

12 **Visitation Schedule for Person in **2****

	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: End, if applies:		
Tuesday	Start: End, if applies:		
Wednesday	Start: End, if applies:		
Thursday	Start: End, if applies:		
Friday	Start: End, if applies:		
Saturday	Start: End, if applies:		
Sunday	Start: End, if applies:		
Follow the schedule listed above (check one): <input type="checkbox"/> Every week <input type="checkbox"/> Every other week <input type="checkbox"/> Other _____			
Start date for visits (month, day, year) _____			

This is a Court Order.

13 **Other Orders**

Describe additional orders (examples: virtual visitation, holiday schedule). If you want to use a separate form, like form [FL-341\(C\)](#), *Children's Holiday Schedule Attachment*, write "see attached FL-341(C)" in the space below and attach that form.

14 **Mandatory Findings**

(Any findings required under Family Code sections 3011, 3044, and 3100 may be included here.)

Judge's findings are attached to this order.

15 **Criminal Protective Order**

List any criminal protective order protecting the person in **1** from the person in **2**.

Case number: _____ County: _____

Case number: _____ County: _____

(If a criminal protective order is in effect, law enforcement must follow the priority of enforcement on form DV-110 or DV-130.)

16 **Country of Habitual Residence**

The country of habitual residence of the child or children in this case is *(check one)*:

The United States,

Other *(name of country)*: _____

17 **Jurisdiction and Notice**

This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400). The responding party was given notice consistent with the laws of the State of California.

18 **Penalties for Violating This Order**

If you violate this order, you may be subject to civil or criminal penalties, or both.

This is a Court Order.

What is a “domestic violence restraining order”?

It is a court order that can help protect people who have been abused by someone they've had an intimate relationship with, are closely related to, or have lived with as more than just roommates.

How can a restraining order help me?

A judge can order the restrained person to:

- Not contact you, your children or relatives, or people you live with;
- Stay away from you, your children or relatives, or people you live with, your home, your job, etc.;
- Not have any firearms (guns, including "ghost guns"), firearm parts, ammunition, or body armor;
- Move out of a home that you live in;
- Obey child custody and visitation orders;
- Pay child support;
- Pay spousal support;
- Pay debt for property; and
- Give you control of property (examples: cell phone, car, home).

Does this request cost money to file?

No, filing this request with the court is free.

How long can a restraining order last?

If the judge makes a temporary order, it will last until your hearing date (court date). Your hearing is usually three weeks after you turn in your court papers. At your hearing, the judge will decide whether to grant you a long-term restraining order that can last up to five years.

How soon can I get the order?

If you decide to ask for a restraining order, you will need to complete court papers. Once you turn in your court papers, a judge will decide the same day or next business day on whether to grant you a temporary restraining order.

How old must I be to ask for one?

To ask for a restraining order on your own, you must be 12 years old or older. In some cases, the judge may ask that an adult (someone 18 years old or older), like a trusted relative, help you in your case.

What if I don't have a green card?

You can get a restraining order even if you are not a U.S. citizen. If you are worried about deportation, you may want to talk with an immigration lawyer.

Can a restraining order protect my children?

Yes, you can ask the judge to protect your children. If you are asking for a restraining order against someone you have children with, you can also ask the judge to make child custody and visitation orders. And if you think that the other parent might abduct (kidnap) your children, you can ask for orders to prevent kidnapping.

Can I use a restraining order to get divorced or terminate a registered domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.



Am I eligible?

To qualify for a domestic violence restraining order, you must have a (1) required relationship and (2) show that the person you want a restraining order against has been abusive.

Required relationship

- Your spouse, ex-spouse, registered domestic partner, or ex-registered domestic partner;
- Someone you have a child with;
- Your parent, child, sibling, or grandparent (includes in-laws and step relationships);
- Someone you live with or used to live with (more than just roommates);

Abuse

Abuse can be spoken, written, or physical. It can be physical, sexual, or emotional. It includes threats to harm you or your family, stalking, harassment, destroying personal property, repeated contact, and disturbing the peace.

What does disturbing the peace mean?

It means to destroy someone's mental or emotional calm. Disturbing the peace includes coercive control. Coercive control means a number of acts that unreasonably limit the free will and individual rights of any person. Examples include:

- Isolating someone from their friends, relatives, or other support;
- Keeping them from food or basic needs;
- Controlling or keeping track of them, including their movements, contacts, actions, money, or access to services;
- Threats to immigration status;
- Making them do something that they don't want to do; and
- Controlling or interfering with someone's contraception (birth control, condoms); pregnancy or ability to become a parent; or access to health information.

What if I don't qualify for a domestic violence restraining order?

There are other kinds of restraining orders you can ask for. Here are some examples:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts).
- Dependent adult or elder abuse restraining order (if you are at least 65 or a dependent adult).
- Gun violence restraining order (to prevent someone from hurting themselves or others with a firearm).

Note that all restraining orders include a firearms and ammunition restriction. A gun violence restraining order gives limited protection because it only restrains the person from having firearms and ammunition. To learn more about other kinds of restraining orders, go to <https://selfhelp.courts.ca.gov/restraining-orders>.

How do I ask for a domestic violence restraining order?

See form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*. The forms are available online at www.courts.ca.gov/forms. If you want a paper copy, go to any California courthouse. You can also check with your county's law library.

Will I have a court hearing (court date)?

Yes. The court will give you a day and time to attend court. If you want to attend court remotely (by phone or videoconference), go to the court's website to find out how to attend remotely. To learn more about what to expect at your hearing, read form [DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*, or go to <https://selfhelp.courts.ca.gov/DV-restraining-order/prepare-court-date>.



Do I need a lawyer to make this request?

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center. (See below.)

Where can I find a self-help center?

Find your local court's self-help center at www.selfhelp.courts.ca.gov/find. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms.

What if I need an interpreter?



If you decide to ask for a restraining order, you will need to talk to a judge. If you need an interpreter, use form [INT-300](#) to request an interpreter or ask the court clerk how you can request one.

I have a disability. How can I get help?

You may use form [MC-410](#) to request assistance. Contact the disability or ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* (form [MC-410](#)). (Civil Code section 54.8.)

Confidential Address Program

If you are a victim of domestic violence or live with a victim of domestic violence, there is a special program called Safe At Home that you can apply for. It is a free program that would help you keep your address private. To learn more about the program, go to <https://www.sos.ca.gov/registries/safe-home/>. Note that it may take several weeks to be approved.

For more information on other steps of the process

- Form [DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*
- Form [DV-200-INFO](#), *What Is "Proof of Personal Service"?*
- Form [DV-520-INFO](#), *Get Ready For Your Restraining Order Court Hearing*
- Form [DV-530-INFO](#), *How to Enforce Your Restraining Order*

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

EPO-001

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

LAW ENFORCEMENT CASE NUMBER:

EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)

1. PROTECTED PERSONS (insert the name and gender (M, F, X) of all persons protected by this Order):

2. RESTRAINED PERSON (name): Gender: M F X
Ht.: Wt.: Hair color: Eye color: Race: Age: Date of birth:

3. TO THE RESTRAINED PERSON:

- a. YOU MUST NOT harass, attack, strike, threaten, assault...
b. YOU MUST NOT contact, either directly or indirectly...
c. YOU MUST stay away at least: yards from each person...
d. YOU MUST NOT take any action, directly or through others...
e. YOU MUST NOT own, possess, purchase, receive...
f. YOU MUST NOT own, possess, or buy body armor.

4. (Name) is given temporary care and control of the following minor children of the parties (names and ages):

5. Order Expires on (date): at (time): EXPIRES ON THE 5TH COURT DAY OR 7TH CALENDAR DAY, WHICHEVER IS EARLIER. DO NOT COUNT THE DAY THE ORDER IS GRANTED.

6. To Person in 1: To ask for a longer restraining order, ask for help at your local court. If there is an open juvenile case, file in that case. (Name and address of court):

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): granted this Order on (date): at (time):

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons):

10. Firearms or ammunition were (check all that apply): observed reported physically searched for seized

11. The persons in 1 and 2 live together. The person in 1 asks that the person in 2 immediately move out from the address in item 3c

12. The person in 1 has minor children in common with the person in 2, and a temporary custody order is requested because of the facts alleged in item 9. A custody order does exist. does not exist.

By: (PRINT NAME OF LAW ENFORCEMENT OFFICER) (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: Telephone No.: Badge No.:

PROOF OF SERVICE

13. I personally delivered (served) copies of this Order to the person named in 2 on: (date): at (time): Address where person in 2 was served:

14. At the time of service, I was at least 18 years of age and not a party to this cause. I am a California law enforcement officer.

15. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

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

Date: (TYPE OR PRINT NAME OF SERVER) (SIGNATURE OF SERVER)

EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-001

To the restrained person: You must follow this order until it expires (see item 5). If you have firearms, firearm parts, or ammunition, follow the orders in item 3e. After you have turned in or sold your items, you must file a receipt with the court that proves that all items listed in 3e have been turned in or sold. You may use form DV-800, *Receipt for Firearms, Firearm Parts, and Ammunition*. If you violate the order, you can be arrested, charged with a crime, and/or fined. If you are served with another restraining order, you must follow the order. You may want advice from a lawyer. If you were served with more court papers, contact one as soon as possible. Free help may be available at your court's local self-help center. To find your local self-help center, go to www.selfhelp.courts.ca.gov/find.

A la persona restringida: Tiene que cumplir con esta orden hasta su fecha de vencimiento (vea el punto 5). Si tiene armas de fuego, componentes de armas de fuego, o municiones, cumpla con las órdenes del punto 3e. Después de haber entregado o vendido todos estos artículos, tiene que presentar un recibo a la corte comprobando que todos los artículos indicados en el punto 3e han sido entregados o vendidos. Puede usar el formulario DV-800, *Recibo por armas de fuego, componentes de armas de fuego, y municiones*. Si contraviene la orden, puede ser arrestado, acusado de un delito, y/o multado. Si recibe por entrega legal otra orden de restricción, tiene que cumplir con esa orden. Es posible que quiera los consejos de un abogado. Si recibió por entrega legal más documentos de la corte, contáctese con un abogado lo más pronto posible. Es posible que el centro de ayuda de su corte local ofrezca un servicio de ayuda gratuita. Puede localizar su centro de ayuda local en www.selfhelp.courts.ca.gov/find.

To the protected person: This order will expire on the the date and time listed in item 5. If you want a longer restraining order to protect you or your children from abuse, you will have to ask for one from your local court. Start the process as soon as you can. The paperwork can take a few hours to complete. There is no court fee and you do not need a lawyer to ask for one, but the process can be hard to get through on your own. If you want advice from a lawyer, contact one as soon as possible. Free help may be available at your local court's self-help center. To find your local self-help center, go to www.selfhelp.courts.ca.gov/find. You can also ask for child custody orders to stop child abuse or abduction. Note that if there is a juvenile dependency case for your child, ask for orders to protect your child in that case.

A la persona protegida: Esta orden se vence en la fecha y la hora indicadas en el punto 5. Si desea una orden de más larga duración para protegerse a sí mismo o a sus hijos del maltrato, tendrá que solicitarla de su corte local. Comience el proceso lo más antes posible. Los formularios pueden tomar algunas horas para llenar. No hay cuota de presentación y no necesita un abogado para presentar su solicitud, pero el proceso puede ser difícil de navegar sin ayuda. Si desea consejos de un abogado, contáctese con uno lo más pronto posible. Es posible que el centro de ayuda de su corte local ofrezca un servicio de ayuda gratuita. Puede localizar su centro de ayuda local en www.selfhelp.courts.ca.gov/find. También puede solicitar órdenes de custodia de los hijos para impedir el maltrato o el secuestro. Nótese que si hay un caso de dependencia de menores para su hijo, solicite órdenes para proteger a su hijo en ese caso.

To Law Enforcement

This order must be served on the restrained person by the officer, if the restrained person can be found. A copy must be given to the protected person. A copy must be filed with the court as soon as practicable. Also, the officer must have the order entered into CLETS (CARPOS).

This emergency protective order is effective when made and must be enforced by all law enforcement officers in the State of California who are aware of or shown a copy of this order. The terms and conditions of this order are enforceable regardless of the acts of the parties; the order may be changed only by the court (Penal Code section 13710(b)). A law enforcement officer shall use every reasonable means to enforce this order. An officer acting in good faith to enforce the order will not be held liable.

The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons if the provisions of this order are more restrictive. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order. The availability of an emergency protective order must not be affected by the fact that the endangered person has vacated the household to avoid abuse.

A las agencias del orden público

El agente tiene que hacer la entrega legal de esta orden a la persona restringida, si esta puede ser localizada. Hay que darle una copia a la persona protegida. Hay que presentar una copia a la corte tan pronto sea posible. También, el oficial tiene que hacer que la orden se ingrese al sistema CLETS (CARPOS).

Esta orden de protección de emergencia entra en vigencia al emitirse y tiene que hacerse cumplir por todos los oficiales del orden público del estado de California que tengan conocimiento de, o a quienes se les muestre una copia de esta orden. Los términos y condiciones de esta orden pueden hacerse cumplir a pesar de las acciones de las partes; la orden solo puede ser modificada por la corte (Código Penal, sección 13710(b)). Un agente del orden público tiene que usar todo recurso razonable para hacer cumplir esta orden. Un agente que actúe de buena fe para hacer cumplir esta orden quedará exento de toda responsabilidad civil o penal.

Las disposiciones de la presente orden de protección de emergencia tendrán prioridad sobre las disposiciones de otras órdenes de protección existentes entre las mismas partes si las disposiciones de la presente orden son más restrictivas. Las disposiciones de otras órdenes se mantienen en vigencia y tendrán prioridad si son más restrictivas que las disposiciones de la presente orden de protección de emergencia. La disponibilidad de una orden de protección de emergencia no será afectada por el hecho de que la persona en peligro haya desocupado el hogar para evitar el maltrato.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: March 28, 2024

Rules Committee action requested [Choose from drop down menu below]:

Circulate for comment (January 1 cycle)

Title of proposal: Protective Orders: Revisions to Civil Forms to Implement New Law

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Revise forms CH 100, CH 100 INFO, CH 109, CH 110, CH 120, CH 120 INFO, CH 130, EA 100, EA 100 INFO, EA 109, EA 110, EA 120, EA 120 INFO, EA 130, EPO 002, GV 020, GV 020-INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 120, GV 120 INFO, GV 130, SV 100, SV 100 INFO, SV 109, SV 110, SV 120, SV 120 INFO, SV 130, WV 100, WV 100 INFO, WV 109, WV 110, WV 115, WV 116, WV 120, WV 120 INFO, WV 130, WV 200, WV 250, WV-260, WV 700, WV 710, WV 715, WV 716, WV 720, and WV 730

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@gmail.com

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): October 26, 2023; Amended February 9, 2024

Project description from annual agenda: Develop form recommendations as appropriate. AB 301, which goes into effect January 1, 2024, authorizes courts to consider an additional category of evidence when determining whether grounds for a gun violence restraining order exist—the acquisition of body armor. Though such evidence is not listed on the petition or order forms for gun violence restraining orders, including such new categories on the GVRO information sheets would ensure that those sheets remain complete and legally accurate.

Develop form recommendations as appropriate. SB 428 and SB 553, both of which go into effect January 1, 2025, make substantial changes to workplace violence restraining orders. SB 428 authorizes courts to issue such restraining orders if the employee has suffered harassment. SB 553 authorizes collective bargaining representatives to bring a petition for a workplace violence restraining order on behalf of an employee. The current forms should be revised to reflect the additional potential petitioners and the additional cause for issuance of a restraining order.

Develop recommendations for form revisions to implement AB 92. Under the statute, any person prohibited from possessing firearms is also prohibited from possessing, owning, or buying body armor. This advisement needs to be added to forms in the Domestic Violence, Juvenile, Criminal, Civil Harassment, Elder Abuse, Workplace Violence, School Violence, and Gun Violence form series.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)
 - The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-31

Title

Protective Orders: Revisions to Civil Forms to Implement New Law

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Proposed Rules, Forms, Standards, or Statutes

Revise forms CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes the revision of numerous protective order forms. These revised forms implement three significant changes to the law. First, changes are needed to all the restraining order form series, including the Gun Violence, Civil Harassment, Elder Abuse, Workplace Violence, and Private Post-Secondary School Violence forms addressed in this proposal to implement a new law prohibiting the possession of body armor by those who are prohibited from possessing firearms. Second, further changes are needed to gun violence restraining order forms to reflect a new law that permits the acquisition of body armor to be

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.

considered as evidence in determining whether to issue such a restraining order. Finally, the proposal also implements new laws concerning workplace violence restraining orders that add harassment as a basis for orders, permit collective bargaining representatives to petition for orders, and allow the employee who suffered the harassment, violence, or threat of violence to opt out of being named in orders.

Background

Assembly Bill 92 (body armor prohibition)

Last year, the Legislature enacted AB 92 (Stats. 2023, ch. 232),¹ under which a person prohibited from possessing firearms is also prohibited from possessing, owning, or buying body armor.² For most protective orders, the governing law provides that upon issuance of the order the restrained person is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms, ammunition, and other items.³ Under AB 92 courts must now advise restrained persons that they are prohibited from possessing, owning, or buying body armor when they are advised of the firearm prohibition.⁴

Importantly, however, different statutory language is used in the prohibitions regarding body armor and firearms, and ammunition. Specifically, Penal Code section 31360 states that a person who “purchases, owns, or possesses” body armor is guilty of a crime. But after the issuance of most protective orders, the restrained person “shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition.”⁵

The new law also requires the prohibited person to relinquish body armor that they possess.⁶ However, unlike firearms (and sometimes ammunition), which have statutorily required relinquishment procedures after the issuance of a protective order, there is no relinquishment procedure for body armor outlined in the statute.

Assembly Bill 301 (acquisition of body armor used as evidence)

AB 301 (Stats. 2023, ch. 234)⁷ was similarly enacted last year and concerns body armor. Specifically, AB 301 adds “evidence of acquisition of body armor” as permissible evidence that a court may consider in determining whether grounds for a gun violence restraining order exist. Acquisition of body armor joins seven other types of evidence already provided in Penal Code section 18155(b)(2).

¹ AB 92 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB92.

² Pen. Code, § 31360(b)(1)–(2).

³ See e.g., Code Civ. Proc., §§ 527.6(u) & 527.85(s).

⁴ Pen. Code, § 31360(b)(2).

⁵ See e.g., Code Civ. Proc., §§ 527.6(u) & 527.85(s).

⁶ Pen. Code, § 31360(b)(2).

⁷ AB 301 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB301.

Statutory amendments to workplace violence restraining orders

Last year, the Legislature enacted Senate Bill 428 (Stats. 2023, ch. 286)⁸ and SB 553 (Stats. 2023, ch. 289),⁹ which make three substantive amendments to Code of Civil Procedure section 527.8, the statute that governs workplace violence restraining orders.

Harassment

Prior to the statutory amendments, Code of Civil Procedure section 527.8 provided that a workplace violence restraining order could be sought if an employee “suffered unlawful violence or a credible threat of violence.” SB 428 and SB 553 add that such an order may also be sought if the employee suffers “harassment” as later defined in the statute.¹⁰

Collective bargaining representative

Prior to the statutory amendments, section 527.8 permitted only an employer to seek a workplace violence restraining order. SB 428 and SB 553 have added an additional potential petitioner—an employee’s collective bargaining representative.

Employee opt out

The new workplace violence restraining order legislation also now requires the petitioner to allow the employee who suffered harassment, violence, or a threat of violence the opportunity to “decline to be named” in the restraining order.¹¹ However, the employee declining this assistance does not prohibit the petitioner from seeking a restraining order “on behalf of other employees at the workplace.”¹² Section 527.8 authorizes a restraining order to “include other named family or household members, or other persons employed at the employee’s workplace or workplaces,” upon a showing and good cause and in the discretion of the court.¹³

The Proposal

The changes proposed in this invitation to comment are needed to address three distinct issues:

- Implementation of recently enacted AB 92;
- Implementation of recently enacted AB 301; and
- Implementation of SB 428 and SB 553.

⁸ SB 428 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB428.

⁹ SB 553 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB553.

¹⁰ The definition of harassment in section 527.8 is “a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress.”

¹¹ Code Civ. Proc., § 527.8(e).

¹² *Ibid.*

¹³ Code Civ. Proc., § 527.8(d).

The forms with all the revisions highlighted are at pages 9–194.

Implementation of AB 92

The committee proposes several form revisions in all the civil protective order forms series to implement the new body armor prohibition for restrained individuals in AB 92.¹⁴

Orders

The committee proposes including a new item on the order forms in this proposal¹⁵ for the body armor prohibition. The existing firearm prohibition item enumerates eight ways the respondent may not possess or obtain firearms and other items as provided by the statute. The statutory language for the new body armor prohibition, however, places far fewer limitations on the respondent. Additionally, the existing item also outlines a statutorily prescribed relinquishment process for firearms and, in some cases, ammunition, which is not required for body armor. Given the different legal requirements concerning the body armor prohibition, a separate item specifying the prohibition and relinquishment requirements from the statute is appropriate.

Response forms

For the same reasons, the committee also proposes a new body armor item on response forms.¹⁶ This new item includes different content related to body armor, but follows the structure of the existing firearm prohibition item. The new item instructs respondents that they are prohibited from owning, possessing, or buying body armor if a temporary order has been served and that they must relinquish any body armor they have. The respondent must also check boxes stating that they do not have any body armor, that they have relinquished all their body armor, or that they will ask for an exception to keep their body armor.

Petitions and notice of hearing forms

Existing petitions and notice of hearing forms for the different types of protective orders in this proposal¹⁷ include a general statement advising of a firearm prohibition and relinquishment procedure if the order is granted. The committee proposes including an additional sentence in this item of the forms advising that if the order is granted the respondent will also be prohibited from owning, possessing, or buying body armor and must relinquish any that they have.

¹⁴ Similar changes to domestic violence restraining order forms, juvenile restraining order forms, and criminal protective order forms are also being proposed by the Family and Juvenile Law Advisory Committee and the Criminal Law Advisory Committee. Those invitations to comment are available at www.courts.ca.gov/policyadmin-invitationstocomment.htm.

¹⁵ Forms CH-110, CH-130, EA-110, EA-130, GV-030, GV-110, GV-130, SV-110, SV-130, WV-110, and WV-130. EPO-002 is also an order form and contains the same added language, but given that the current EPO forms are limited to a one-page form as they are designed to be completed by law enforcement in the field, it is not in a new item.

¹⁶ Forms CH-120, EA-120, GV-020, GV-120, SV-120 and WV-120.

¹⁷ Forms CH-100, CH-109, EA-100, EA-109, GV-100, GV-109, SV-100, SV-109, WV-100, and WV-109.

Information sheets

With regard to firearms, most of the information sheets in this proposal¹⁸ simply state that the judge can order the respondent to not have them and other items. Accordingly, a simple addition of body armor to the list of prohibited items included in the sheet is sufficient. The gun violence restraining order information forms¹⁹ are more complicated as they spell out the required relinquishment procedures. The committee thus proposes that those forms contain a separate sentence at the end of the information about firearms stating that the respondent may not own, possess, or buy body armor and if they have any they must relinquish it.

Implementation of AB 301

AB 301 adds the acquisition of body armor to the list of evidence that can be considered in determining if a gun violence restraining order should be issued. The only current form that discusses such evidence is form GV-100-INFO. Accordingly, the committee proposes adding such information to the existing discussion contained within the form.

In reviewing forms to implement AB 301, the committee examined form GV-100, which at item 6 requires the petitioner to explain why a gun violence restraining order is needed. The committee believes additional information about the evidence that may be considered in determining whether an order should be issued would be helpful. As such, proposed revised form GV-100 contains a rewritten item 6, which provides the two showings that must be made for an order to be issued and also contains a new bulleted list of the evidence that the petitioner can offer to make such showings (including the purchase of body armor).

Implementation of SB 428 and SB 553

The committee proposes several form revisions to implement the statutory provisions related to workplace violence restraining orders in SB 428 and SB 553.

Harassment

Given that the petitioner may now seek a workplace restraining order based on harassment by the respondent, the committee proposes adding a new subitem in item 8a of the petition (form WV-100). The new subitem allows the petitioner to allege that respondent's conduct included harassment as described in Code of Civil Procedure section 527.8(b)(4). The committee also proposes adding harassment to the list of wrongful action which may form the basis for issuing a temporary restraining on the notice of hearing form (WV-109) (in item 5b, where the court may state that an order was not granted because the petition did not provide sufficient proof of such wrongful acts).

Collective bargaining representative

Generally, the new provision permitting a collective bargaining representative to seek a workplace violence restraining order necessitates minimal revisions to the form set—adding “or

¹⁸ Forms CH-100-INFO, CH-120-INFO, EA-100-INFO, EA-120-INFO, SV-100-INFO, SV-120-INFO, WV-100-INFO, and WV-120-INFO.

¹⁹ Forms GV-020-INFO, GV-100-INFO, and GV-120-INFO.

collective bargaining representative” wherever the employer (petitioner) is mentioned.²⁰ In addition to such changes, the committee also proposes asking for the union name if the petitioner is a collective bargaining representative²¹ on the petition (form WV-100) and including additional statutory requirements for the representative on the information sheet, form WV-100-INFO.

Employee opt-out

The committee proposes the following form revisions to implement the new statutory provision permitting the employee who suffered harassment, violence, or threat of violence to opt out of being named in the restraining order:

- Instead of referring to the “employee in need of protection,” refer to the “employee who suffered harassment, violence, or threat of violence” on the petition (form WV-100), proofs of service, and renewal forms; and the “employee who petitioner asserts suffered harassment, violence, or threat of violence” on the notice of hearing (form WV-109) and response (form WV-120).²²
- Eliminate references to “additional protected persons” and instead only refer to “protected persons.”
- Revise the orders (forms WV-110 and WV-130) to include a single item for protected persons (rather than separate items for “Employee (protected person)” and “Additional protected persons (who under the new law may be the only protected persons), and similarly reformat the stay-away order items to reference the protected persons rather than the “employee.” For the order after hearing (form WV-130) specifically, revise item 5 to eliminate subitems currently used to state that the employee who has suffered harassment, violence, or threat of violence and their attorney attended the hearing.²³ The court may list their attendance on an attachment where all other hearing attendees are listed. Form WV-130 has also been revised to make renumbered item 14 concerning free service optional as free service may not be available where the basis for the order was harassment and not violence or stalking.

²⁰ Forms WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730.

²¹ The committee proposes removing the information about the employer’s type of entity from item 1 on form WV-100, as the information sheet mentions that if the employer is a corporation it must be represented by an attorney.

²² The committee reads new Code of Civil Procedure section 527.8(e) to permit the employee who suffered harassment, violence, or a threat of violence to be named in pleadings in order for parties to be able to establish or deny the basis for the restraining order to be issued even if that employee opts out of being named in the orders.

²³ The committee has requested specific comment on whether it is necessary for the court to record whether the employee who suffered harassment, violence, or threat of violence attended the hearing.

- Include additional information on form WV-100-INFO regarding the ability of the employee who suffered harassment, violence, or threat of violence to opt out of being named in any orders.

Alternatives Considered

In implementing the new body armor prohibition, the committee considered providing more guidance on how “relinquishment” can be satisfied (e.g., deadline, who to give it to, whether destruction of body armor qualifies). However, the committee decided against this approach as the statute does not define relinquishment or provide a framework for compliance. The committee did not consider not proposing changes as all the changes in this proposal are required to reflect a recent change in law.

Fiscal and Operational Impacts

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the revised forms. Courts will also incur costs to incorporate the revised forms into the paper or electronic processes. These cannot be deferred because the changes are needed for the forms to be correct under the statutes.

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?
- Should form WV-130 state whether the employee who suffered harassment, violence, or threat of violence attended the hearing? If so, what purpose does it serve?

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 CH-100, CH-100-INFO, CH-109, CH-110, CH-120, CH-120-INFO, CH-130, EA-100, EA-100-INFO, EA-109, EA-110, EA-120, EA-120-INFO, EA-130, EPO-002,

GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-120, GV-120-INFO, GV-130, SV-100, SV-100-INFO, SV-109, SV-110, SV-120, SV-120-INFO, SV-130, WV-100, WV-100-INFO, WV-109, WV-110, WV-115, WV-116, WV-120, WV-120-INFO, WV-130, WV-200, WV-250, WV-260, WV-700, WV-710, WV-715, WV-716, WV-720, and WV-730, at pages 9–194

2. Link A: AB 92,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB92
3. Link B: AB 301,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB301
4. Link C: SB 428,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB428
5. Link D: SB 553,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB553

DRAFT

Clerk stamps date here when form is filed.

Read *Can a Civil Harassment Restraining Order Help Me?* (form [CH-100-INFO](#)) before completing this form. Also fill out *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know.

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2024-01-22
Not approved by
the Judicial Council
TEST

1 Person Seeking Protection

a. Your Full Name: _____ Age: _____

Your Lawyer (if you have one for this case)
Name: _____ State Bar No.: _____
Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Person From Whom Protection Is Sought

Full Name: _____ Age: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

3 Additional Protected Persons

a. Are you asking for protection for any other family or household members? Yes No *If yes, list them:*

Full Name	Gender	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are more persons. Attach a sheet of paper and write "Attachment 3a—Additional Protected Persons" for a title. You may use form [MC-025](#), Attachment.

b. Why do these people need protection? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form [MC-025](#) and write "Attachment 3b—Why Others Need Protection" for a title.

This is not a Court Order.



4 Relationship of Parties

How do you know the person in (2)? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 4—Relationship of Parties" for a title.

5 Venue

Why are you filing in this county? (Check all that apply):

- a. The person in (2) lives in this county.
- b. I was harassed by the person in (2) in this county.
- c. Other (specify): _____

6 Other Court Cases

a. Have you or any of the persons named in (3) been involved in another court case with the person in (2)?

Yes No (If yes, check each kind of case and indicate where and when each was filed.)

<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1) <input type="checkbox"/> Civil Harassment	_____	_____	_____
(2) <input type="checkbox"/> Domestic Violence	_____	_____	_____
(3) <input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4) <input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5) <input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6) <input type="checkbox"/> Eviction	_____	_____	_____
(7) <input type="checkbox"/> Guardianship	_____	_____	_____
(8) <input type="checkbox"/> Workplace Violence	_____	_____	_____
(9) <input type="checkbox"/> Small Claims	_____	_____	_____
(10) <input type="checkbox"/> Criminal	_____	_____	_____
(11) <input type="checkbox"/> Other (specify):	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to you or any of the persons in (3) and the person in (2)? No Yes (If yes, attach a copy if you have one.)

7 Description of Harassment

Harassment means violence or threats of violence against you, or a course of conduct that seriously alarmed, annoyed, or harassed you and caused you substantial emotional distress. A course of conduct is more than one act.

a. Tell the court about the last time the person in (2) harassed you.

(1) When did it happen? (provide date or estimated date): _____

(2) Who else was there? _____

This is not a Court Order.



7 a. (3) How did the person in 2 harass you? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(3)—Describe Harassment" for a title.

(4) Did the person in 2 use or threaten to use a gun or any other weapon?

Yes No (If yes, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(4)—Use of Weapons" for a title.

(5) Were you harmed or injured because of the harassment?

Yes No (If yes, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7a(5)—Harm or Injury" for a title.

(6) Did the police come? Yes No

If yes, did they give you or the person in 2 an Emergency Protective Order? Yes No

If yes, the order protects (check all that apply):

Me The person in 2 The persons in 3.

(Attach a copy of the order if you have one.)

b. Has the person in 2 harassed you at other times?

Yes No (If yes, describe prior incidents and provide dates of harassment below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7b—Previous Harassment" for a title.

This is not a Court Order.



Check the orders you want.

8 Personal Conduct Orders

I ask the court to order the person in (2) **not** to do any of the following things to me or to any person to be protected listed in (3):

- a. Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b. Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- c. Other (*specify*):
 Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8c—Other Personal Conduct Orders," for a title.

The person in (2) will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

9 Stay-Away Orders

a. I ask the court to order the person in (2) to stay at least _____ yards away from (*check all that apply*):

- (1) Me.
- (2) The other persons listed in (3).
- (3) My home.
- (4) My job or workplace.
- (5) My school.
- (6) My children’s school.
- (7) My children’s place of child care.
- (8) My vehicle.
- (9) Other (*specify*):

b. If the court orders the person in (2) to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? Yes No (*If no, explain below*):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 9b—Stay-Away Orders," for a title.

10 Firearms (Guns), Firearm Parts, and Ammunition

Does the person in (2) own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). Yes No I don’t know

If the judge grants a protective order, the person in (2) will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The person in (2) will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts within their immediate possession or control. If an order is granted, the person in (2) will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.

This is not a Court Order.



11 **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in **(2)** to last until the hearing. I am presenting form CH-110, *Temporary Restraining Order*, for the court’s signature together with this *Request*.

Has the person in **(2)** been told that you were going to go to court to seek a TRO against him or her?

Yes No (If you answered no, explain why below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 11—Temporary Restraining Order” for a title.

12 **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in **(2)** at least five days before the hearing, unless the court orders a shorter time for service. (Form CH-200-INFO explains What Is “Proof of Personal Service”? Form CH-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 12—Request to Give Less Than Five Days’ Notice” for a title.

13 **No Fee for Filing or Service**

a. There should be no filing fee because the person in **(2)** has used or threatened to use violence against me, has stalked me, or has acted or spoken in some other way that makes me reasonably fear violence.

b. The sheriff or marshal should serve (notify) the person in **(2)** about the orders for free because my request for orders is based on unlawful violence, a credible threat of violence, or stalking.

c. There should be no filing fee and the sheriff or marshal should serve the person in **(2)** for free because I am entitled to a fee waiver. (You must complete and file form FW-001, Application for Waiver of Court Fees and Costs .)

14 **Lawyer's Fees and Costs**

I ask the court to order payment of my lawyer’s fees Court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write “Attachment 14—Lawyer’s Fees and Costs” for a title.

This is not a Court Order.



15 Possession and Protection of Animals

I ask the court to order the following:

- a. That I be given the sole possession, care, and control of the animals listed below, which I own, possess, lease, keep, or hold, or which reside in my household.

(Identify animals by, e.g., type, breed, name, color, sex.)

I request sole possession of the animals because (specify good cause for granting order):

- Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 15a—Possession of Animals" for a title.

- b. That the person in (2) must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

16 Additional Orders Requested

I ask the court to make the following additional orders (specify):

- Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 16—Additional Orders Requested," for a title.

17 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

This is not a Court Order.

CH-100-INFO Can a Civil Harassment Restraining Order Help Me?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a civil harassment restraining order?

It is a court order that helps protect people from harassment.

Can I get a civil harassment restraining order?

You can ask for one if you are worried about your safety because someone:

- Is harassing you
- Is stalking you
- Has committed acts of violence against you, or
- Has threatened you with violence

How will the order help me?

The court can order a person to:

- Not harass or threaten you
- Not contact or go near you, *and*
- Not have any firearms (guns), firearm parts, ammunition, **or body armor**. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

You can also ask for protection for people who live with you and family members.

In a civil harassment case, the court cannot:

- Order a person to move out of your residence
- Order a person to pay child support to you
- Make orders for custody and visitation

If you need these orders, you should proceed under the Domestic Violence Protection Act. File form [DV-100](#).

The court also cannot:

- Order a person to pay money that he or she owes you
- Order someone to move out of rental property that you own
- Order someone to stop creating a nuisance that doesn't involve harassment

If you need these remedies, you must file a civil action.

How much does it cost?

That depends on the type of harassment. If the restrained person has used or threatened to use violence against you or has stalked you, you do not have to pay a filing fee; otherwise, you must pay the fee.

If you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form [FW-001](#) is available for this purpose.

If the order is based on prior acts of violence, a credible threat of violence, or stalking, you are entitled to free service of the order by a sheriff or marshal. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve the order for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve the order.

What forms do I need to get the order?

You must fill out all of form [CH-100 Request for Civil Harassment Restraining Orders](#), and form [CLETS-001, Confidential CLETS Information](#). If you need attachments, you may use form [MC-025](#). You must also fill out items 1 and 2 on form [CH-109, Notice of Court Hearing](#), and items 1, 2, and 3 on form [CH-110, Temporary Restraining Order \(CLETS-TCH\)](#).

Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

What do I need to do to get the order?

You must go to the superior court in the county where the harassment took place or the person to be restrained lives. At the court, ask where you should file your request for a civil harassment restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.)

At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form, and if your request for immediate orders is granted, a copy of the *Temporary Restraining Order* signed by a judicial officer.



How soon can I get the order?

If you ask for a temporary restraining order, the court will decide within 24 hours whether or not to make the order. Sometimes the court decides sooner. Ask whether you should wait or come back later to get the signed Notice of Court Hearing and Temporary Restraining Order.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. The order could last for up to five years.

How will the person to be restrained know about the order?

Someone age 18 or older—not you or anyone else to be protected by the order—must “serve” (give) the person to be restrained a copy of the order. The server must then fill out form CH-200, Proof of Personal Service, and give it to you to file with the court. For help with service, ask the court clerk for form CH-200-INFO, What Is “Proof of Personal Service?”

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Do I have to go to court?

Yes. Go to court on the date the clerk gives you.

Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the harassment than just your word. You can bring:

- Witnesses
• Written statements from witnesses made under oath
• Photos
• Medical or police reports
• Damaged property
• Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form MC-030, Declaration, for this.)

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the restrained person at the court hearing?

If the person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer.

Can I bring someone with me to court?

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

CH-109 Notice of Court Hearing form with sections: 1 Person Seeking Protection, 2 Person From Whom Protection Is Sought, 3 Notice of Hearing, 4 Temporary Restraining Orders. Includes fields for name, address, date, time, and hearing details.



What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Information about the process is also available online.

See selfhelp.courts.ca.gov/CH-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

Can I agree with the restrained person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the restrained person would have to file a request with the court to cancel the order.

Clerk stamps date here when form is filed.

**DRAFT
2024-01-22
Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Person Seeking Protection

a. Your Full Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)*

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

2 Person From Whom Protection Is Sought

Full Name: _____

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

Name and address of court if different from above:

**Hearing
Date** →

Date: _____ Time: _____

Dept.: _____ Room: _____

To the person in 2:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

4 Temporary Restraining Orders *(Any orders granted are on form CH-110, served with this notice.)*

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form CH-100, *Request for Civil Harassment Restraining Orders*, are *(check only one box below)*:

(1) All **GRANTED** until the court hearing.

(2) All **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*

(3) Partly **GRANTED** and partly **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*



b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in form CH-100, *Request for Civil Harassment Restraining Orders*, are:

(1) The facts as stated in form CH-100 do not sufficiently show acts of violence, threats of violence, or a course of conduct that seriously alarmed, annoyed, or harassed the person in ① and caused substantial emotional distress.

(2) Other (specify): As stated on Attachment 4b.

⑤ **Confidential Information Regarding Minor**

a. A *Request to Keep Minor’s Information Confidential* (form CH-160) was made and **GRANTED**. (See form CH-165, *Order on Request to Keep Minor’s Information Confidential*, served with this form.)

b. **If the request was granted, the information described in item ⑦ on the order (form CH-165) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

⑥ **Service of Documents for the Person in ①**

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court’s file-stamped copy of this form CH-109 to the person in ② along with a copy of all the forms indicated below:

- a. CH-100, *Request for Civil Harassment Restraining Orders* (file-stamped)
- b. CH-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
- d. CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
- e. CH-170, *Notice of Order Protecting Information of Minor* and CH-165, *Order on Request to Keep Minor’s Information Confidential* (file-stamped) **IF GRANTED**
- f. Other (specify): _____

Date: _____

Judicial Officer



To the Person in ① :

- The court cannot make the restraining orders after the court hearing unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form. Form CH-200, *Proof of Personal Service*, may be used.
- For information about service, read form CH-200-INFO, *What Is “Proof of Personal Service”?*
- You may ask to reschedule the hearing if you are unable to find the person in ② and need more time to serve the documents, or for other good reasons. Read form CH-115-INFO, *How to Ask for a New Hearing Date*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form CH-100, *Request for Civil Harassment Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form CH-100-INFO, *Can a Civil Harassment Restraining Order Help Me?*

To the Person in ② :

- If you want to respond to the request for orders in writing, file form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ① .
- The person who mailed the form must fill out a proof of service form. Form CH-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). **If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form CH-115-INFO, *How to Ask for a New Hearing Date*.



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

Person in ① must complete items ①, ②, and ③ only.

DRAFT
2024-01-23
Not approved by
the Judicial Council

① Protected Person

a. Your Full Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____	*Age: _____	Date of Birth: _____
*Race: _____	Height: _____	Weight: _____
	Hair Color: _____	Eye Color: _____
*Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary	Home Address: _____	
City: _____	State: _____	Zip: _____
Relationship to Protected Person: _____		

③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the temporary orders indicated below:

<u>Full Name</u>	<u>Gender</u>	<u>Age</u>	<u>Household Member?</u>	<u>Relation to Protected Person</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

The court will complete the rest of this form.

④ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



To the Person in ② :

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

⑤ Personal Conduct Orders

Not Requested **Denied Until the Hearing** **Granted as Follows:**

- a. You must **not** do the following things to the person named in ①
 - and to the other protected persons listed in ③:
 - (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person’s address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other (*specify*):
 - Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in ①.

⑥ Stay-Away Order

Not Requested **Denied Until the Hearing** **Granted as Follows:**

- a. You must stay at least _____ yards away from (*check all that apply*):
 - (1) The person in ①
 - (2) Each person in ③
 - (3) The home of the person in ①
 - (4) The job or workplace of the person in ①
 - (5) The school of the person in ①
 - (6) The school of the children of the person in ①
 - (7) The place of child care of the children of the person in ①
 - (8) The vehicle of the person in ①
 - (9) Other (*specify*):

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

⑦ No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b on the next page.

This is a Court Order.



- 7** b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. You must:
- (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

8 **No Body Armor**

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

9 **Possession and Protection of Animals**

Not Requested **Denied Until the Hearing** **Granted as Follows (specify):**

a. The person in **1** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

b. The person in **2** must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

10 **Other Orders**

Not Requested **Denied Until the Hearing** **Granted as Follows (specify):**

Additional orders are attached at the end of this Order on Attachment **10**.

This is a Court Order.



To the Person in ① :

11 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the person in ① or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment 11.

12 No Fee to Serve (Notify) Restrained Person Ordered Not Ordered

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in ① is entitled to a fee waiver.

13 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in ②

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 7b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item ⑦ above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form CH-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

This is a Court Order.



After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in ①.
- You must have form CH-120 served by mail on the person in ① or that person's attorney. You cannot do this yourself. The person who does the mailing should complete and sign form CH-250, *Proof of Service by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

This is a Court Order.



Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

**DRAFT
2024-01-29
Not approved by
the Judicial Council**

Use this form to respond to the Request (form CH-100)

- Read *How Can I Respond to a Request for Civil Harassment Restraining Orders?* (form [CH-120-INFO](#)) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the person in ① or his or her lawyer by mail with a copy of this form and any attached pages. (Use form [CH-250](#), Proof of Service by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Person Seeking Protection

Full name of person seeking protection (see form CH-100, item ①):

② Person From Whom Protection Is Sought

a. Your Name: _____
 Your Lawyer (if you have one for this case)
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form CH-109 item ③ here:

Hearing Date → Date: _____ Time: _____
 Dept.: _____ Room: _____

If you were served with a Temporary Restraining Order, you must obey it until the hearing. At the hearing, the court may make orders against you that last for up to five years.

③ Personal Conduct Orders

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item ⑫ on page 4.)
- c. I agree to the following orders (Specify below or in item ⑫ on page 4.)

④ Stay-Away Orders

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item ⑫ on page 4.)
- c. I agree to the following orders (specify below or in item ⑫ on page 4.):



5 **Additional Protected Persons**

- a. I agree that the persons listed in item **3** of form CH-100 may be protected by the order requested.
- b. I do not agree that the persons listed in item **3** of form CH-100 may be protected by the order requested.

6 **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form CH-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item **7** of form CH-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) or firearm parts in your immediate possession or control within 24 hours of being served with form CH-110. You must file a receipt with the court. You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):
 Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 6b—Firearms Surrender Exemption” as a title. You may use form [MC-025](#), Attachment.

- c. I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.

A copy of the receipt is attached. has already been filed with the court.

7 **No Body Armor**

If you were served with form CH-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(*Check all that apply*):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



8 **Possession and Protection of Animals**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. I agree to the following orders *(specify below or in item 12 on page 4):*

9 **Other Orders**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. I agree to the following orders *(specify below or in item 12 on page 4):*

10 **Denial**

I did not do anything described in item 7 of form CH-100. *(Skip to 12 .)*

11 **Justification or Excuse**

If I did some or all of the things that the person in 1 has accused me of, my actions were justified or excused for the following reasons *(explain)*:

- Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 11—Justification or Excuse" as a title. You may use form MC-025, Attachment.*



14 **Lawyer's Fees and Costs**

a. I ask the court to order payment of my Lawyer's fees Court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 14—Lawyer's Fees and Costs" for a title. You may use form MC-025, Attachment.

b. I ask the court to deny the request of the person asking for protection that I pay his or her lawyer's fees and costs.

15 Number of pages attached to this form, if any: _____

Date: _____

_____ *Lawyer's name (if any)* ▶ _____ *Lawyer's signature*

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

_____ *Type or print your name* ▶ _____ *Sign your name*

How Can I Respond to a Request for Civil Harassment Restraining Orders?

What is a civil harassment restraining order?

It is a court order that prohibits you from doing certain things and going to certain places.

What does the order do?

The court can order you to:

- Not contact the person who asked for the order
- Stay away from that person and the person’s home and workplace
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

Who can ask for a civil harassment restraining order?

A person who is worried about safety because he or she has been or is being:

- Stalked
- Harassed
- Assaulted, including sexually, or
- Threatened with violence

I've been served with a request for civil harassment restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [CH-120, Response to Request for Civil Harassment Restraining Orders](#), before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. Forms may also be at your local courthouse or county law library.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form CH-120 to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out form [CH-250, Proof of Service by Mail](#). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on form CH-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

CH-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

1 Person Seeking Protection

a. Your Full Name: _____

Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____

Court fills in case number when form is filed.
 Case Number: _____

2 Person From Whom Protection Is Sought

Full Name: _____

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in **2**:

Name and address of court if different from above:

Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

4 Temporary Restraining Orders (Any orders granted are on Form CH-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form CH-100, Request for Civil Harassment Restraining Orders, are (check only one box below):

(1) All GRANTED until the court hearing.
 (2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)
 (3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courts.ca.gov
 Revised July 1, 2014, Mandatory Form
 Code of Civil Procedure, § 527.6
 Approved by DCJ

**Notice of Court Hearing
 (Civil Harassment Prevention)**

CH-109, Page 1 of 3



How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to five years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the person who asked for the order at the court hearing?

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

Information about the process is also available online.

See selfhelp.courts.ca.gov/CH-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the protected person would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Clerk stamps date here when form is filed.

DRAFT
2024-01-23
Not approved by
the Judicial Council

Person in ① must complete ①, ②, and ③ only.

① Protected Person

- a. Your Full Name: _____
Your Lawyer (if you have one for this case)
Name: _____ State Bar No.: _____
Firm Name: _____
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

③ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Gender	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



5 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The person in ①. (3) The lawyer for the person in ① *(name)*: _____
 - (2) The person in ②. (4) The lawyer for the person in ② *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the person named in ①
 - and to the other protected persons listed in ③:
 - (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person’s address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other *(specify)*: _____
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

7 Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
 - (1) The person in ①. (7) The place of child care of the children of the person in ①.
 - (2) Each person in ③.
 - (3) The home of the person in ①. (8) The vehicle of the person in ①.
 - (4) The job or workplace of the person in ①. (9) Other *(specify)*: _____
 - (5) The school of the person in ①. _____
 - (6) The school of the children of the person in ①. _____
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers and frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. If you have not already done so, you must:
 - Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
 - File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.
- e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in (2) is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in the physical possession of the person in (2) only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in (2) may be subject to federal prosecution for possessing or controlling a firearm.

9 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

10 Lawyer's Fees and Costs

The person in ___ must pay to the person in ___ the following amounts for

- lawyer's fees costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

- Additional items and amounts are attached at the end of this Order on Attachment 10.

This is a Court Order.



11 **Possession and Protection of Animals**

- a. The person in **1** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)
- _____
- _____

- b. The person in **2** must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

12 **Other Orders** *(specify):*

- Additional orders are attached at the end of this Order on Attachment **12**.

To the Person in 1:

13 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the person in **1** or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- Additional law enforcement agencies are listed at the end of this Order on Attachment **13**.

14 **Service of Order on Restrained Person**

- a. The person in **2** personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. The person in **2** did not attend the hearing.
- (1) Proof of service of form CH-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form CH-110 except for the expiration date. The person in **2** must be served with this Order. Service may be by mail.
- (2) The judge's orders in this form are different from the temporary restraining orders in form CH-110. Someone—but not anyone in **1** or **3**—must personally serve a copy of this Order on the person in **2**.

This is a Court Order.



15 **No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in **1** is entitled to a fee waiver.

16 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warning and Notice to the Restrained Person in **2:**

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

Unless item 8e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in **8** above. The court will require you to prove that you did so.

Instructions for Law Enforcement

Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see **14**), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge’s signature on page 4 and *ends* on the expiration date in **4** on page 1.

Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

This is a Court Order.



Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing (see 14) or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk’s Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

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2024-01-23
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the Judicial Council

Read *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form [EA-100-INFO](#)) before completing this form. Also fill out *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know.

1 Elder or Dependent Adult in Need of Protection

Full Name: _____

Gender: M F Nonbinary Age: _____**2 Person From Whom Protection Is Sought**

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

Fill in court name and street address:

Superior Court of California, County of _____

3 Person Requesting Order

Who is asking the court for protection? (Check a, b, or c):

a. The elder or dependent adult named in **1**.b. Name: _____
conservator of the person estate person and estate
of the person named in **1**, appointed by (name of court): _____

Case No.: _____

c. Other (name) _____

(Show this person's legal authority to make this request on an attached sheet of paper. Write "Attachment 3c—Information About Person Requesting Protective Order" for a title. You may use form [MC-025](#), Attachment.)

Court fills in case number when form is filed.

Case Number: _____

4 Contact Information

Contact information for the person asking the court for protection

a. Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. The person in **1** does not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

This is not a Court Order.

5 Description of Protected Person

The person named in ① (check a or b):

- a. Is age 65 or older and a resident of California.
- b. Is a resident of California and an adult under age 65. This person has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. (Briefly describe limitations on the attached sheet of paper or form MC-025. Write "Attachment 5b—Description of Protected Person" for a title.)

6 Additional Protected Persons

a. Are you asking for protection for any other family or household members or for the conservator of the elder or dependent adult listed in ①? Yes No (If yes, list them):

<u>Full Name</u>	<u>Gender</u>	<u>Age</u>	<u>Relation to person in ①?</u>	<u>Lives with person in ①?</u>
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Check here if there are more persons. Attach a sheet of paper and write "Attachment 6a—Additional Protected Persons" for a title. You may use form MC-025, Attachment.

b. Why do these people need protection? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 6b—Why Others Need Protection" for a title.

7 Relationship of Parties

How does the person in ① know the person in ②? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7—Relationship of Parties" for a title.

This is not a Court Order.



8 Description of Abuse

a. Abuse means either:

- (1) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or
- (2) The withholding by a caretaker of goods or services that are necessary to avoid physical harm or mental suffering.

b. Tell the court about the last time the person in (2) abused the person in (1).

(1) When did it happen? *(Provide date or estimated date)*: _____

(2) Who else was there?

(3) Describe what happened below.

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(3)—Describe Abuse" for a title.

(4) Was the abuse **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse?

Yes, only financial abuse. No, the abuse included other forms of abuse described above.

(5) Did the person in (2) use or threaten to use a gun or any other weapon?

Yes No *(If yes, explain below)*:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(5)—Use of Weapons" for a title.

(6) Was the person in (1) harmed or injured as a result of the acts of abuse described above?

Yes No *(If yes, explain below)*:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(6)—Harm or Injury" for a title.

(7) Did the police come? Yes No

If yes, did they give the person in (1) or the person in (2) an Emergency Protective Order? Yes No

If yes, the order protects *(check all that apply)*:

the person in (1) the person in (2) the persons in (6).

(Attach a copy of the order if you have one.)

This is not a Court Order.



8 c. Is the person in (2) a care custodian who deprived the person in (1) of (kept from the person, did not allow the person to have or receive, or did not provide the person with) goods or services that the person needed to avoid physical harm or mental suffering? Yes No
(If yes, describe below what the person was deprived of and how that affected the person):
 Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8c—Deprivation by Care Custodian" for a title.

d. Has the person in (2) abused the person in (1) at other times?
 Yes No (If yes, describe prior incidents and provide dates below):
 Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8d—Previous Abuse" for a title.

9 **Venue**

Why are you filing in this county? (Check all that apply):

- a. The person in (2) lives in this county.
- b. The person in (1) was abused by the person in (2) in this county.
- c. Other (specify): _____

10 **Other Court Cases**

a. Has the person in (1) or any of the persons named in (6) been involved in another court case with the person in (2)? No Yes (If yes, specify the kind of each case and indicate where and when each was filed):

Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1) <input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(2) <input type="checkbox"/> Civil Harassment	_____	_____	_____
(3) <input type="checkbox"/> Domestic Violence	_____	_____	_____
(4) <input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5) <input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(6) <input type="checkbox"/> Eviction	_____	_____	_____
(7) <input type="checkbox"/> Guardianship	_____	_____	_____
(8) <input type="checkbox"/> Workplace Violence	_____	_____	_____
(9) <input type="checkbox"/> Small Claims	_____	_____	_____
(10) <input type="checkbox"/> Criminal	_____	_____	_____
(11) <input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to the person in (1) or any of the persons named in (6) and the person in (2)? No Yes (If yes, attach a copy if you have one.)

This is not a Court Order.



Check the orders you want.

11 Personal Conduct Orders

I ask the court to order the person in **2** **not** to do any of the following things to the person in **1** or to any person to be protected listed in **6**:

- a. Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy the personal property of, or disturb the peace of the person.
- b. Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- c. Other (specify):
 Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11c—Other Personal Conduct Orders" for a title.

The person in **2** will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

12 Stay-Away Orders

a. I ask the court to order the person in **2** to stay at least _____ yards away from (check all that apply):

- (1) The elder or dependent adult in **1**.
- (2) The persons in **6**.
- (3) The home of the elder or dependent adult.
- (4) The job or workplace of the elder or dependent adult.
- (5) The vehicle of the elder or dependent adult.
- (6) Other (specify): _____

b. If the court orders the person in **2** to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? Yes No (If no, explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12b—Stay-Away Orders" for a title.

This is not a Court Order.



13 **Move-Out Order**

I ask the court to order the person in **2** to move out from and not return to the residence at (address):

The person in **1** will suffer physical or emotional harm if the person in **2** does not leave the residence. The person in **2** is not named in the title or lease of the residence, either alone or with others beside the person in **1**.

I ask for this move-out order right away to last until the hearing, because:

- a. The person in **2** assaulted or threatened the person in **1** ; and
- b. The person in **1** has the right to live at the above residence. (Explain below):
 - Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 13b—My Right to Residence" for a title.

14 **Order for Counseling or Anger Management Courses**

i This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.

- a. I request the person in item **2** be ordered by the court to attend clinical counseling or anger management courses provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the State of California to provide counseling or anger management courses).
- b. Explain why you are requesting an order that the person in item **2** attend clinical counseling or anger management courses.
 - Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 14b— Counseling or Anger Management" for a title.

15 **Firearms (Guns), Firearm Parts, and Ammunition**

Does the person in **2** own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). Yes No I don't know

*Unless the abuse is only financial, if the judge grants a protective order, the person in **2** will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The person in **2** will also be ordered to turn in to law enforcement, or sell to or store with a gun dealer, any firearms (guns) and firearm parts within their immediate possession or control. If an order is granted, the person in **2** will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.*

This is not a Court Order.



16 **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in **(2)** to last until the hearing. I am presenting form EA-110, *Temporary Restraining Order*, for the court’s signature together with this *Request*.

Has the person in **(2)** been told that you were going to go to court to seek a TRO against them?

Yes No (If you answered no, explain why below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 16—Temporary Restraining Order” for a title.

17 **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in **(2)** at least five days before the hearing, unless the court orders a shorter time for service. (Read form EA-200-INFO, What Is “Proof of Personal Service”?, to learn about serving legal papers. Form EA-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be less than five days between service and the hearing, explain why:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 17—Request to Give Less Than Five Days’ Notice” for a title.

18 **Debts Caused by Financial Abuse**

You can ask the judge to decide at the hearing that certain debts or bills you have were caused by the person in **(2)**’s financial abuse. This may help you defend against the debt if you are sued in another case.

a. If you want the judge to make this special finding, list the debts or bills you have that were caused by the person in **(2)**’s financial abuse.

Check here if you want to list additional debts or bills that were caused by financial abuse. You can attach form MC-025 and write “Attachment 18a—Additional Debts” for a title.

	<u>Money Owed To</u>	<u>For</u>	<u>Amount</u>
(1)	_____	_____	\$ _____
(2)	_____	_____	\$ _____
(3)	_____	_____	\$ _____

b. Describe what the person in **(2)** did to cause the debts and bills that you listed above. Provide as much detail as you can about the person in **(2)**’s financial abuse.

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write “Attachment 18b—How Debt Was Incurred” for a title.

This is not a Court Order.



19 **Lawyer's Fees and Costs**

I ask the court to order payment of my lawyer's fees court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 19—Lawyer's Fees and Costs" for a title.

20 **Possession and Protection of Animals**

I ask the court to order the following:

- a. That the person in **1** be given the sole possession, care, and control of the animals listed below, which they own, possess, lease, keep, or hold, or which reside in their household.
(Identify animals by, e.g., type, breed, name, color, sex.)

I request sole possession of the animals because *(specify good cause for granting order)*:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 20a—Possession of Animals" for a title.

- b. That the person in **2** must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

21 **No Fee to Serve Orders** *If you want the sheriff or marshal to serve (notify) the person in **2** about the orders for free, ask the court clerk what you need to do.*

This is not a Court Order.



22 **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 22—Additional Orders Requested" for a title.

23 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

▶ _____
Signature of person making this request

This is not a Court Order.

Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a restraining order?

It is a court order that helps protect people from being abused.

Can I get a restraining order?

If you are a person 65 years or older or a dependent adult, you can ask for a restraining order if you have been or are being:

- Physically abused
- Financially abused
- Mentally or emotionally abused
- Neglected
- Abandoned or abducted
- Isolated, *or*
- Deprived by a caregiver of goods or services you needed to avoid harm or suffering

How will the order help me?

The court can order a person to:

- Not physically abuse, harass, hit, or threaten you
- Not contact or go near you, *and*
- Not have any firearms (guns), firearm parts, ammunition, **or body armor**. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

You can also ask for protection for people who live with you and family members.

Who can apply for an elder or dependent adult abuse restraining order?

In addition to the elder or dependent adult, the following persons may apply for a restraining order on behalf of the elder or dependent adult:

- A conservator or trustee of the elder or dependent adult
- An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney
- A person appointed as a guardian ad litem for the elder or dependent adult
- Any other person legally authorized to seek such relief.

How much does it cost?

There is no fee for filing a request for a restraining order.

You do not need to pay a fee for service of the order. A sheriff or marshal will serve the order for free. Or you may arrange for service by a registered process server or a private party and pay any fee that is charged.

The court can make the person who loses the case pay all the court fees and the lawyer's fees for the other party.

What forms do I need to get the order?

You must fill out all of form [EA-100](#), *Request for Elder or Dependent Adult Abuse Restraining Orders*, and form [CLETS-001](#), *Confidential CLETS Information*. If you need attachments, you may use form [MC-025](#), *Attachment*. You must also fill out items 1 and 2 on form [EA-109](#), *Notice of Court Hearing*, and items 1, 2, and 3 on form [EA-110](#), *Temporary Restraining Order*.

Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms.

You also may be able to find them at your local courthouse or county law library.

What do I need to do to get the order?

You must go to the superior court in the county where the abuse took place or the person to be restrained lives. At the court, ask where you should file your request for a restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the *Notice of Court Hearing* form, and if your request for immediate orders is granted, a copy of the *Temporary Restraining Order* signed by a judicial officer.

How soon can I get the order?

If you ask for a temporary restraining order, the court will decide within 24 hours whether or not to make the order. Sometimes the court decides sooner. Ask whether you should wait or come back later to get the signed *Notice of Court Hearing* and *Temporary Restraining Order*.



How long does the order last?

If the court makes a temporary order, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. The order could last for up to five years.

How will the person to be restrained know about the order?

Someone age 18 or older—**not you** or anyone else to be protected by the order—must “serve” (give) the person to be restrained a copy of the order. The server must then fill out form [EA-200](#), *Proof of Personal Service*, and give it to you to file with the court. For help with service, ask the court clerk for form [EA-200-INFO](#), *What Is “Proof of Personal Service”?*

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Do I have to go to court?

Yes. Go to court on the date the clerk gives you.

Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the abuse than just your word. You can bring:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030](#) for this.)

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the restrained person at the court hearing?

If the person comes to the hearing, yes. But that person does not have the right to speak to you. If you are afraid, tell the court officer.

Can I bring someone with me to court?

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)* or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

EA-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

1 Elder or Dependent Adult in Need of Protection

a. Full Name: _____
 Person requesting protection for the elder or dependent adult, if different (person named in item 3 of Form EA-100):
 Full Name: _____
 Lawyer for person named above (if any for this case):
 Name: _____ State Bar No.: _____
 b. Firm Name: _____
 Address for person named above (If you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____
 Court fills in case number when form is filed.
 Case Number: _____

2 Person You Want Protection From
 Full Name: _____
The court will complete the rest of this form.

3 Notice of Hearing
 A court hearing is scheduled on the request for restraining orders against the person in 2 :

Hearing Date	Date: _____	Time: _____	Name and address of court if different from above:	
	Dept.: _____	Room: _____	_____	

4 Temporary Restraining Orders (Any orders granted are on Form EA-110, served with this notice.)
 a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form EA-100, Request for Elder on Dependent Adult Abuse Restraining Orders are (check only one box below):
 All GRANTED until the court hearing.
 All DENIED until the court hearing. (Specify reasons for denial in b, below.)
 Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courts.ca.gov
 New January 1, 2012, Mandatory Form
 Welfare and Institutions Code, § 1567.03
 Approved by DOJ

Notice of Court Hearing (Elder or Dependent Adult Abuse Prevention) EA-109, Page 1 of 3



What if the restrained person's abuse caused me to owe money or debts?

If the restrained person's financial abuse caused you to have certain debts or bills (such as using your name to open a credit card and make purchases that you didn't agree to), you can ask the judge to make a special decision or finding that the restrained person caused you to have the debts or bills. This special finding may be helpful if you are sued for the debts or bills.

Information about the process is also available online.

See selfhelp.courts.ca.gov/EA-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

Can I agree with the restrained person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the restrained person would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Clerk stamps date here when form is filed.

DRAFT
2024-01-24
Not approved by
the Judicial Council

1 Elder or Dependent Adult in Need of Protection

a. Full Name: _____

Person requesting protection for the elder or dependent adult, if different (person named in item 3 of form EA-100):

Full Name: _____

Lawyer for person named above (if any for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address for person named above (If you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

2 Person You Want Protection From

Full Name: _____

The court will complete the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2:

Form box containing hearing date and court address information. Includes a 'Hearing Date' label and fields for Date, Time, Dept., Room, and Name and address of court.

To the person in 2:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

4 Temporary Restraining Orders (Any orders granted are on form EA-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form EA-100, Request for Elder on Dependent Adult Abuse Restraining Orders, are (check only one box below):

- (1) All GRANTED until the court hearing.
(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)
(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)



4 Temporary Restraining Orders (Continued)

b. Reasons for denial of some or all of those personal conduct and stay-away orders as requested in form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*, are:

(1) The facts as stated in form EA-100 do not sufficiently show reasonable proof of a past act or acts of abuse of the elder or dependent adult by the person in **(2)**.

(2) Other (*specify*): As stated on Attachment 4b.

5 Service of Documents by the Person in **(1)**

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form EA-109, *Notice of Court Hearing*, to the person in **(2)** along with a copy of all the forms indicated below:

- a. EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders* (file-stamped)
- b. EA-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. [EA-120](#), *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (blank form)
- d. [EA-120-INFO](#), *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?*
- e. Other(*specify*): _____

Date: _____

Judicial Officer

To the Person in **(1) :**

- The court cannot make the restraining orders after the court hearing unless the person in **(2)** has been personally given (served) a copy of your request and any temporary orders. To show that the person in **(2)** has been served, the person who served the forms must fill out a proof of service form. Form [EA-200](#), *Proof of Personal Service*, may be used.
- For information about service, read form EA-200-INFO, *What Is “Proof of Personal Service”?*
- You may ask to reschedule the hearing if you are unable to find the person in **(2)** and need more time to serve the documents, or for other good reasons. Read form [EA-115-INFO](#), *How to Ask for a New Hearing Date*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form [EA-100-INFO](#), *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?*



To the Person in ② :

- If you want to respond to the request for orders in writing, file form [EA-120](#), *Response to Request for Elder or Dependent Adult Abuse Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the person in ① .
- The person who mailed the form must fill out a proof of service form. Form [EA-250](#), *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to five years and may order you to sell or turn in any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form EA-115-INFO, *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate

[seal]

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

Person in 1 must complete items 1, 2, and 3 only.

DRAFT
2024-01-24
Not approved by
the Judicial Council

1 Protected Elder or Dependent Adult

a. Full Name:

Person requesting protection for the elder or dependent adult, if different (person named in item 3 of form EA-100):

Full Name:

Lawyer for person named above (if any, for this case):

Name: State Bar No.:

Firm Name:

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.):

Address:

City: State: Zip:

Telephone: Fax:

Email Address:

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: *Age: Date of Birth:
*Race: Height: Weight: Hair Color: Eye Color:
*Gender: M F Nonbinary Home Address:
City: State: Zip:
Relationship to Protected Person:

3 Additional Protected Persons

In addition to the elder or dependent adult named in 1, the following family or household members or conservator of that person are protected by the temporary orders indicated below:

Table with columns: Full Name, Gender, Age, Household Member?, Relation to Protected Person. Includes Yes/No checkboxes.

Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

4 Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: Time: a.m. p.m.

This is a Court Order.



To the Person in 2 :

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

5 Personal Conduct Orders

Not Requested Denied Until the Hearing Granted as Follows:

a. You must not do the following things to the elder or dependent adult named in 1

and to the other protected persons listed in 3:

- (1) Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.
(2) Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text messages, by fax, or by other electronic means.
(3) Take any action to obtain the person's address or location. If this item 3 is not checked, the court has found good cause not to make this order.
(4) Other (specify):
Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

Blank lines for specifying other personal conduct orders.

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in 1.

6 Stay-Away Orders

Not Requested Denied Until the Hearing Granted as Follows:

a. You must stay at least _____ yards away from (check all that apply):

- (1) The elder or dependent adult in 1 (5) The vehicle of the person in 1
(2) Each person in 3 (6) Other (specify):
(3) The home of the elder or dependent adult
(4) The job or workplace of the elder or dependent adult

Blank lines for specifying other stay-away locations.

b. This stay-away order does not prevent you from going to or from your home or place of employment.

7 Move-Out Order

Not Requested Denied Until the Hearing Granted as Follows:

You must immediately move out from and not return to (address):

Blank lines for specifying the address to move out from.

This is a Court Order.



8 No Firearms (Guns), Firearm Parts, or Ammunition

Not Issued (financial abuse only) **Granted as Follows:**

This order must be granted unless only financial abuse is alleged.

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b below.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. You must:
 - (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use form EA-800, *Receipt for Firearms and Firearm Parts*, for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

9 No Body Armor

If the order in **8** is granted, you cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

10 Financial Abuse

This case does **not** does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

11 Possession and Protection of Animals

Not Requested **Denied Until the Hearing** **Granted as Follows** (*specify*):

- a. The person in **1** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

- b. The person in **2** must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

This is a Court Order.



12 Other Orders

- Not Requested**
- Denied Until the Hearing**
- Granted as Follows** *(specify):*

- Additional orders are attached at the end of this Order on Attachment **12**.

To the Person in 1 :

13 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof of service form into CARPOS.
- b. The clerk will transmit this Order and its proof of service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof of service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- Additional law enforcement agencies are listed at the end of this Order on Attachment **13**.

14 No Fee to Serve (Notify) Restrained Person

If the sheriff or marshal serves this Order, he or she will do it for free.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Restrained Person in ②

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

If the court grants the orders in item ⑧, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item ⑧. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form EA-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that does not differ from this order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item ②.

If this address is not correct or you wish to verify that the temporary restraining order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form [EA-120-INFO](#), *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form [EA-120](#), *Response to Request for Elder or Dependent Adult Abuse Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response.
- You must have form EA-120 served on the person in ① (the person asking the court for protection of the elder or dependent adult or the elder or dependent adult if no other person is named in that item), or that person's attorney, by mail. You cannot do this yourself. The person who does the mailing should complete and sign form [EA-250](#), *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served signed by you and other persons who have personal knowledge of the facts. You may use form [MC-030](#), *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

This is a Court Order.



Start Date and End Date of Orders

This order *starts* on the date next to the judge’s signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk’s Certificate
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Response to Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

DRAFT 2024-01-29 Not approved by the Judicial Council

Use this form to respond to the Request (form EA-100)

- Read How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders? (form EA-120-INFO) to protect your rights.
Fill out this form and take it to the court clerk.
Have someone age 18 or older—not you—serve the person requesting protection in 1 by mail with a copy of this form and any attached pages. (Use form EA-250, Proof of Service of Response by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Elder or Dependent Adult Seeking Protection

Name:

Name of person asking for the protection, if different (This is the person named in item 3 of the request (form EA-100).)

2 Person From Whom Protection Is Sought

a. Your Name:

Your Lawyer (if you have one for this case)

Name: State Bar No.:

Firm Name:

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address:

City: State: Zip:

Telephone: Fax:

Email Address:

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form EA-109, item 3, here:

Hearing Date -> Date: Time: Dept.: Room:

If you were served with a Temporary Restraining Order, you must obey it until the hearing. At the hearing, the court may make orders against you that last for up to five years.

3 Personal Conduct Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify why you disagree in item 15 on page 4.)
I agree to the following orders (specify below or in item 15 on page 4):

4 Stay-Away Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify why you disagree in item 15 on page 4.)
I agree to the following orders (specify below or in item 15 on page 4):



5 **Move-Out Orders**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (*Specify why you disagree in item 15 on page 4.*)
- c. I agree to the following orders (*specify below or in item 15 on page 4*):
-
-

6 **Additional Protected Persons**

- a. I agree that the persons listed in item 6 of form EA-100 may be protected by the order requested.
- b. I do not agree that the persons listed in item 6 of form EA-100 may be protected by the order requested.

7 **Order for Counseling or Anger Management Courses**

i This item is only available in instances of alleged physical abuse or deprivation of care, not in cases with only alleged financial abuse.

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (*Specify why you disagree in item 15 on page 4.*)
- c. I agree to the following orders (*specify below or in item 15 on page 4*):
-
-

8 **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form EA-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item 8 of form EA-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) or firearm parts in your immediate possession or control within 24 hours of being served with form EA-110. You must file a receipt with the court. You may use form [EA-800, Receipt for Firearms and Firearm Parts](#), for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):

Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 8b—Firearms Surrender Exemption" as a title. You may use form [MC-025](#), Attachment.

- c. I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.

A copy of the receipt is attached. has already been filed with the court.



9 No Body Armor

If you were served with form EA-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)

10 Debts Caused by Financial Abuse

- a. I agree to the findings requested.
- b. I do not agree to the findings requested. (Specify why you disagree in item 15 on page 4.)
- c. I agree to the following findings (specify below or in item 15 on page 4):

11 Possession and Protection of Animals

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item 15 on page 4.)
- c. I agree to the following orders (specify below or in item 15 on page 4):

12 Other Orders

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item 15 on page 4.)
- c. I agree to the following orders (specify below or in item 15 on page 4):

13 Denial

I did not do anything described in item 8 of form EA-100. (Skip to 15.)



14 **Justification or Excuse**

If I did some or all of the things that the person in **1** has accused me of, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 14—Justification or Excuse" as a title. You may use form MC-025, Attachment.

15 **Reasons I Do Not Agree to the Requests**

Explain your answers to each order or finding requested that you do not agree with.

Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 15—Reasons I Disagree" as a title. You may use form MC-025, Attachment.



16 **Lawyer's Fees and Costs**

a. I ask the court to order payment of my lawyer's fees court costs. The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 16—Lawyer's Fees and Costs" for a title. You may use form MC-025, Attachment.

b. I ask the court to deny the request of the person asking for protection named in ① that I pay his or her lawyer's fees and costs.

17 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

Sign your name

How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?

What is an elder or dependent adult abuse restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

What does the order do?

The court can order you to:

- Not contact the person who is protected by the order
- Stay away from that person and the person's home and workplace
- Move out of the place where you and that person are living together
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

Who can ask for a restraining order?

A person who is being:

- Financially abused
- Abandoned or abducted
- Harmed
- Neglected
- Isolated
- Deprived by a caregiver of goods or services necessary to live on

A conservator may seek an order on behalf of an elder or dependent adult.

I've been served with a request for elder or dependent adult abuse restraining orders.

What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [EA-120](#), *Response to Request for Elder and Dependent Adult Abuse Restraining Orders*, before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form [EA-120](#) to the person who asked for the order (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail must fill out form [EA-250](#), *Proof of Service of Response by Mail*. Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300](#), *Request for Interpreter (Civil)* or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.



Should I go to the court hearing?

Yes. You should go to court on the date listed on form EA-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

EA-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

1 Elder or Dependent Adult in Need of Protection

a. Full Name: _____
 Person requesting protection for the elder or dependent adult, if different (person named in item 2 of Form EA-109):
 Full Name: _____
 Lawyer for person named above (if any for this case):
 Name: _____ State Bar No.: _____

b. Firm Name: _____
 Address for person named above (if you have a lawyer, give your lawyer's information. If you do not have a lawyer, give information for the person requesting the order. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____
 Court file in case number when form is filed.
 Case Number: _____

2 Person You Want Protection From
 Full Name: _____
The court will complete the rest of this form.

3 Notice of Hearing
 A court hearing is scheduled on the request for restraining orders against the person in 2: _____
 Name and address of court if different from above:
 Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

4 Temporary Restraining Orders (Any orders granted are on Form EA-110, served with this notice.)
 a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in Form EA-100, Request for Elder or Dependent Adult Abuse Restraining Orders are (check only one box below):
 (1) All GRANTED until the court hearing.
 (2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)
 (3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)

Judicial Council of California, www.courts.ca.gov
 New January 1, 2012, Mandatory Form
 Welfare and Institutions Code, § 16067.05
 Approved by DCS.

Notice of Court Hearing EA-109, Page 1 of 3
 (Elder or Dependent Adult Abuse Prevention)

Will I see the person who asked for the order at the court hearing?

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to five years.

What if I have a gun?

If a restraining order is issued, unless the order is to prevent financial abuse only, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the protected person would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

Information about the process is also available online.

See selfhelp.courts.ca.gov/EA-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

DRAFT
2024-01-24
Not approved by
the Judicial Council

Person in (1) must complete (1), (2), and (3) only.

1 Elder or Dependent Adult Seeking Protection

a. Full Name:
Name of person asking for the protection, if different (This is the person named in item (3) of the request (form EA-100).)
Full Name:
Lawyer for person named above (if any for this case):
Name: State Bar No.:
Firm Name:
b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
Address:
City: State: Zip:
Telephone: Fax:
Email Address:

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: *Age: Date of Birth:
*Race: Height: Weight: Hair Color: Eye Color:
*Gender: M F Nonbinary Home Address:
City: State: Zip:
Relationship to Protected Person:

3 Additional Protected Persons

In addition to the elder or dependent adult named in (1), the following family or household members or conservator of the elder or dependent adult named in (1) are protected by the orders indicated below:

Table with columns: Full Name, Gender, Age, Lives with Person in (1)?, Relation to Person in (1). Includes checkboxes for Yes/No.

Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

4 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: a.m. p.m. midnight on (date):

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



5 Hearing

- a. There was a hearing on *(date)*: _____ *at (time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
- (1) The elder or dependent adult in need of protection
 - (2) The lawyer for the elder or dependent adult *(name)*: _____
 - (3) The person in ① asking for protection (if not the elder or dependent adult)
 - (4) The lawyer for the person in ① asking for protection *(name)*: _____
 - (5) The person in ②
 - (6) The lawyer for the person in ② *(name)*: _____
- Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the elder or dependent adult named in ①
- and to the other protected persons listed in ③:
 - (1) Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other *(specify)*: _____
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

7 Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
- (1) The elder or dependent adult in ①.
 - (2) Each person in ③.
 - (3) The home of the elder or dependent adult. _____
 - (4) The job or workplace of the elder or dependent adult. _____
 - (5) The vehicle of the elder or dependent adult.
 - (6) Other *(specify)*: _____
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 **Move-Out Order**

You must immediately move out from and not return to (*address*):

and must take only the personal clothing and belongings you need.

9 **Order for Counseling or Anger Management**

a. The person in **(2)** is ordered to attend:

clinical counseling for _____ (*specify number*) sessions; or

an anger management course

provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the State of California to provide counseling or anger management courses).

b. The person in **(2)** must schedule clinical counseling or enroll in an anger management course by (*date*): _____, or if no date is listed, within 30 days after this order is made. The person in **(2)** is ordered to file written proof of scheduling or enrollment with the court.

c. Written proof of completion of the ordered number of clinical counseling sessions or written proof of completion of the court-ordered anger management course must be filed with the court by

(*date*): _____, or the person in **(2)** must appear for a court date on

(*date*): _____ at (*time*): _____ in Dept.: _____ Room: _____

10 **No Firearms (Guns), Firearm Parts, or Ammunition**

This Order must be granted unless the abuse is financial only.

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

(1) Firearms (guns);

(2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and

(3) Ammunition.

c. If you have not already done so, you must:

- Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.

- File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use form [EA-800](#), *Receipt for Firearms and Firearm Parts*, for the receipt.)

d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

This is a Court Order.



10 e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in **2** is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____

The firearm must be in the physical possession of the person in **2** only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in **2** may be subject to federal prosecution for possessing or controlling a firearm.

11 No Body Armor

If the order in **10** is granted, you cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

12 Financial Abuse

This case does **not** does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

13 Possession and Protection of Animals

a. The person in **1** is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

b. The person in **2** must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

14 Specific Debts

The court finds (decides) that the following debts were incurred as a result of financial abuse of the person in **1** by the person in **2**.

<u>Money Owed To:</u>	<u>For:</u>	<u>Amount:</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Additional debts are attached at the end of this Order on Attachment **14**.

15 Lawyer's Fees and Costs

You must pay to the person in **1** the following amounts for lawyer's fees costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment **15**.

This is a Court Order.



16 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment **16**.

To the Person in ① :

17 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof of service form into CARPOS.
- b. The clerk will transmit this Order and its proof of service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, you or your lawyer should deliver a copy of the Order and its proof of service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment **17**.

18 **Service of Order on Restrained Person**

- a. The person in ② personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. The person in ① was at the hearing. The person in ② was not.
 - (1) Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form EA-110 except for the end date. The person in ② must be served with this Order. Service may be by mail.
 - (2) Proof of service of form EA-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are different from the orders in form EA-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

19 **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, they will do so for free.

20 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warning and Notice to the Restrained Person in ②:**You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition**

If the court grants the orders in ⑩ on page 3 (unless item 10e on page 4 is checked), you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 10b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in ⑩. The court will require you to prove that you did so.

Instructions for Law Enforcement**Enforcing the Restraining Order**

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see ⑱), the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Order

This order *starts* on the date next to the judge's signature on page 5. The order *ends* on the expiration date in ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing (see ⑱) or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.

Instructions for Law Enforcement

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Elder or Dependent Adult Abuse Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

EPO-002 GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name): _____

Address: _____

Gender: M F Nonbinary Ht.: _____ Wt.: _____ Hair color: _____

Eye color: _____ Race: _____ Age: _____ Date of birth: _____

2. TO THE RESTRAINED PERSON

(Also see important Warnings and Information on page 2):

You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

If you have any firearms (guns), firearm parts (receivers, frames, and any item that may be used as or easily turned into a receiver or frame), ammunition, or magazines, you MUST IMMEDIATELY SURRENDER (GIVE) THEM if asked by a police officer. If a police officer does not ask you to surrender the items, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. If you do not file a receipt within 48 hours you have violated this order and can go to jail.

You cannot own, possess, or buy body armor (defined in Penal Code section 16288).

You must relinquish any body armor you have in your possession.

3. This order will last until: _____ Time _____

INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. Court Hearing A court hearing will be set within 21 days.

A court hearing will take place at the court above on: Date: _____ Time/Dept: _____

You must attend the court hearing if you do not want this restraining order against you. You may attend the hearing remotely (check your court's website for instructions). At the hearing, the judge can make this order last for up to five years.

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to themselves or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, firearm parts, ammunition, or magazines; and (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): _____ granted this order on (date): _____ at (time): _____

APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

8. Firearms (including parts) were observed reported physically searched for seized.

Ammunition (including magazines) was observed reported physically searched for seized.

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

By: _____
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____

Telephone No: _____ Badge No: _____

Address: _____

PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person name in item 1.

Date of service: _____ Time of service: _____ Address: _____

10. At the time of service, I was at least 18 years of age.

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

Date: _____
(TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER)

(SIGNATURE OF SERVER)

Clerk stamps date here when form is filed.

DRAFT
2024-01-24
Not approved by
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

GUN VIOLENCE EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-002

TO THE RESTRAINED PERSON: You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm (gun), a firearm part (a receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or a magazine. (Pen. Code, §§ 16531 & 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19 & 18205.) Within 24 hours of receipt of this order, you must turn in all items listed above to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use form GV-800, *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines*.

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use form GV-020, *Response to Gun Violence Emergency Protective Order*. A longer-term restraining order may be requested from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm (gun), firearm part (a receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or magazine for an additional five-year period, to begin on the expiration of the existing gun violence restraining order. (Pen. Code, §§ 16531 & 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

A LA PERSONA RESTRINGIDA: Tiene prohibido ser dueño de, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, un componente de armas de fuego (un receptor o armadura, o cualquier artículo que puede ser usado como receptor o armadura o fácilmente convertido en receptor o armadura), municiones o cargadores. (Cód. Penal, §§ 16531 & 18125 y siguientes). Una violación de esta orden es un delito menor que está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Cód. Penal, §§ 19 & 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar todos los artículos indicados arriba a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Cód. Penal, § 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden, o el próximo día hábil, si el periodo de 48 horas termina un día en que está cerrada la corte. También tiene que presentar el recibo a la agencia del orden público que le entregó esta Orden. Se puede usar el formulario GV-800, *Recibo por armas de fuego, componentes de armas de fuego, municiones, y cargadores*.

Se le prohíbe ser dueño de, poseer, o comprar blindaje personal (de acuerdo con la definición en la sección 16288 del Código Penal). Tiene que entregar todo blindaje personal que tenga en su posesión.

Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Se puede solicitar a la corte una orden de restricción a más largo plazo.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, un componente de armas de fuego (un receptor o armadura, o cualquier artículo que puede ser usado como receptor o armadura o fácilmente convertido en receptor o armadura), municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego existente. (Cód. Penal, §§ 16531 & 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma tiene que hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

To law enforcement: The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, firearm parts, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable, but not later than three court days, after issuance, so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

Clerk stamps date here when form is filed.

DRAFT
2024-02-06
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the Judicial Council

Use this form if you do not want the court to extend the *Gun Violence Emergency Protective Order* for a period of time between 1–5 years.

1. Read *How Can I Respond to a Gun Violence Emergency Protective Order?* (form [GV-020-INFO](#)) to protect your rights.
2. Fill out this form and take it to the filing window at the court.
3. Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the law enforcement agency that applied for the *Gun Violence Emergency Protective Order* (form [EPO-002](#)). (Use *Proof of Service by Mail* (form [GV-025](#))).

Fill in court name and street address:

Superior Court of California, County of

See Notice of Hearing for case number and fill in:

Case Number:

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

2 Restrained Person

a. Your Name: _____
 Your Lawyer *(if you have one for this case)*:
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information. You do not have to give telephone, fax, or email address.)*

Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from the Notice of Hearing or *Gun Violence Emergency Protective Order* (form [EPO-002](#)) here:

Hearing Date

→ Date: _____ Time: _____
Dept.: _____ Room: _____

You must obey the *Gun Violence Emergency Protective Order* until the expiration date. At the hearing, the court may make an order against you for a period of time between 1–5 years.

3 Gun Violence Restraining Order

I do not agree that a gun violence restraining order should be extended for 1–5 years *(explain)*:

Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 3—Reasons I Disagree” as a title. You may use form [MC-025](#), Attachment.



4 **Denial, Justification, or Excuse**

- I did not do anything described in item 7 of form EPO-002.
- If I did some of the things stated in the Gun Violence Emergency Protective Order, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 4—Denial, Justification, or Excuse” as a title. Use form MC-025, Attachment.

5 **Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

A Gun Violence Emergency Protective Order (form EPO-002) was issued against you. You cannot own or possess any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). You must turn over any of these items in your possession to law enforcement when they ask you to do so. If not asked, you must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any of the above listed items in your immediate possession or control within 24 hours of being served with form EPO-002. You must file a receipt with the court and the law enforcement agency. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form [GV-800](#)) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt
 - is attached has already been filed with the court and the law enforcement agency.

6 **No Body Armor**

If you were served with form GV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I have or will ask for an exception to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



7 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)



Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name



Sign your name

What is a *Gun Violence Emergency Protective Order* (form EPO-002)?

It is a court order requested by law enforcement that prohibits someone from having any of the following prohibited items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store all prohibited items listed above that they currently own. The restrained person also may not own, possess, or buy body armor. If they have body armor, they must relinquish it.

For more information about prohibited items, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

Who can ask for a gun violence emergency protective order?

The gun violence emergency protective order must have been requested by a law enforcement officer and was issued by a judicial officer based on the statements made under penalty of perjury in the protective order.

I've been served with a *Gun Violence Emergency Protective Order* (form EPO-002) and a *Notice of Court Hearing*. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* or form EPO-002 tells you when to appear for court and where the court is located. If you want to attend the hearing remotely, such as by phone or videoconference, check your local court’s website for instructions and availability. Follow the *Gun Violence Emergency Protective Order* (form EPO-002) prohibiting you from having any prohibited items listed above and requiring you to surrender, sell, or store any prohibited items that you currently own or possess. You must obey the order until the expiration date on the form.



What if I don't obey the emergency protective order?

The police can arrest you. You can go to jail and pay a fine. You may also be prohibited for a longer period of time from having access to firearms, firearm parts, ammunition, and magazines.

What if I don't want the order to be extended?

If you disagree with the order that has been issued and do not want the court to extend it for a longer time, fill out *Response to Gun Violence Emergency Protective Order* (form GV-020), before your hearing date. File the form with the court and serve it on the requesting law enforcement agency. You can get the form from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find it at your local courthouse or county law library.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of the completed *Response to Gun Violence Emergency Protective Order* (form GV-020) to the law enforcement agency that issued the *Gun Violence Emergency Protective Order* (form EPO-002). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-025). Have the person who did the mailing sign the original form GV-025. Take the completed form back to the court clerk or bring it with you to the hearing.



Should I attend the court hearing?

Yes. You should attend the hearing listed on the *Notice of Court Hearing* or the *Gun Violence Emergency Protective Order* (form EPO-002). You can do so remotely, such as by telephone or videoconference, or go to court in person. If you do not attend the hearing, the judge can extend the order against you for a period of time between 1–5 years without hearing from you.

**Will I see the person who asked for the court order at the court hearing?**

It's possible the law enforcement officer may appear at the court hearing.

Can I attend the court hearing remotely, such as by telephone or videoconference?

Yes. Remote appearances are permitted for parties and witnesses. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find at www.courts.ca.gov/find-my-court.htm.

**What if I need help to understand English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form [MC-030](#)) for this purpose.)

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

For help in your area, contact:

[Local information may be inserted.]

How long does the order last?

The *Gun Violence Emergency Protective Order* (form EPO-002) will last until the expiration date listed on the front of the form in item 3. The court will decide at the hearing whether to issue a gun violence restraining order that can last for a period of time between 1–5 years.

Clerk stamps date here when form is filed.

**DRAFT
2024-01-24
Not approved by
the Judicial Council**

The court will complete this form.

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

Law enforcement agency or officer that applied for the Gun Violence Emergency Protective Order:

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Restrained Person

Full Name: _____

Lawyer *(if there is one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Description of Restrained Person

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

Home Address: _____

City: _____ State: _____ Zip: _____

3 Expiration Date

This order expires at:

(Time): _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this order expires one year from the date of issuance.

4 Hearing

a. There was a hearing on (date): _____ at (time): _____ in Dept.: _____ Room: _____.

(Name of judicial officer): _____ made the orders at the hearing.

b. These people attended the hearing:

(1) The officer or representative of the Requesting Agency _____

(2) The Restrained Person Lawyer for the Restrained Person (name): _____

This is a Court Order.



5 Findings

a. The court finds by clear and convincing evidence that the following are true:

- (1) The Restrained Person poses a significant danger of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- (2) A gun violence restraining order is necessary to prevent personal injury to the Restrained Person or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- (3) The court has received credible information that the Restrained Person owns or possesses one or more firearms, firearm parts, ammunition, or one or more magazines.
- (4) The facts as stated in the *Gun Violence Emergency Protective Order* (form EPO-002) and supporting documents submitted at the time of the hearing, which are incorporated here by reference, and for the reasons set forth below, establish sufficient grounds for the issuance of this Order.

See the attached *Attachment* (form MC-025)

b. A gun violence restraining order is not being issued for the reasons below:

This is a Court Order.

6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item **4** is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**
- e. **Order dissolving (terminating) *Gun Violence Emergency Protective Order*.**
The court dissolves (terminates) the *Gun Violence Emergency Protective Order* (form EPO-002) originally issued on (date): _____ as of (date of hearing): _____.

7 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

8 Service of Order on the Restrained Person

- a. The Restrained Person was present in court at the time the order was issued. No other proof of service is needed. The clerk has provided the Restrained Person with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.
- b. The Restrained Person was not present in court at the time the order was issued. The Restrained Person must be personally served with a court file-stamped copy of this order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.

9 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Restrained Person

To the restrained person: This order will last until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of up to five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any of those items that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Restrained Person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Restrained Person claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

This is a Court Order.



Instructions for Law Enforcement

(continued)

Enforcing This Order

The law enforcement officer should determine if the Restrained Person had notice of the order. Consider the Restrained Person “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file;
- The Restrained Person was informed of the order by an officer; or
- Item 7a is checked, indicating the Restrained Person was present in court at the time the order was issued.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing on EPO-002* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV)* (form GV-030) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

**DRAFT
2024-01-24
Not approved by
the Judicial Council**

Read *Can a Gun Violence Restraining Order Help Me?* (form [GV-100-INFO](#)) before completing this form.

1 Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

I am:

- A family member of the Respondent.
- An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed. If you wrote your full name above, write the name of the law enforcement agency that employs you:*)

An employer of the Respondent (*your position and name of company*):

A coworker of the Respondent. I have had substantial and regular interactions with the Respondent for at least one year and I have obtained the approval of my employer to file this petition (*name of company*):

An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months. I have obtained the approval of a school administrator to file this petition (*name of the school*):

A roommate of the Respondent. I currently live with the Respondent or lived with the Respondent within the past six months and have had substantial and regular interactions with the Respondent for at least one year.

A person who has a dating relationship with the Respondent.

A person who has a child in common with the Respondent. I have had substantial and regular interactions with the Respondent for at least one year.

b. Your Lawyer (*if you have one for this case*): Name: _____

Firm Name: _____ State Bar No.: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____ Telephone: _____

City: _____ State: _____ Zip: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Respondent

Full Name: _____ Age: _____

Address (*if known*): _____

City: _____ State: _____ Zip: _____

This is not a Court Order.



3 Venue

Why are you filing in this county? (Check all that apply):

- a. The Respondent lives in this county.
- b. Other (specify): _____

4 Other Court Cases

a. Are you aware of any other court cases, civil or criminal, involving the Respondent?

- Yes No *If yes, check each kind of case and give as much information as you know as to where and when each was filed:*

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(2)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(3)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(8)	<input type="checkbox"/> Criminal	_____	_____	_____
(9)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to Respondent?

- Yes No I don't know *If yes, attach a copy if you have one.*

5 Description of Respondent's Firearms (Guns), Firearm Parts, Ammunition, or Magazines

Answer 5a or check 5b if you have reason to believe that the respondent is in possession of firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

a. I am informed, and on that basis believe, that Respondent currently possesses or controls the following firearms, firearm parts, ammunition, or magazines (describe the number, types, and locations of any of those items that you believe that the Respondent currently possesses or controls):

	<u>Types of firearms (guns), firearm parts, ammunition or magazines</u>	<u>How many or what amount?</u>	<u>Location, if known</u>
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____
(6)	_____	_____	_____

b. I am informed, and on that basis believe, that Respondent currently possesses or controls firearms, firearm parts, ammunition, or magazines, but I have no further specific information as to the number, types, and locations of those items.

This is not a Court Order.



6 Reasons a Gun Violence Restraining Order is Needed

Explain why a gun violence restraining order is needed. This explanation should include: (1) how the Respondent poses a danger to themselves or others by having a firearm (gun), a firearm part (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or a magazine; and (2) whether other less restrictive alternatives to a gun violence restraining order have been tried and found to be ineffective, or why other less restrictive alternatives have been determined to be inadequate or inappropriate for the current circumstances. If any of the following have occurred, you should include information about them:

- Threats or acts of violence or physical force by the Respondent.
• Violation of a protective order by the Respondent.
• The Respondent being convicted of illegally possessing a firearm (gun).
• The Respondent being arrested for a felony offense.
• The unlawful and reckless use, display, or brandishing of a firearm (gun) by Respondent.
• Recent criminal offenses by the Respondent that involve illegal drugs or alcohol.
• Recent acquisition of firearms (guns), ammunition, other deadly weapons, or body armor by the Respondent.
• Any other evidence of an increased risk for violence by the Respondent.

The facts supporting the above statements are set forth:

- Below
On Attached Declaration (form MC-031).

Blank lines for providing supporting facts.

7 Request for Gun Violence Restraining Order

I request that the court issue an order prohibiting Respondent from having in their custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). I further request that Respondent be ordered to immediately surrender (turn in, sell, or store) all firearms, firearm parts, ammunition, and magazines currently in their possession to a law enforcement officer or to sell those items to or store them with a licensed gun dealer.

- a. I request the order above for _____ years. (Please include a number of years between one and five years.)
b. I am asking for this amount of time because:

Blank lines for explaining the amount of time requested.

8 No Body Armor

If an order is granted, respondent will be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.

This is not a Court Order.



9 No Fee to Serve (Notify) Restrained Person

If you want the sheriff or marshal to serve (notify) the restrained person about the orders, they will do it for free.

10 Request for Hearing

I request that the court set a hearing in this matter for the purpose of issuing a gun violence restraining order that will last between one and five years.

11 Temporary Gun Violence Restraining Order

I request that a temporary gun violence restraining order be issued against the Respondent to last until the hearing. I am presenting *Temporary Gun Violence Restraining Order* (form [GV-110](#)) for the court’s signature together with this Petition.

Has the Respondent been told that you were going to court to seek a temporary gun violence restraining order?

Yes No *(If you answered no, explain why below):*

Reasons stated in Attachment **11**.

12 Request to Give Less Than Five Days' Notice of Hearing

You must have your papers personally served on Respondent at least five calendar days before the hearing, unless the court orders a shorter time for service. (See What Is “Proof of Personal Service”? (form [GV-200-INFO](#)). Proof of Personal Service (form [GV-200](#)) may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Reasons stated in Attachment **12**.

13 Number of pages attached to this form, if any: _____

Date: _____

Lawyer’s name (if any)

▶ _____
Lawyer’s signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

This is not a Court Order.

GV-100-INFO Can a Gun Violence Restraining Order Help Me?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer or a self-help center.

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any of the following items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531) (these may also be called “ghost guns”);
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store any prohibited items listed above that that person currently owns. The police will come and remove the items or the person can store them with a licensed gun dealer while the restraining order is in effect. The restrained person also cannot buy any of the prohibited items during this time. The restrained person also may not own, possess, or buy body armor. If they have body armor, they must relinquish it.

For more information about prohibited items, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

Can I get a gun violence restraining order against someone?

You can ask for one if you are connected to the person you think is dangerous as:

- An immediate family member;
- An employer;
- A coworker who has substantial and regular interactions with the person and has worked with them for at least a year. You must have permission from your employer to ask for the restraining order;
- An employee or teacher at a school that the person has attended in the last six months, where you have permission from a school administrator or staff member who has a supervisory role;
- A law enforcement officer or agency;
- A roommate who resided in the household in the past six months and has had substantial and regular interactions with the person for at least a year;
- Somebody in a dating relationship; or
- Somebody who shares a child with the person and has had substantial and regular interactions with the person for at least a year.

Immediate family members include:

- Your spouse or domestic partner;
- You or your spouse’s parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparents or stepgrandparents; and
- You or your spouse’s aunts, uncles, nieces, nephews, first and second cousins, great-grandparents, and great-grandchildren if you have had substantial and regular interactions for at least a year.

If you do not have the necessary relationship, advise a law enforcement officer of the situation. The officer may investigate and file the petition if grounds exist.

Will I have to pay a filing fee to request the order?

No.

Will the order protect me in other ways, such as keeping the person from coming near me?

No, the only order the court can make is to force the person to not have the prohibited items listed above. If you need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act. See *Can a Domestic Violence Restraining Order Help Me?* (form [DV-500-INFO](https://selfhelp.courts.ca.gov/forms/dv-500-info)) for information on how to proceed. For information on other civil restraining orders, please see selfhelp.courts.ca.gov/restraining-orders-california.

What forms do I need to get the order?

You must fill out the following forms:

- *Petition for Gun Violence Restraining Order* (form [GV-100](https://selfhelp.courts.ca.gov/forms/gv-100));
- *Confidential CLETS Information* (form [CLETS-001](https://selfhelp.courts.ca.gov/forms/clets-001));
- *Notice of Court Hearing* (form [GV-109](https://selfhelp.courts.ca.gov/forms/gv-109)), items 1 and 2 only; and
- *Temporary Gun Violence Restraining Order* (form [GV-110](https://selfhelp.courts.ca.gov/forms/gv-110)), items 1 and 2 only.

You may need other local forms. Ask your self-help center or visit your court’s website.

Where can I get these forms?

You can get the forms from legal publishers or the internet at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.



What do I need to do to get the order?

You must file your papers with the superior court in the county where the person to be restrained lives. Check online or ask the court how to file your request for a gun violence restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) File your forms electronically or give your forms to the clerk of the court. The court will give you a hearing date on the *Notice of Court Hearing* form.

How soon can I get the order?

You can ask for a temporary gun violence restraining order, which will be effective right away if granted. The court may decide whether or not to grant the temporary order based only on the facts that you have stated in your petition. If so, the court will decide within 24 hours whether or not to make the temporary order. Sometimes the court will want to examine you personally under oath. If you file in person, the clerk will tell you whether you should wait to talk to the judge or come back later to find out if the court has signed a temporary order.

If you don't ask for a temporary restraining order, you will have to wait until the hearing, at which the court will decide whether to make an order that will last for a period of time between 1–5 years.

How will the person to be restrained know about the order?



If the court issues a temporary restraining order, someone age 18 or older—**not you**—must personally “serve” (give) the person to be restrained a copy of the order. The server must then fill out *Proof of Personal Service* (form [GV-200](#)) and give it to you to file with the court. If the person to be restrained attends the hearing, no further proof of service is required. But if they do not attend the hearing, then any order issued at the hearing must also be personally served. For help with service, ask the court clerk for *What Is “Proof of Personal Service”?* (form [GV-200-INFO](#)). Note: A sheriff or marshal can serve the order for free.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

What do I have to prove to get the order?

You will have to convince the judge that the person to be restrained poses a significant danger in the near future of causing personal injury to themselves or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving any of the prohibited items listed on page 1.

You will also have to convince the judge that a gun violence restraining order is needed to prevent personal injury to the person to be restrained or to another person because less restrictive alternatives either have been tried and haven't worked, or are inadequate or inappropriate for the current circumstances.

How can I convince the judge?



You will need to give the judge specific information. You should tell the judge everything that you know about the firearms, firearm parts, ammunition, **body armor**, or magazines that the person to be restrained currently owns, including how many the person owns, the types, and where they are kept.

Then you will need to present facts to show that the person to be restrained is dangerous to themselves or others. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person has committed. It could also be evidence that the person to be restrained has violated a protective order or abuses controlled substances or alcohol. It could also be evidence of the unlawful and reckless use, display, or brandishing of a firearm or the recent acquisition of a firearm **or body armor**. Or it could be evidence that the person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms.

You should include all of this information in your Petition and also be prepared to present it to the judge at the hearing.



Do I have to attend a court hearing?

Yes. Attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109).

GV-109 Notice of Court Hearing

1 Petitioner

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by (name of law enforcement agency): _____

b. Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

c. Your Address (if you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail information.)
 Law enforcement officer, give agency information: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

2 Respondent
 Full Name: _____

3 Hearing
 The court will complete the rest of this form.
 Name and address of court if different from above: _____

Hearing
 Date: _____ Time: _____
 Dept.: _____ Room: _____

4 Temporary Gun Violence Restraining Order (Any order granted is on Form GV-110, served with this notice.)
 a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):
 GRANTED until the court hearing.
 DENIED until the court hearing. (Specify reasons for denial in h, below.)

Additional Court of California, www.courts.ca.gov
 Rev. January 1, 2025. Replaces Form
 GV-109, 1/2015. Replaces Form
 GV-109, 1/2015. Replaces Form
 Approved by SDO.

Notice of Court Hearing
 (Gun Violence Prevention)

GV-109, Page 1 of 3

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court’s website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Can someone attend the hearing with me?

Yes. Someone can sit with you during the hearing, but that person cannot speak for you to the court. Only you or your lawyer (if you have one) can speak for you.

Do I need to bring a witness to the hearing?

Witnesses are not required, but it helps to have more proof than just your word. For example, consider bringing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use *Declaration* (form [MC-030](#)) for this purpose.)

Will I see the restrained person at the court hearing?

If the person attends the hearing, yes. If you are afraid, tell the court.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date, which must be within 21 days of the date of the temporary order. If at the hearing the court issues a more permanent order, it will last for one to five years. It may be renewed for an additional one to five years.

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Can I agree with the restrained person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. The restrained person would have to file a request with the court to terminate the order.

Aa 我 What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Information about the process is also available online.

selfhelp.courts.ca.gov/GV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

DRAFT
2024-01-24
Not approved by
the Judicial Council

Petitioner must complete items ① and ② only.

① Petitioner

Your Full Name or Name of Law Enforcement Agency: _____

- I am: A family member of the Respondent.
 An officer of a law enforcement agency.
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
 A roommate of the Respondent.
 A person who has a dating relationship with the Respondent.
 A person who has a child in common with the Respondent.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Respondent

Full Name: _____

The court will complete the rest of this form.

③ Hearing

Hearing Date	Date: _____	Time: _____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

To the person in ② :

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

④ Temporary Gun Violence Restraining Order *(Any order granted is on form GV-110, served with this notice.)*

a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is *(check only one box below)*:

- (1) **GRANTED** until the court hearing.
(2) **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*



4 b. Reasons for denial of a Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) are:

- (1) [] The facts as stated in form GV-100 do not show that there is a substantial likelihood that both of the following are true:

Respondent poses a significant danger of causing personal injury to themselves or another person by having custody or control of, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

- (2) [] Other (as stated): [] Below [] On Attachment 4b(2)

5 Service of Documents on Respondent

At least [] five [] _____ calendar days before the hearing, a law enforcement officer or someone age 18 or older—and not a party to the action—must personally give (serve) a court file-stamped copy of this form GV-109 to the Respondent, along with a copy of all the forms indicated below:

- a. GV-100, *Petition for Gun Violence Restraining Order* (file-stamped)
- b. [] GV-110, *Temporary Gun Violence Restraining Order* (file-stamped) **IF GRANTED**
- c. [GV-120](#), *Response to Petition for Gun Violence Restraining Order* (blank form)
- d. [GV-120-INFO](#), *How Can I Respond to a Petition for a Gun Violence Restraining Order?*
- e. [GV-125](#), *Consent to Gun Violence Restraining Order and Surrender of Firearms* (blank form)
- f. [] Other (specify): _____

Date: _____

Judicial Officer



To the Petitioner in 1:

- The court cannot make an order at the court hearing unless the Respondent has been personally given (served) a copy of the Petition and a temporary order if issued. To show that the Respondent has been served, the person who served the forms must fill out a proof of service form. *Proof of Personal Service* (form [GV-200](#)) may be used.
- For information about service, read *What Is “Proof of Personal Service”?* (form [GV-200-INFO](#)).
- You may ask to reschedule the hearing if you are unable to find the Respondent and need more time to serve, or for other good reasons. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form [GV-115](#)).
- You must attend the hearing if you want the judge to make any of the orders you requested on form GV-100, *Petition for Gun Violence Restraining Order*. Bring any evidence or witnesses you have. For more information, read form [GV-100-INFO](#), *Can a Gun Violence Restraining Order Help Me?*

To the Respondent:

- If you want to oppose the *Petition for Gun Violence Restraining Order* (form GV-100) in writing, file *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) and have someone age 18 or older—**not you**—mail it to the Petitioner.
- The person who mailed the form must fill out a proof of service form. *Proof of Service by Mail* (form [GV-250](#)) may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may order you to turn in to law enforcement, or sell to or store with, a licensed gun dealer, any firearms (guns), firearm parts, ammunition, or magazines that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If issued, the order will last for one year. **If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you do not oppose the petition and are willing to give up your firearm rights, complete and file a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)).
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form GV-115).

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk’s Certificate—

I certify that this *Notice of Court Hearing* (form GV-109) is a true and correct copy of the original on file in the court.

Clerk’s Certificate

Date: _____

[seal]

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

**DRAFT
2024-01-24
Not approved by
the Judicial Council**

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent
 An officer of a law enforcement agency
 An employer of the Respondent
 A coworker of the Respondent
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months
 A roommate of the Respondent.
 A person who has a dating relationship with the Respondent.
 A person who has a child in common with the Respondent.

b. Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____
Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)

Address: _____
City: _____ State: ____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Respondent

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

The court will complete the rest of this form.

③ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



4 Findings

- Having examined Petitioner and other witnesses under oath,
- Having considered the declarations of Petitioner and other witnesses under penalty of perjury,

a. The court finds that there is a substantial likelihood that both of the following are true:

- (1) Respondent poses a significant danger in the near future of causing personal injury to themselves or another person by having in their custody or control, owning, purchasing, possessing, or receiving firearms, firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).
- (2) A temporary gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

- b. The court has received credible information that Respondent owns or possesses one or more firearms, firearm parts, ammunition, or magazines.
- c. The facts as stated in the Petition and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order. And for the reasons stated below.

See the attached *Attachment* (form MC-025).

5 No Fee to Serve (Notify) Restrained Person

If the sheriff or marshal serves this order, service will be free.

This is a Court Order.



6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. The court has received credible information that you own or possess one or more prohibited items that have not been turned in, sold, or stored. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item **3** is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form [GV-800](#)) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

7 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

8 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this order is in effect. A hearing will be held on the date and at the time noted on Page 1 to determine if a more permanent gun violence restraining order should be issued. Failure to appear at the hearing may result in a court making an order against you that is valid for a period between one and five years. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Violation of this Order is a misdemeanor. If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be changed only by an order of the court.

After You Have Been Served With a Temporary Order

- Obey the order by turning in all firearms (guns), firearm parts, ammunition, and magazines to a law enforcement agency or selling them to or storing them with a licensed gun dealer.
- Read *How Can I Respond to a Petition for Gun Violence Restraining Order?* (form [GV-120-INFO](#)) to learn how to respond to this Order.
- If you do not oppose the petition, fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)) and file it with the court clerk.
- If you disagree with the petition, fill out *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) and file it with the court clerk.
- You must have form GV-120 served by mail on the Petitioner or the Petitioner's attorney. You cannot do this yourself. The person who does the mailing should complete and sign *Proof of Service by Mail* (form [GV-250](#)). File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use *Declaration* (form [MC-030](#)) for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also attend the hearing. You and your witnesses may attend the hearing remotely (check with your court for instructions).
- At the hearing, the judge can make a gun violence restraining order against you that lasts between one to five years. Tell the judge why you disagree with the order requested.

This is a Court Order.



Instructions for Law Enforcement**Duties of Officer Serving This Order**

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form [GV-200](#) for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, or Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the termination or expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this Order or of any later gun violence restraining order issued by the court, return the prohibited items to the respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The Respondent was informed of the order by an officer; or
- The officer sees a filed copy of form GV-125.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the Respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Temporary Gun Violence Restraining Order* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other another existing protective order remain in effect.

(Clerk will fill out this part.)

Clerk’s Certificate
[seal]

—Clerk’s Certificate—

I certify that this *Temporary Gun Violence Restraining Order (CLETS-TGV)* (form GV-110) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT
2024-01-29
Not approved by
the Judicial Council

Use this form to respond to the Petition (form GV-100)

- Read *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form [GV-120-INFO](#)) to protect your rights.
- If you agree to the Petition for a gun violence restraining order filed against you, use *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)) to agree to a voluntary gun violence restraining order.
- If you do not agree to the gun violence restraining order filed against you, fill out this form and take it to the filing window at the court.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form [GV-250](#).)

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:

1 Petitioner

Name of person or law enforcement agency seeking order (*see form GV-100, item 1*):

2 Respondent

a. Your Name: _____
 Your Lawyer (*if you have one for this case*):
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.*)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from form GV-109 item 3 here:

Hearing Date → Date: _____ Time: _____
 Dept.: _____ Room: _____

If a Temporary Gun Violence Restraining Order was issued, you must obey it until the hearing. At the hearing, the court may make an order against you for one to five years.

3 Gun Violence Restraining Order

I do not agree to the order requested in the Petition because:

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use Attachment (form MC-025).



4 **Denial**

I did not do anything described in item **6** of form GV-100.

5 **Justification or Excuse**

If I did some or all of the things that the Petitioner has accused me of, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5—Justification or Excuse" as a title. You may use Attachment (form MC-025).

6 **Firearms (Guns), Firearms Parts, Ammunition, and Magazines**

If a *Temporary Gun Violence Restraining Order* (form GV-110) was issued, you cannot own or possess any firearms (guns), firearm parts, ammunition, or magazines. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item **6** of form GV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency or officer, any of those items in your immediate possession or control within 24 hours of being served with form GV-110. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt is attached. has already been filed with the court.

7 **No Body Armor**

If you were served with form GV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (Attach a copy of the letter granting permission, if you have one.)



8 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)



Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name



Sign your name

How Can I Respond to a Petition for a Gun Violence Restraining Order?

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any firearms (guns), firearm parts (also called “ghost guns”), ammunition, or magazines (any ammunition feeding device). This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). The person must turn in, sell, or store all such items that the person currently owns. The person also may not own, possess, or buy body armor. If they have body armor, they must relinquish it.

For more information about prohibited items and obeying these orders, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

I've been served with a *Petition for Gun Violence Restraining Order*. What do I do?

Read the papers served on you very carefully. The *Notice of Court Hearing* (form GV-109) tells you when to appear in court. There may also be a *Temporary Gun Violence Restraining Order* (form GV-110) prohibiting you from having any firearms (guns), firearm parts, ammunition, or magazines and requiring you to turn in, sell, or store any such items that you currently own or possess. You must obey the order until the hearing.

Who can ask for a gun violence restraining order?

The petition must have been filed by a:

- Law enforcement officer or agency,
- An employer,
- A coworker who has had “regular interactions” with you for at least a year,
- A teacher or employee of a school that you have attended in the last 6 months,
- An immediate family member of yours,
- A roommate,
- Somebody in a dating relationship with you, or
- Somebody who shares a child with you.

“Immediate family member” is defined to include people who are not blood relatives. The definition includes (1) your spouse or domestic partner; (2) you or your spouse’s parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent; and (3) you or your spouse’s aunts, uncles, nieces, nephews, first and second cousins, great-grandparents, and great-grandchildren if you have had substantial and regular interactions for at least a year.

What if I don't obey the temporary order?

The police can arrest you. You can go to jail and pay a fine. You could lose access to firearms and other items for a longer period of time.



What if I don't agree with what the order says?

If you disagree with the order that the Petitioner is asking for, fill out *Response to Petition for Gun Violence Restraining Order* (form [GV-120](#)) before your hearing date and file it with the court. You can get the form from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find it at your local courthouse or county law library.

What if I don't oppose the Petition?

If you agree to give up your access to firearms and your rights to own, possess, and buy guns, firearm parts, ammunition, and magazines for the time period requested in the petition, which is between one and five years, then you can fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form [GV-125](#)) and check the box for item 4a. Make sure you take it to the court clerk and file it, and then mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date, and the court will mail you a copy of the order. Make sure you check with the court to see if you have to show up for your court date.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed *Response to Petition for Gun Violence Restraining Order* (form GV-120) to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form [GV-250](#)). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.



Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.



Should I attend the court hearing?

Yes. You should attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109). If you do not attend the hearing, the judge can extend the order against you for a period between one and five years without hearing from you.

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Information about the process is also available online.

selfhelp.courts.ca.gov/GV-restraining-order.

How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide whether to issue a gun violence restraining order that can last for one to five years.

Will I see the person who asked for the order at the court hearing?

Assume that the person who is asking for the order will attend the hearing. It is probably best not to talk to them unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use Declaration (form [MC-030](#)) for this purpose.)

Can I agree with the protected person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. You would have to file a request with the court to terminate the order.



What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

**DRAFT
2024-01-25
Not approved by
the Judicial Council**

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed*).
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.
 A roommate of the Respondent.
 A person who has a dating relationship with the Respondent.
 A person who has a child in common with the Respondent.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

b. Your Lawyer (*if you have one for this case*):

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Email Address: _____ Fax: _____

② Respondent

(Give all the information you know. Information with a star () is required to add this order to the California police database. If age is unknown, give an estimate.)*

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

The court will complete the rest of this form.

③ Expiration Date

This Order expires at:

(Time): _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires one year from the date of issuance.

This is a Court Order.



6 No Fee to Serve

If the sheriff or marshal serves this order, service will be free.

7 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

8 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

9 Service of Order on Respondent

- a. The Respondent was present in court, either physically or remotely (by telephone or videoconference), at the time the order was issued. No other proof of service is needed. The clerk has provided the Respondent with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600).
- b. The Respondent was not present in court at the time the order was issued. The Respondent must be personally served with a court file-stamped copy of this Order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600) by a law enforcement officer or someone age 18 or older, **and not a party to the action.**
- c. This is an order based on the Respondent's filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court will provide notice to all parties.

10 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 7b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 7b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. The officer may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition and Magazines

The law enforcement agency that has received surrendered prohibited items listed in item 7b, above, must do the following:

- Retain the prohibited items until the expiration of this order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

This is a Court Order.



Instructions for Law Enforcement

(continued)

Enforcing This Order

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The respondent was informed of the order by an officer.
- Item 8a or 8c is checked.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other existing protective order remain in effect.

Instructions to Clerk

This order must be served on all parties by the court, if it is made following the filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order (CLETS-OGV)* (form GV-130) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Read *How do I Get a Private Postsecondary School Violence Restraining Order?* (form SV-100-INFO) before completing this form. Also fill out *Confidential CLETS Information* (form CLETS-001) with as much information as you know.

DRAFT
2024-01-25
Not approved by
the Judicial Council

1 Petitioner (Educational Institution Officer or Employee)

a. Name: _____ is

- the chief administrative officer
- an officer or employee designated by the chief administrative officer to maintain order on the campus or facility of
(name of private postsecondary educational institution):

_____ and is filing this petition on behalf of the student in **2**.

b. Lawyer for Petitioner *(if any for this case)*

Name: _____ State Bar No.: _____
Firm Name: _____

c. Petitioner's Address *(If the petitioner has a lawyer, give the lawyer's information.)*

Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Student in Need of Protection

Full Name: _____
Gender: M F Nonbinary Age: _____

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____ Age: _____
Address *(if known)*: _____
City: _____ State: _____ Zip: _____

4 Additional Protected Persons

a. Are you asking for protection for any family or household members or any other students at the campus or facility who are similarly in need of protection? Yes No *(If yes, list them):*

<u>Full Name</u>	<u>Gender</u>	<u>Age</u>	<u>Household Member?</u>	<u>Relationship to Student</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed in Attachment 4a.

This is not a Court Order.



4 b. Why do these people need protection? (Explain): Response is stated in Attachment 4b.

5 Relationship of Student and Respondent

a. How does the student know the respondent? (Describe): Response is stated in Attachment 5a.

b. Respondent is is not a current student of petitioner’s institution. (Explain any decision to retain, expel, or otherwise discipline the respondent): Response is stated in Attachment 5b.

6 Venue

Why are you filing in this county? (Check all that apply):

a. The respondent lives in this county.

b. The respondent has caused physical or emotional injury to the student in this county.

c. Other (specify): _____

7 Other Court Cases

a. Has the student or any of the persons named in 4 been involved in another court case with the respondent?
 No Yes (If yes, check each kind of case and indicate where and when each was filed):

	Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1)	<input type="checkbox"/> Postsecondary School Violence	_____	_____	_____
(2)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(3)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(4)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5)	<input type="checkbox"/> Paternity, Parentage, Child Support	_____	_____	_____
(6)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(7)	<input type="checkbox"/> Eviction	_____	_____	_____
(8)	<input type="checkbox"/> Guardianship	_____	_____	_____
(9)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(10)	<input type="checkbox"/> Small Claims	_____	_____	_____
(11)	<input type="checkbox"/> Criminal	_____	_____	_____
(12)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are any restraining orders or criminal protective orders now in effect relating to the student or any of the persons in 4 and the respondent? No Yes (If yes, attach a copy if you have one.)

This is not a Court Order.



8 Description of Respondent's Conduct

- a. Respondent has (*check one or more*):
 - (1) Assaulted, battered, or stalked the student.
 - (2) Made a credible threat of violence against the student by making knowing or willful statements or engaging in a course of conduct that served no legitimate purpose and that would place a reasonable person in fear for his or her safety or the safety of his or her immediate family.
- b. One or more of these acts were made off the school campus or facility and can reasonably be understood (*check either or both*):
 - (1) To have been carried out at the school campus or facility.
 - (2) To be carried out in the future at the school campus or facility.

Address of campus or facility: _____

- c. Describe what happened. (*Provide details; include the dates of all incidents beginning with the most recent; tell who did what to whom; identify any witnesses*):
 - Response is stated in Attachment 8c.

- d. Was the student harmed or injured? Yes No (*If yes, describe harm or injuries*):
 - Response is stated in Attachment 8d.

- e. Did the respondent use or threaten to use a gun or any other weapon? Yes No (*If yes, describe*):
 - Response is stated in Attachment 8e.

This is not a Court Order.

- 8 f. For any of the incidents described above, did the police come? Yes No I don't know
 If yes, did the student or the respondent receive an Emergency Protective Order?
 Yes No I don't know
 If yes, the order protects (*check all that apply*):
 the student. the respondent. one or more of the persons in 4.
 (*Attach a copy of the order if you have one.*)

Check the orders you want.

9 **Personal Conduct Orders**

I ask the court to order the respondent **not** to do any of the following things to the student or to any person to be protected listed in 4 :

- a. Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b. Make threats of violence against the person.
- c. Follow or stalk the person during school hours or to or from the school campus or facility.
- d. Contact the person, either directly or indirectly, by **any** means, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- e. Enter the person's school campus or facility.
- f. Other (*specify*):
 As stated in Attachment 9f.

The respondent will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

10 **Stay-Away Order**

a. I ask the court to order the respondent to stay at least _____ yards away from (*check all that apply*):

- (1) The student.
- (2) The other persons listed in 4 .
- (3) The school.
- (4) The student's home.
- (5) The student's job or workplace.
- (6) The school of the student's children.
- (7) The place of child care of the student's children.
- (8) The student's vehicle.
- (9) Other (*specify*):

This is not a Court Order.



- 10 b. If the court orders the respondent to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? Yes No (If no, explain):
 Response is stated on Attachment 10b.

11 **Firearm (Guns), Firearm Parts, and Ammunition**

Does the respondent own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). Yes No I don't know

If the judge grants a protective order, the respondent will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The respondent will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts within their immediate possession or control. If an order is granted, respondent will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.

12 **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the Respondent to last until the hearing. I am presenting form SV-110, *Temporary Restraining Order*, for the court's signature together with this Petition.

Has the Respondent been told that you were going to go to court to seek a TRO against him or her?

Yes No (If you answered no, explain why below):

Reasons are stated in Attachment 12.

13 **Request for Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the respondent at least five days before the hearing, unless the court orders a shorter time for service. (Form SV-200-INFO explains what is proof of personal service. Form SV-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why:

Reasons are stated in Attachment 13.

This is not a Court Order.



14 **No Fee for Filing**

I ask that there be no filing fee because the respondent has threatened violence against the student, or stalked the student, or acted or spoken in a manner that has placed the student in reasonable fear of violence.

15 **No Fee to Serve Orders**

I ask the court to order the sheriff or marshal to serve the respondent with the others for free because this request for orders is based on a credible threat of violence or stalking.

16 **Court Costs**

I ask the court to order the respondent to pay my court costs.

17 **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

Additional orders requested are stated in Attachment 17.

18 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Name of petitioner

▶ _____
Signature

Title

I consent to the filing of the Petition.

Date: _____

Name of student

▶ _____
Signature

This is not a Court Order.

How Do I Get an Order to Prohibit Private Postsecondary School Violence?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a private postsecondary school violence protection order?

Under California law (Code Civ. Proc., § 527.85), courts can make orders to protect a student from being subjected to credible threats of violence that could be carried out on the school campus or facility. The procedure is only available with regard to students at private postsecondary institutions.

The court can order a person not to:

- Harass or threaten the student;
- Contact or go near the student; and
- Have any firearms (guns), firearm parts, ammunition, or body armor. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

These orders will be enforced by law enforcement agencies.

Who can get this school violence protection order?

The chief administrative officer of a private postsecondary educational institution, or an officer or employee designated by the chief administrative officer to maintain order on the school campus or facility, may request court orders prohibiting credible threats of violence against a student. These orders must be requested by an officer of the institution that the student attends or is applying to.

- A “chief administrative officer” is the principal, president, or highest-ranking official of the private postsecondary educational institution.
- A “postsecondary educational institution” is a private institution of vocational, professional, or postsecondary education.

The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. If anyone other than a school officer wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me* (form [CH-100-INFO](#))?.

Who can be protected under this law?

Under this statute, the school officer can obtain a court order on behalf of a student that lasts up to three years. The order can also protect family or household members of the student and other students at the campus or facility who are similarly situated.

- A “student” is an adult currently enrolled in or applying for admission to a private postsecondary educational institution.
- The “respondent” is the person against whom the school official is requesting the protective order.

A school official may seek protection under this law if:

1. The student has suffered a credible threat of violence from any individual;
2. The credible threat of violence, while made off of the campus or facility, can reasonably be construed to be carried out or have been carried out at the school campus or facility;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

What forms must be used to get the order?

A school official may seek protection under this law if:

1. **Petition for Private Postsecondary School Violence Restraining Orders (Petition)** (form [SV-100](#)). This form tells the judge the facts of the case and what orders the petitioner and student want the court to make.
2. **Confidential CLETS Information** (form [CLETS-001](#)). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. **Notice of Court Hearing** (form [SV-109](#)). This form tells the parties when the hearing on the petition will be held.
4. **Temporary Restraining Order (TRO)** (form [SV-110](#)). A TRO can be issued to provide protection to the student until the hearing is held. It can be issued by the judge either with or without notice to the respondent.



5. *Private Postsecondary School Violence Restraining Order After Hearing (Order)* (form [SV-130](#)). This form is signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the school violence prevention proceeding.

6. *Proof of Personal Service* (form [SV-200](#)). This form is used to show that the other party has been **served** with the petition and other forms as required by law.

Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

Do I need a lawyer?

The school official may be represented by a lawyer, but one is not required by law. Because the school official's lawyer will generally be representing the interests of the student, the student usually does not need his or her own lawyer. Whether or not the school official has a lawyer, the respondent may have one.

What steps are needed to get the court orders?

1. Fill in the **Petition** (form [SV-100](#)) completely and fill in items 1–3 of the *Notice of Court Hearing* (form [SV-109](#)). If you are seeking a **TRO**, also fill out form [SV-110](#).
2. If you are seeking orders based on information from your student and others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (form [SV-100](#)). You may use form [MC-031](#), *Attached Declaration*.
3. Fill in *Confidential CLETS Information* (form [CLETS-001](#)) with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.

4. If you are applying for a **TRO**, fill out form [SV-110](#) completely. The petition and declarations must give the details of the credible threats of violence and the problems they have caused your student.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and
- b. You or your attorney certifies one of the following to the court under oath:
 - (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made;
 - (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them; or
 - (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.

5. Take your original completed forms and copies to the clerk's office at the court. You will need at least three copies: one for you, one for the student, and one to serve on the respondent. If there are other persons to be protected by the order, you will need additional copies of the **TRO**. A protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (form [SV-109](#)).
6. If you are seeking a TRO (form [SV-110](#)), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a TRO is granted while you are still at the court, take the signed original back to the clerk to be filed.



7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the TRO to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.

If the court issues a TRO, it will last until the hearing date.

8. If the student does not speak English, when you file your papers, ask the clerk if a court interpreter will be available for the hearing. You can also use form [INT-300, Request for Interpreter \(Civil\)](#) or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

9. Have the respondent personally **served** with copies of the **Petition** (form SV-100), the *Notice of Court Hearing* (form SV-109), the **TRO** (form SV-110) (if issued), a blank **Response** (form [SV-120](#)), and a blank *Proof of Service of Response by Mail* (form [SV-250](#)). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you, the student, or anyone to be protected by the order. For help with service, ask the court clerk for form [SV-200-INFO, What Is "Proof of Personal Service"?](#)

Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.

10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (form [SV-200](#)). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (form SV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person's word.

You can bring to the hearing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030, Declaration](#).)

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the student or to any other person seeking protection. If anyone is afraid, tell the court officer.

SV-109 Notice of Court Hearing		Clerk stamps date here when form is filed.				
1	Petitioner (Educational Institution Officer or Employee) a. Name: Lawyer for Petitioner (if any for this case): Name: _____ State Bar No.: _____ Firm Name: _____ b. Address (If you have a lawyer, give your lawyer's information.): Address: _____ City: _____ State: _____ Zip: _____ Telephone: _____ Fax: _____ E-Mail Address: _____	<div style="border: 1px solid black; height: 40px; margin-bottom: 5px;"></div> <div style="font-size: x-small; margin-bottom: 5px;">Fill in court name and street address:</div> <div style="border: 1px solid black; padding: 2px;">Superior Court of California, County of _____</div> <div style="font-size: x-small; margin-bottom: 5px;">Fill in case number:</div> <div style="border: 1px solid black; padding: 2px;">Case Number: _____</div>				
2	Student in Need of Protection Full Name: _____					
3	Respondent (Person From Whom Protection Is Sought) Full Name: _____					
<i>The court will complete the rest of this form.</i>						
4	Notice of Hearing A court hearing is scheduled on the request for restraining orders against the respondent: <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center; font-weight: bold;">Hearing Date</td> <td style="font-size: small;">Date: _____ Time: _____</td> </tr> <tr> <td></td> <td style="font-size: small;">Dept.: _____ Room: _____</td> </tr> </table> </div>	Hearing Date	Date: _____ Time: _____		Dept.: _____ Room: _____	
Hearing Date	Date: _____ Time: _____					
	Dept.: _____ Room: _____					
5	Temporary Restraining Orders (Any orders granted are on Form SV-110, served with this notice.) a. Temporary Restraining Orders for personal conduct and stay away orders as requested in Form SV-100, Request for Private Postsecondary School Violence Restraining Orders, are (check only one box below): (1) <input type="checkbox"/> All GRANTED until the court hearing. (2) <input type="checkbox"/> All DENIED until the court hearing. (Specify reasons for denial in b, below.) (3) <input type="checkbox"/> Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)					



- 12.If the judge signs the **Order** (form SV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.
- 13.If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File form [SV-260](#), *Proof of Service of Order After Hearing by Mail*. If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (form [SV-200](#)) with the court. Give a file-stamped copy of the **Order** and proof of service to your student and to each other protected person. Keep at least one copy for yourself.
- 14.Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.
- 15.If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410](#), *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO](#), *How to Request a Disability Accommodation for Court*.

Information about the process is also available online.

See selfhelp.courts.ca.gov/SV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

**DRAFT
2024-01-25
Not approved by
the Judicial Council**

1 Petitioner (Educational Institution Officer or Employee)

a. Name: _____

Lawyer for Petitioner *(if any for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address *(If you have a lawyer, give your lawyer's information.)*:

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

2 Student in Need of Protection

Full Name: _____

Fill in case number:

Case Number:

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____

The court will complete the rest of this form.

4 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the respondent:

<div style="border: 1px solid black; border-radius: 15px; padding: 5px; display: inline-block;"> Hearing Date </div>	→ Date: _____	Time: _____	Name and address of court if different from above:
	Dept.: _____	Room: _____	_____

To the person in 3:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

5 Temporary Restraining Orders *(Any orders granted are on form SV-110, served with this notice.)*

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form SV-100, *Request for Private Postsecondary School Violence Restraining Orders*, are *(check only one box below)*:

(1) All **GRANTED** until the court hearing.

(2) All **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*

(3) Partly **GRANTED** and partly **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*



b. Reasons that Temporary Restraining Orders as requested in form SV-100, *Petition for Private Postsecondary School Violence Restraining Orders*, for personal conduct or stay-away are denied are:

- (1) The facts as stated in form SV-100 do not sufficiently show reasonable proof that the student has suffered a credible threat of violence made off the school campus or facility by the respondent, and that great or irreparable harm would result to the student if a temporary restraining order is not issued.
- (2) Other (*specify*): As stated on Attachment 5b.

6 Service of Documents by the Petitioner

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form SV-109, *Notice of Court Hearing*, to the respondent along with a copy of all the forms indicated below:

- a. SV-100, *Petition for Private Postsecondary School Violence Restraining Orders (file-stamped)*
- b. SV-110, *Temporary Restraining Order (file-stamped) IF GRANTED*
- c. SV-120, *Response to Petition for Private Postsecondary School Violence Restraining Orders (blank form)*
- d. SV-120-INFO, *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?*
- e. Other (*specify*): _____

Date: _____

Judicial Officer

To the Petitioner:

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request and any temporary orders. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form SV-200, *Proof of Personal Service*, may be used.
- For information about service, read form SV-200-INFO, *What Is “Proof of Personal Service”?*
- You may ask to reschedule the hearing if you are unable to find the respondent and need more time to serve the documents, or for other good reasons. Read form SV-115-INFO, *How to Ask for a New Hearing Date*.
- You must attend the hearing if you want the judge to make any of the orders you requested on form SV-100, *Petition for Private Postsecondary School Violence Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form SV-100-INFO, *How Do I Get an Order to Prohibit Private Postsecondary School Violence?*



To the Respondent:

- If you want to respond to the request for orders in writing, file form SV-120, *Response to Petition for Private Postsecondary School Violence Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form SV-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- **At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form SV-115-INFO, *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT
2024-01-25
Not approved by
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Educational Institution Officer or Employee)

a. Name: _____
Lawyer for Petitioner (if any, for this case):
Name: _____ State Bar No.: _____
Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information.):

Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

2 Student (Protected Person)

Full Name: _____

3 Respondent (Restrained Person)

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____
*Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
*Gender: M F Nonbinary Home Address: _____
City: _____ State: _____ Zip: _____
Relationship to Protected Person: _____

4 Additional Protected Persons

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Student
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



To the Person in ② :

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

⑥ Personal Conduct Orders

Not Requested **Denied Until the Hearing** **Granted as Follows:**

a. You are ordered **not** to do the following things to the student

and to the other protected persons listed in ④ :

- (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) Commit acts of violence or make threats of violence against the person.
- (3) Follow or stalk the person during school hours or to or from the school.
- (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by email, by fax, or by other electronic means.
- (5) Enter the person's school.
- (6) Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) Other (*specify*):
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(7).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the petitioner.

⑦ Stay-Away Order

Not Requested **Denied Until the Hearing** **Granted as Follows:**

a. You must stay at least _____ yards away from (*check all that apply*):

- (1) The student
- (2) Each other protected person listed in ④
- (3) The school
- (4) The student's home
- (5) The student's job or workplace
- (6) The student's children's school
- (7) The student's children's place of child care
- (8) The student's vehicle
- (9) Other (*specify*):

b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



8 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, or any item that may be used as easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. You must:
 - (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - (2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form SV-800) for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

9 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

10 Other Orders

- Not Requested Denied Until the Hearing Granted as Follows (*specify*):

- Additional orders are attached at the end of this Order on Attachment 10.

To the Person in 1:

11 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.

This is a Court Order.



- 11 c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- Additional law enforcement agencies are listed at the end of this Order on Attachment 11.

12 **No Fee to Serve (Notify) Restrained Person** **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on a credible threat of violence or stalking.
- b. The petitioner is entitled to a fee waiver.

13 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in 3

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item 8 above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form SV-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item 3.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

This is a Court Order.



After You Have Been Served With a Restraining Order

- Obey all the orders. Any intentional violation of this Order is a misdemeanor punishable by a fine or by imprisonment in a county jail, or by both fine and imprisonment. (Pen. Code, § 273.6.)
- Read form **SV-120-INFO**, *How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?*, to learn how to respond to this Order.
- If you want to respond, fill out form **SV-120**, *Response to Petition for Private Postsecondary School Violence Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the petition claims that you threatened violence against or stalked the employee, or placed the employee in reasonable fear of violence.
- You must have form **SV-120** served on the petitioner or the petitioner's attorney by mail. You cannot do this yourself. The person who does the service should complete and sign form **SV-250**, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item 5 on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Response to Petition for Private Postsecondary School Violence Restraining Orders

Clerk stamps date here when form is filed.

DRAFT 2024-01-29 Not approved by the Judicial Council

Use this form to respond to the Petition (form SV-100)

- Read How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders? (form SV-120-INFO) to protect your rights.
Fill out this form and take it to the court clerk.
Have someone age 18 or older—not you—serve the petitioner or the petitioner’s lawyer by mail with a copy of this form and any attached pages. (Use form SV-250, Proof of Service of Response by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner (Educational Institution Officer or Employee)

Name:

2 Student Seeking Protection

Full Name:

3 Respondent (Person From Whom Protection Is Sought)

a. Your Name:

Your Lawyer (if you have one for this case)

Name: State Bar No.:

Firm Name:

b. Your Address (You may give a mailing address if you want to keep your street address private; skip this if you have a lawyer.)

Address:

City: State: Zip:

Telephone: Fax:

Email Address:

4 Personal Conduct Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify why you disagree in item 12 on page 4.)
I agree to the following orders (specify below or in item 12 on page 4):

5 Stay-Away Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify why you disagree in item 12 on page 4.)
I agree to the following orders (specify below or in item 12 on page 4):

The court will consider your response at the hearing. Write your hearing date, time, and place from form SV-109, item 4 here:

Hearing Date -> Date: Time: Dept.: Room:

If you were served with a Temporary Restraining Order, you must obey it until the hearing. At the hearing, the court may make orders against you that last for up to three years.



6 **Additional Protected Persons**

- a. I agree that the persons listed in item ④ of the Petition may be protected by the order requested.
- b. I do not agree that the persons listed in item ④ of the Petition may be protected by the order requested.

7 **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form SV-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item ⑧ of form SV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) or firearms parts in your immediate possession or control within 24 hours of being served with form SV-110. You must file a receipt with the court. You may use *Receipt for Firearms and Firearm Parts* (form SV-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):
- Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 7b—Firearms Surrender Exemption” as a title. You may use form MC-025, Attachment.

- c. I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.
- A copy of the receipt is attached. has already been filed with the court.

8 **No Body Armor**

If you were served with form SV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



9 **Other Orders**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. I agree to the following orders *(specify below or in item 12 on page 4):*

10 **Denial**

I did not do anything described in item 8 of form SV-100. *(Skip to 12.)*

11 **Justification or Excuse**

If I did some or all of the things that the petitioner has accused me of, my actions were justified or excused for the following reasons *(explain)*:

- Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 11—Justification or Excuse" as a title. You may use form MC-025, Attachment.*



12 **Reasons I Do Not Agree to the Orders Requested**

Explain your answers to each order requested that you do not agree with.

Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 12—Reasons I Disagree" as a title. You may use form MC-025, Attachment.

13 **No Fee for Filing**

- a. I ask the court to waive the filing fee because the petitioner claims in form SV-100 item (14) to be entitled to free filing.
- b. I request that I not be required to pay the filing fee because I am eligible for a fee waiver. *(Form FW-001, Request to Waive Court Fees, must be filed separately.)*

14 **Costs**

a. I ask the court to order the petitioner to pay my court costs. The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 14—Costs" for a title. You may use form MC-025, Attachment.

b. I ask the court to deny the request of the person asking for protection that I pay his or her lawyer's fees and costs.



15 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)



Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

SV-120-INFO

How Can I Respond to a Petition for Private Postsecondary School Violence Restraining Orders?

What is a private postsecondary school violence restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

What does the order do?

The court can order you to:

- Not contact the student who is protected by the order
- Stay away from the student and the student’s home, school, and other places
- Not have any firearms (guns), firearm parts, ammunition, or body armor as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

Who can ask for a private postsecondary school violence restraining order?

A school official at a private postsecondary school can ask for an order on behalf of an adult student who is worried about his or her safety because he or she has suffered a credible threat of violence that could be carried out on the school campus or facility.

I've been served with a petition for private postsecondary school violence restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [SV-120, Response to Petition for Private Postsecondary School Violence Restraining Orders](#), before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form SV-120 to the person named in item ① of the petition form SV-100 (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail for you must fill out form [SV-250, Proof of Service of Response by Mail](#). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on form SV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

SV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

① **Petitioner (Educational Institution Officer or Employee)**

a. Name: _____
Lawyer for Petitioner (if any for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Address (If you have a lawyer, give your lawyer's information.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

Fill in court name and street address:
 Superior Court of California, County of _____

② **Student in Need of Protection**
 Full Name: _____

③ **Respondent (Person From Whom Protection Is Sought)**
 Full Name: _____

The court will complete the rest of this form.

④ **Notice of Hearing**
 A court hearing is scheduled on the request for restraining orders against the respondent:

Name and address of court if different from above:

Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

⑤ **Temporary Restraining Orders** (Any orders granted are on Form SV-110, served with this notice.)

a. Temporary Restraining Orders for personal conduct and stay away orders as requested in Form SV-100, Request for Private Postsecondary School Violence Restraining Orders, are (check only one box below):

(1) All GRANTED until the court hearing. (Specify reasons for denial in b, below.)

(2) All DENIED until the court hearing. (Specify reasons for denial in b, below.)

(3) Partly GRANTED and partly DENIED until the court hearing. (Specify reasons for denial in b, below.)



How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to three years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the student at the court hearing?

Yes. Assume that the student will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

Information about the process is also available online.

See selfhelp.courts.ca.gov/SV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the school official would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Private Postsecondary School Violence Restraining Order After Hearing

Clerk stamps date here when form is filed.

DRAFT 2024-01-25 Not approved by the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Educational Institution Officer or Employee)

a. Name: Lawyer for Petitioner (if any, for this case) Name: State Bar No.: Firm Name:

b. Your Address (If you have a lawyer, give your lawyer's information.) Address: City: State: Zip: Telephone: Fax: Email Address:

2 Student (Protected Person)

Full Name:

3 Respondent (Restrained Person)

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: *Age: Date of Birth: *Race: Height: Weight: Hair Color: Eye Color: *Gender: M F Nonbinary Home Address: City: State: Zip: Relationship to Protected Person:

4 Additional Protected Persons

In addition to the student, the following family or household members or other students are protected by the temporary orders indicated below:

Table with columns: Full Name, Gender, Age, Household Member?, Relation to student. Includes Yes/No checkboxes for household member status.

Additional protected persons are listed at the end of this Order on Attachment 4.

5 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Date: Time: a.m. p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The petitioner/school representative *(name)*: _____
 - (2) The lawyer for the petitioner/school *(name)*: _____
 - (3) The student (4) The lawyer for the student *(name)*: _____
 - (5) The respondent (6) The lawyer for the respondent *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 6b.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Respondent:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Personal Conduct Orders

- a. You are ordered **not** do the following things to the student
 - and to the other protected persons listed in **4**:
 - (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Commit acts of violence or make threats of violence against the person.
 - (3) Follow or stalk the person during school hours or to or from the school.
 - (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
 - (5) Enter the person’s school.
 - (6) Take any action to obtain the person’s address or locations. If this item is not checked, the court has found good cause not to make this order.
 - (7) Other *(specify)*:
 Other personal conduct orders are attached at the end of this Order on Attachment 7a(7).

- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



8 Stay-Away Orders

a. You **must** stay at least _____ yards away from (*check all that apply*):

- (1) The student.
- (2) Each other protected person listed in ④.
- (3) The school.
- (4) The student’s home.
- (5) The student’s job or workplace.
- (6) The student’s children’s school.
- (7) The student’s children’s place of child care.
- (8) The student’s vehicle.
- (9) Other (*specify*): _____

b. This stay-away order does not prevent you from going to or from your home or place of employment.

9 No Firearms (Guns), Firearm Parts, or Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

- (1) Firearms (guns);
- (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
- (3) Ammunition.

c. If you have not already done so, you must:

- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.
- File a receipt with the court within 48 hours of receiving this Order that proves that your firearm (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form SV-800) for the receipt.)

d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in ③ is not required to relinquish this firearm (*specify make, model, and serial number of firearm(s)*): _____

The firearm must be in the physical possession of the person in ③ only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in ③ may be subject to federal prosecution for possessing or controlling a firearm.

10 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

This is a Court Order.



11 **Costs**

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment **11**.

12 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment **12**.

To the Person in 1:

13 **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment **13**.

14 **Service of Order on Respondent**

- a. The respondent personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. The respondent did not attend the hearing.
 - (1) Proof of service of form SV-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form SV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form SV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

This is a Court Order.



15 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this Order without charge because the Order is based on a credible threat of violence or stalking.

16 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warning and Notice to the Respondent:

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

Unless item 9e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 9b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in (10) above. The court will require you to prove that you did so.

Instructions for Law Enforcement

Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see (14)), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge’s signature on page 5 and *ends* on the expiration date in (5) on page 1.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 7a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Private Postsecondary School Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Petition for Workplace Violence Restraining Orders

Clerk stamps date here when form is filed.

Read *How Do I Get an Order to Prohibit Workplace Violence* (form WV-100-INFO) before completing this form. **NOTE: Petitioner must be an employer with standing to bring this action under Code of Civil Procedure section 527.8.** Also fill out *Confidential CLETS Information* (form CLETS-001) with as much information as you know.

DRAFT
01/29/2024
Not approved by the Judicial Council

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____

is a Employer

Collective Bargaining Representative

Specify union: _____

and is filing this suit on behalf of the employee identified in item 2.

b. Lawyer for Petitioner (if any for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

Petitioner's Address (If the petitioner has a lawyer, give the lawyer's information.)

c. Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Full Name: _____

Gender: M F Nonbinary Age: _____

Workplace Address: _____

City: _____ State: _____ Zip: _____

This employee declines to be named in any restraining order issued as a result of this petition. Good cause for protecting the people listed in item 4 is described in Attachment 2.

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____ Age: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

4 Protected Persons Not Listed in 2

a. Are you asking for protection for any family or household members of the employee or for any other employees at the employee's workplace or at other workplaces of the petitioner?

Yes No (If yes, list them):

Full Name	Gender	Age	Household Member?	Relationship to Employee
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Additional protected persons are listed in Attachment 4a.

This is not a Court Order.



4 b. Why do these people need protection? *(Explain)*:

Response is stated in Attachment 4b.

5 **Relationship of Employee and Respondent**

a. How does the employee know the respondent? *(Describe)*: Response is stated in Attachment 5a.

b. Respondent is is not a current employee of petitioner. *(Explain any decision to retain, terminate, or otherwise discipline the respondent)*: Response is stated in Attachment 5b.

6 **Venue**

Why are you filing in this county? *(Check all that apply)*:

- a. The respondent lives in this county.
- b. The respondent has caused physical or emotional injury to the petitioner’s employee in this county.
- c. Other *(specify)*: _____

7 **Other Court Cases**

a. Has the employee or any of the persons named in 4 been involved in another court case with the respondent?

No Yes *If yes, check each kind of case and indicate where and when each was filed:*

	Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(2)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(3)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(4)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5)	<input type="checkbox"/> Paternity, Parentage, Child Support	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Guardianship	_____	_____	_____
(8)	<input type="checkbox"/> Small Claims	_____	_____	_____
(9)	<input type="checkbox"/> Postsecondary School Violence	_____	_____	_____
(10)	<input type="checkbox"/> Criminal	_____	_____	_____
(11)	<input type="checkbox"/> Other <i>(specify)</i> : _____	_____	_____	_____

b. Are any restraining orders or criminal protective orders now in effect relating to the employee or any of the persons in 4 and the respondent? No Yes *(If yes, attach a copy if you have one.)*

This is not a Court Order.



8 Description of Respondent's Conduct

- a. Respondent has *(check one or more)*:
 - (1) Assaulted, battered, or stalked the employee.
 - (2) Made a credible threat of violence against the employee by making knowing or willful statements or engaging in a course of conduct that would place a reasonable person in fear for his or her safety or the safety of his or her immediate family.
 - (3) Engaged in a course of conduct that seriously alarmed, annoyed, or harassed the employee and caused the employee substantial emotional distress. *(A course of conduct is more than one act.)*

- b. One or more of these acts *(check either or both)*:
 - (1) Took place at the employee's workplace.
 - (2) Can reasonably be construed to be carried out in the future at the employee's workplace.

Address of workplace: _____

- c. Describe what happened. *(Provide details; include the dates of all incidents beginning with the most recent; tell who did what to whom; identify any witnesses):*

Response is stated in Attachment 8c.

- d. Was the employee harmed or injured? Yes No *(If yes, describe harm or injuries):*
 Response is stated in Attachment 8d.

- e. Did the respondent use or threaten to use a gun or any other weapon? Yes No *(If yes, describe):*
 Response is stated in Attachment 8e.

This is not a Court Order.



8 f. For any of the incidents described above, did the police come? Yes No I don't know

If yes, did the employee or the respondent receive an Emergency Protective Order?

Yes No I don't know

If yes, the order protects (*check all that apply*):

the employee the respondent one or more of the persons in 4.

(Attach a copy of the order if you have one.)

Check the orders you want

9 **Personal Conduct Orders**

I ask the court to order the respondent **not** to do any of the following things to the employee or to any person to be protected listed in 4:

- a. Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- b. Commit acts of unlawful violence on or make threats of violence to the person.
- c. Follow or stalk the person during work hours or to or from the place of work.
- d. Contact the person, either directly or indirectly, by **any** means, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
- e. Enter the person's workplace.
- f. Other (*specify*):
 As stated in Attachment 9f.

The respondent will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

10 **Stay-Away Orders**

a. I ask the court to order the respondent to stay at least _____ yards away from (*check all that apply*):

- (1) The employee.
- (2) The other persons listed in 4 .
- (3) The employee's workplace.
- (4) The employee's home.
- (5) The employee's school.
- (6) The school of the employee's children.
- (7) The place of child care of the employee's children.
- (8) The employee's vehicle.
- (9) Other (*specify*):

This is not a Court Order.



- 10 b. If the court orders the respondent to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? Yes No (If no, explain):
 Response is stated on Attachment 10b.

11 **Firearm (Guns), Firearm Parts, and Ammunition**

Does the respondent own or possess any firearms (guns), firearm parts, or ammunition? This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

- Yes No I don't know

If the judge grants a protective order, the respondent will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive firearms (guns), firearm parts, and ammunition while the protective order is in effect. The respondent will also be ordered to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts within his or her immediate possession or control. If an order is granted, respondent will also be prohibited from owning, possessing, or buying body armor and would have to relinquish any they have.

12 **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the Respondent to last until the hearing. I am presenting form WV-110, *Temporary Restraining Order*, for the court's signature together with this Petition.

Has the Respondent been told that you were going to go to court to seek a TRO against him or her?

- Yes No (If you answered no, explain why below):

- Reasons are stated in Attachment 12.

13 **Request for Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the respondent at least five days before the hearing, unless the court orders a shorter time for service. (Form WV-200-INFO explains what is proof of personal service. Form WV-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why:

- Reasons are stated in Attachment 13.

This is not a Court Order.



14 **No Fee for Filing**

I ask that there be no filing fee because the respondent has threatened violence against the employee, or stalked the employee, or acted or spoken in a manner that has placed the employee in reasonable fear of violence.

15 **No Fee to Serve Orders**

I ask the court to order the sheriff or marshal to serve the respondent with the others for free because this request for orders is based on a credible threat of violence or stalking.

16 **Court Costs**

I ask the court to order the respondent to pay my court costs.

17 **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

Additional orders requested are stated in Attachment 17.

18 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Name of petitioner

▶ _____
Signature

Title

This is not a Court Order.

WV-100-INFO How Do I Get an Order to Prohibit Workplace Violence?

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a workplace violence protective order?

Under California law (Code Civ. Proc., § 527.8), courts can make orders to protect an employee from suffering harassment, unlawful violence, or credible threats of violence at the workplace.

The court can order a person not to:

- Harass or threaten an employee;
- Contact or go near an employee; and
- Have any firearms (guns), firearm parts, ammunition, or body armor. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items a restrained person cannot have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

These orders will be enforced by law enforcement agencies.

Who can get a workplace violence protective order?

Employers can obtain court orders prohibiting harassment, unlawful violence, or credible threats of violence against their employees. An employer is defined as:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Lab. Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8(b)(3).)

Collective Bargaining Representatives can also obtain orders prohibiting harassment, unlawful violence, or credible threats of violence against employees. In order to bring a petition for an order under this law, the collective bargaining representative must serve as a collective bargaining representative for that employee in employment or labor matters at the employee's workplace.

Before completing the forms needed to obtain court orders under this statute, make certain you meet the definitions of "employer" or "collective bargaining representative" as defined above.

The statute differs from other California laws that allow victims of harassment, unlawful violence, or credible threats of violence to ask the court for these orders themselves. If anyone other than the employer or the collective bargaining representative wishes to apply to the court for an order prohibiting harassment, see *Can a Civil Harassment Restraining Order Help Me?* (form [CH-100-INFO](#)).

Who can an employer or collective bargaining representative protect under this law?

Under this statute, an employer or collective bargaining representative can obtain a court order that lasts up to three years on behalf of an employee. The order can also protect certain family or household members of the employee and other employees at the employee's workplace or at other workplaces of the employer.

Note: Before filing a petition, an employer or collective bargaining representative of an employee must provide the employee who has suffered harassment, unlawful violence, or a credible threat of violence from any individual, an opportunity to decline to be named in the restraining order. An employee's request to not be named in the order does not prohibit an employer or collective bargaining representative from seeking a restraining order on behalf of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

California law defines "employees" as:

- Every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay; whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation; and whether the service is rendered on a commission, concessionaire, or other basis. (Lab. Code, § 350(b).)
- Members of boards of directors and public officers.
- Volunteers or independent contractors who perform services for the employer at the employer's work site.

The “respondent” is the person against whom the employer or collective bargaining representative is requesting the protective order.

An employer may seek protection under this law if:

1. An employee has suffered harassment, unlawful violence, or a credible threat of violence from any individual;
2. The unlawful violence was carried out in the workplace, or the threat of violence can reasonably be construed to be carried out in the workplace;
3. The respondent’s conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The respondent is not engaged in constitutionally protected activity.

What forms must be used to get the order?

1. *Petition for Orders Workplace Violence Restraining Orders (Petition)* (form [WV-100](#)). This form tells the judge the facts of the petitioner’s case and what orders the petitioner wants the court to make.
2. *Confidential Information for Law Enforcement* (form [CLETS-001](#)). This form will provide law enforcement agencies with the information needed to enforce any orders that are granted.
3. *Notice of Court Hearing* (form [WV-109](#)). This form tells the parties when the hearing on the petition will be held.
4. *Temporary Restraining Order (TRO)* (form [WV-110](#)). A TRO can be issued to provide protection to the employee until the hearing is held. It can be issued by the judge either with or without notice to the respondent.
5. *Workplace Violence Restraining Order After Hearing (Order)* (form [WV-130](#)). This is the form signed by the court following the hearing. The order can last for up to three years depending on what the judge rules.

These forms are all **mandatory**—that is, they must be used in the workplace violence prevention proceeding.

6. *Proof of Personal Service* (form [WV-200](#)). This form is used to show that the other party has been served with the petition and other forms as required by law.

Where can I get these forms?

You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

Do I need a lawyer?

The employer or collective bargaining representative may be represented by a lawyer, but one is not required by law unless an employer that is a corporation is the petitioner. Because the employer’s or union’s lawyer will generally be representing the interests of the employee, the employee usually does not need his or her own lawyer. Whether or not the employer or collective bargaining representative has a lawyer, the respondent may have one.

What steps are needed to get the court orders?

1. Fill in the **Petition** (form [WV-100](#)) completely and fill in items 1–3 of the *Notice of Court Hearing* (form [WV-109](#)). If you are seeking a **TRO**, also fill out form [WV-110](#).
2. If you are seeking orders based on information from others and not based on what you have personally observed, you **must** have each of those persons complete a declaration to attach to the **Petition** (form [WV-100](#)). You may use form [MC-031](#), *Attached Declaration*.
3. Fill in *Confidential Information for Law Enforcement* (form [CLETS-001](#)) with as much information as you know. If the judge grants the order, the information on this form will be entered into a statewide protective-order database that will be available to law enforcement agencies if the order needs to be enforced.
4. If you are applying for a **TRO**, fill out form [WV-110](#) completely. The petition and the declarations must give the details of the recent acts of harassment, violence, or credible threats of violence and the problems they have caused.

To obtain a **TRO**, you must notify the respondent of the request for the temporary order unless both of the following requirements are satisfied:

- a. It appears from facts shown on the petition that great or irreparable injury will result before the matter can be heard on notice; and

- b. You or your attorney certifies one of the following to the court under oath:
- (1) That within a reasonable time before presenting the petition to the court to ask for a TRO, you informed the respondent or the respondent's attorney when and where the request for a TRO would be made;
 - (2) That you in good faith attempted but were unable to inform the respondent and the respondent's attorney, specifying the efforts made to contact them; or
 - (3) That for reasons specified, you should not be required to inform the respondent or the respondent's attorney.
5. Take your original completed forms and copies to the clerk's office at the court. You will need **multiple copies**: one for you, one for **each person to be protected**, and one to serve on the respondent. **Each** protected person will need a copy of the **TRO** if it is necessary to call the police. The clerk will file the originals, assign a case number, and return the copies "file-stamped" to you. The clerk will write your hearing date on the *Notice of Court Hearing* (form WV-109).
6. If you are seeking a **TRO** (form [WV-110](#)), the clerk will tell you where and how to present your proposed order to a judge for consideration and signature. The court will decide within 24 hours whether or not to make the order. Sometimes the court decides right away. Ask the clerk if you should wait or come back later. If your request for a **TRO** is granted while you are still at the court, take the signed original back to the clerk to be filed.
7. If a **TRO** has been issued, ask the clerk whether you or your lawyer will need to deliver a file-stamped copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that might be called on to enforce the order. If so, do so immediately.
8. If **a person to be protected by the order** does not speak English, when you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.
9. Have the respondent personally **served** with copies of the **Petition** (form WV-100), the *Notice of Court Hearing* (form WV-109), the **TRO** (form WV-110) (if issued), a blank **Response** (form [WV-120](#)), and a blank Proof of Service of Response by Mail (form [WV-250](#)). You **cannot** serve the respondent yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, **who is not involved in the case**. For help with service, ask the court clerk for form [WV-200-INFO, What Is "Proof of Personal Service"?](#)
- Service is essential. It tells the respondent about the order and the hearing. Without it, there cannot be a court hearing, and your temporary orders will no longer be good unless they are extended by the court. The respondent should be personally served immediately after the orders are signed by the judge, unless the court specifies a different time for service.**
10. After the respondent has been personally **served**, the person who served the respondent must complete and sign the original *Proof of Personal Service* (form [WV-200](#)). Take the signed original and copies back to the court clerk. The clerk will file the original and return "file-stamped" copies to you. Ask the clerk whether you should take a file-stamped copy to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

If the court issues a TRO, it will last until the hearing date.

11. Go to court on the date shown at item 4 on the *Notice of Court Hearing* (form WV-109). You do not need to bring any witnesses, but it helps to have more proof of the violence or threats than just one person’s word.

You can bring to the hearing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030, Declaration.](#))

The respondent has the right to attend the hearing, but he or she does not have the right to speak to the employee or to any other person seeking protection. If anyone is afraid, tell the court officer.

12. If the judge signs the **Order** (form WV-130), ask the clerk to provide you with a file-stamped copy for each person to be protected. Ask the clerk whether you or your attorney will need to deliver a file-stamped copy of the **Order** to each law enforcement agency that might be called on to enforce the order. If so, do so immediately.

13. If the respondent attended the hearing and heard the terms of the **Order** from the court, no additional proof of service is necessary. If the respondent did not attend the hearing, but the **Order** issued is the same as the TRO (except for the termination date), the **Order** may be served on the respondent by mail. File form [WV-260, Proof of Service of Order After Hearing by Mail.](#) If the respondent did not attend the hearing and the **Order** differs from the TRO, arrange to have him or her personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (form [WV-200](#)) with the court. Give a file-stamped copy of the **Order** and proof of service to your employee and to each other protected person. Keep at least one copy for yourself.

14. Once the order is issued, only the judge can change or cancel it. You or the respondent would have to file a request with the court to cancel the order.

WV-109

Notice of Court Hearing

Clerk stamps date here when form is filed.

DRAFT
2024-01-08

Not approved by the
Judicial Council

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____

Lawyer for Petitioner (if any for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____ Fill in court name and street address:

 Superior Court of California, County of _____

b. Address (If you have a lawyer, give your lawyer's information.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____ Fill in case number:
 Case Number: _____

2 Employee Who Petitioner Assert Suffered Harassment, Violence, or Threat of Violence
 Full Name: _____

3 Respondent (Person From Whom Protection Is Sought)
 Full Name: _____

The court will complete the rest of this form.

4 Notice of Hearing
 A court hearing is scheduled on the request for restraining orders against the respondent:

Hearing Date

Date: _____ Time: _____
 Dept.: _____ Room: _____

Name and address of court if different from above:

To the person in 3:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.

Judicial Council of California, [www.courts.ca.gov](#)
 Rev. January 1, 2025, Mandatory Form
 Code of Civil Procedure, § 527.9
 Approved by DOJ

Notice of Court Hearing
 (Workplace Violence Prevention)

WV-109, Page 1 of 3
 →

15. If the respondent does not obey the order, call the police. The respondent can be arrested and charged with a crime.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court.](#)

Information about the process is also available online.

See selfhelp.courts.ca.gov/WV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

**DRAFT
2024-01-29**

**Not approved by the
Judicial Council**

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____

Lawyer for Petitioner *(if any for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

b. Address *(If you have a lawyer, give your lawyer's information.)*:

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence

Full Name: _____

3 Respondent (Person From Whom Protection Is Sought)

Full Name: _____

The court will complete the rest of this form.

4 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the respondent:

Hearing Date	→ Date: _____	Time: _____	Name and address of court if different from above: _____
	Dept.: _____	Room: _____	_____

To the person in 3:

- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
- If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.



5 Temporary Restraining Orders *(Any orders granted are on form WV-110, served with this notice.)*

a. Temporary Restraining Orders for personal conduct and stay-away orders as requested in form WV-100, *Request for Workplace Violence Restraining Orders*, are *(check only one box below)*:

- (1) All **GRANTED** until the court hearing.
- (2) All **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*
- (3) Partly **GRANTED** and partly **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*

b. Reasons that Temporary Restraining Orders as requested in form WV-100, *Petition for Workplace Violence Restraining Orders*, for personal conduct or stay-away are denied are:

- (1) The facts as stated in form WV-100 do not sufficiently show reasonable proof that the employee has suffered **harassment**, unlawful violence, or a credible threat of violence by the respondent, and that great or irreparable harm to the employee would result if a temporary restraining order is not issued.
- (2) Other *(specify)*: As stated on Attachment 5b.

6 Service of Documents by the Petitioner

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form WV-109, *Notice of Court Hearing*, to the respondent along with a copy of all the forms indicated below:

- a. WV-100, *Petition for Workplace Violence Restraining Orders* (file-stamped)
- b. WV-110, *Temporary Restraining Order* (file-stamped) **IF GRANTED**
- c. WV-120, *Response to Petition for Workplace Violence Restraining Orders* (blank form)
- d. WV-120-INFO, *How Can I Respond to a Petition for Workplace Violence Restraining Orders?*
- e. Other *(specify)*: _____

Date: _____

Judicial Officer

To the Petitioner:

- The court cannot make the restraining orders after the court hearing unless the respondent has been personally given (served) a copy of your request and any temporary orders. To show that the respondent has been served, the person who served the forms must fill out a proof of service form. Form WV-200, *Proof of Personal Service*, may be used.
- You may ask to reschedule the hearing if you are unable to find the respondent and need more time to serve the documents, or for other good reasons. Read form WV-115-INFO, *How to Ask for a New Hearing Date*.
- For information about service, read form WV-200-INFO, *What Is “Proof of Personal Service”?*
- You must attend the hearing if you want the judge to make any of the orders you requested on form WV-100, *Petition for Workplace Violence Restraining Orders*. Bring any evidence or witnesses you have. For more information, read form WV-100-INFO, *How Do I Get an Order to Prohibit Workplace Violence?*

To the Respondent:

- If you want to respond to the request for orders in writing, file form WV-120, *Response to Petition for Workplace Violence Restraining Orders*, and have someone age 18 or older—**not you or anyone to be protected**—mail it to the petitioner.
- The person who mailed the form must fill out a proof of service form. Form WV-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the orders requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make restraining orders against you that could last up to three years and may order you to turn in to law enforcement, or sell to or store with a licensed gun dealer, any firearms (guns) and firearm parts that you own or possess. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). **If an order is granted, you will also be prohibited from owning, possessing, or buying body armor and will have to relinquish any body armor you have.**
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask to reschedule your court date. Read form WV-115-INFO, *How to Ask for a New Hearing Date*.

**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____ Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT
2024-01-29
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Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____
Lawyer for Petitioner (if any, for this case):
Name: _____ State Bar No.: _____
Firm Name: _____
b. Your Address (If you have a lawyer, give your lawyer's information.):
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

2 Protected Person or Persons

Full Name: _____
Full Name: _____
Full Name: _____
Full Name: _____

Additional protected persons are listed at the end of this Order on Attachment 2.

3 Respondent (Restrained Person)

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____
*Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
*Gender: M F Nonbinary Home Address: _____
City: _____ State: _____ Zip: _____
Relationship to Protected Person: _____

4 Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.

To the Respondent:

The court has issued the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail for up to one year, pay a fine of up to \$1,000, or both.

5 Personal Conduct Orders

Not Requested Denied Until the Hearing Granted as Follows:

a. You are ordered **not to** do the following things to **the protected person or persons listed in 2**

- (1) Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
- (2) Commit acts of violence or make threats of violence against the person.
- (3) Follow or stalk the person during work hours or to or from the place of work.
- (4) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by email, by fax, or by other electronic means.
- (5) Enter the workplace of the person.
- (6) Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
- (7) Other (*specify*):
 Other personal conduct orders are attached at the end of this Order on Attachment 5a(7).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the petitioner.

6 Stay-Away Order

Not Requested Denied Until the Hearing Granted as Follows:

a. You **must** stay at least _____ yards away from (*check all that apply*):

- (1) Each protected person listed in **2** **3** Other (*specify*): _____
- (2) For each protected person listed in **2**
 - (a) The person's workplace _____
 - (b) The person's home _____
 - (c) The person's school _____
 - (d) The person's children's school _____
 - (e) The person's children's place of child care _____
 - (f) The person's vehicle _____

b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.



7 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and
 - (3) Ammunition.
- c. You must:
 - (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.
 - (2) File a receipt with the court within 48 hours of receiving this Order that proves that all your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form WV-800) for the receipt.)
- d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

8 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

9 Other Orders

- Not Requested** **Denied Until the Hearing** **Granted as Follows (specify):**

- Additional orders are attached at the end of this Order on Attachment 9.

To the Petitioner:

10 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.

This is a Court Order.



- 10 c. By the close of business on the date that this Order is made, the employer or the employer’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agencies listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

- 11 **No Fee to Serve (Notify) Restrained Person** **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on a credible threat of violence or stalking.
- b. The petitioner is entitled to a fee waiver.

- 12 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in 3

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 7b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item 7 above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form WV-109, *Notice of Court Hearing*, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item 3.

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

This is a Court Order.



After You Have Been Served With a Restraining Order

- Obey all the orders. Any intentional violation of this Order is a misdemeanor punishable by a fine or by imprisonment in a county jail, or by both fine and imprisonment. (Pen. Code, § 273.6.)
- Read form WV-120-INFO, *How Can I Respond to a Petition for Orders to Stop Workplace Violence?*, to learn how to respond to this Order.
- If you want to respond, fill out form WV-120, *Response to Petition for Workplace Violence Restraining Orders*, and file it with the court clerk. You do not have to pay any fee to file your response if the petition claims that you threatened violence against or stalked the employee, or placed the employee in reasonable fear of violence.
- You must have form WV-120 served on the petitioner or the petitioner's attorney by mail. You cannot do this yourself. The person who does the service should complete and sign form WV-250, *Proof of Service of Response by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to three years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item ④ on page 1.

If a Protected Person Contacts the Restrained Person

Even if a protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.



Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting a protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Instructions: Use this form to ask the court to reschedule the court date listed on, *Notice of Court Hearing* (form [WV-109](#)). Read *How to Ask for a New Hearing Date* (form [WV-115-INFO](#)) for more information.

DRAFT
2024-02-07
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the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:**1 My Information**

a. My name is: _____

b. I am the:

(1) **Petitioner** (employer **or collective bargaining representative**)
(skip to 2).(2) **Respondent** *(give your contact information below).*

Address where I can receive mail:

This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission. If you have a lawyer, give your lawyer's address and contact information.

Address: _____

City: _____ State: _____ Zip: _____

My contact information *(optional)*:

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information *(skip if you do not have one)*:

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About My Casea. The other party in this case is *(full name)*: _____b. I have a court hearing currently scheduled for *(date)*: _____**This is not a Court Order.**

3 Is a Temporary Restraining Order in effect?

- Yes. Date the order was made, if known: _____
Please attach a copy of the order if you have one.
- No.
- I don't know.

Notice: If the court date is rescheduled, the *Temporary Restraining Order* ([form WV-110](#)) will remain in effect until the end of the new court date unless otherwise ordered by the court.

4 Why does the court date need to be rescheduled?

- a. I need more time to have the respondent personally served.
- b. I am the respondent, and this is my first request to reschedule the court date.
- c. Other reason:

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

Date: _____

Lawyer's name, if you have one

▶ _____
Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

Complete items 1 and 2 only.

1 Petitioner (Employer or Collective Bargaining Representative)

2 Respondent:

The court will complete the rest of this form

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2024-01-09
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Judicial Council

3 Next Court Date

a. The request to reschedule the court date is denied.

Your court date is:

(1) Any Temporary Restraining Order (form WV-110) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because:

Blank lines for explanation of court date not rescheduled.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

b. The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. See 4-8 for more information.

Name and address of court, if different from above:

New Court Date box with fields for Date, Time, Dept., and Room.

4 Temporary Restraining Order

a. There is no Temporary Restraining Order (TRO) in this case until the next court date because:

(1) A TRO was not previously granted by the court.

(2) The court terminates (cancels) the previously granted TRO because:

Blank lines for explanation of no TRO.

b. A Temporary Restraining Order (TRO) is still in full force and effect.

(1) The court extends the TRO previously granted on (date) It now expires on (date) (If no date is listed, the TRO expires at the end of the court date listed in 3b.)

(2) The court changes the TRO previously granted and signs a new TRO (form WV-110).

c. Other (specify):

Warning and Notice to the Respondent: If 4b is checked, a temporary restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.



5 Reason Court Date Is Rescheduled

a. There is good cause to reschedule the court date (*check one*):

(1) The petitioner has not served the respondent.

(2) Other:

b. This is the first time that the respondent has asked for more time to prepare.

c. The court reschedules the court date on its own motion.

6 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner**

b. **Respondent**

c. **Court**

(1) You do not have to serve the respondent because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the respondent personally served with a copy of all the forms listed on form [WV-109](#), item **6**, by
(date): _____

(2) You must have the petitioner personally served with a copy of this order by
(date): _____

(2) The court will mail a copy of this order to all parties by
(date): _____

(3) You must serve the respondent with a copy of this order. This can be done by mail. You must serve by
(date): _____

(3) You must serve the petitioner with a copy of this order. This can be done by mail. You must serve by
(date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



7 No Fee to Serve (Notify) Respondent **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in **1** is entitled to a fee waiver.

8 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Request for Accommodations by Persons With Disabilities and Response* (form [MC-410](#)). (Civ. Code, § 54.8.)

Instructions to Clerk

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate
[seal]

I certify that this *Order on Request to Continue Hearing (Temporary Restraining Order) (CLETS-TWH)* (form WV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

01/29/2024

Not approved by the Judicial Council

Use this form to respond to the Petition (form WV-100)

- Read How Can I Respond to a Petition for Workplace Violence Restraining Orders? (form WV-120-INFO) to protect your rights.
Fill out this form and take it to the court clerk.
Have someone age 18 or older—not you—serve the petitioner or the petitioner’s lawyer by mail with a copy of this form and any attached pages. (Use form WV-250, Proof of Service of Response by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner (Employer or Collective Bargaining Representative)

Name:

2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence

Full Name:

3 Respondent (Person From Whom Protection Is Sought)

a. Your Name:

Your Lawyer (if you have one for this case)

Name: State Bar No.:

Firm Name:

b. Your Address (You may give a mailing address if you want to keep your street address private; skip this if you have a lawyer.)

Address:

City: State: Zip:

Telephone: Fax:

Email Address:

4 Personal Conduct Orders

a. I agree to the orders requested.

b. I do not agree to the orders requested.

(Specify why you disagree in item 12 on page 4.)

c. I agree to the following orders (specify below or in item 12 on page 4):

5 Stay-Away Orders

a. I agree to the orders requested.

b. I do not agree to the orders requested. (Specify why you disagree in item 12 on page 4.)

c. I agree to the following orders (specify below or in item 12 on page 4):

The court will consider your response at the hearing. Write your hearing date, time, and place from form WV-109, item 4 here:

Hearing Date -> Date: Time: Dept.: Room:

If you were served with a Temporary Restraining Order, you must obey it until the hearing. At the hearing, the court may make orders against you that last for up to three years.

6 **Protected Persons Not Listed in 2**

- a. I agree that the persons listed in item 4 of the Petition may be protected by the order requested.
- b. I do not agree that the persons listed in item 4 of the Petition may be protected by the order requested.

7 **Firearms (Guns), Firearm Parts, and Ammunition**

If you were served with form WV-110, *Temporary Restraining Order*, you cannot own or possess any firearms (guns), firearm parts, or ammunition. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531). (See item 8 of form WV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control within 24 hours of being served with form WV-110. You must file a receipt with the court. You may use *Receipt for Firearms and Firearm Parts* (form WV-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, or ammunition.
- b. I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (*Explain*):
- Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 7b—Firearms Surrender Exemption" as a title. You may use form MC-025, Attachment.

- c. I have turned in my firearms (guns) and firearm parts to the police or sold them to or stored them with a licensed gun dealer.
- A copy of the receipt is attached. has already been filed with the court.

8 **No Body Armor**

If you were served with form WV-110, *Temporary Restraining Order*, you are prohibited from owning, possessing, or buying body armor. You must also relinquish any body armor you have in your possession.

(Check all that apply):

- a. I do not own or have any body armor.
- b. I have relinquished all body armor that I have in my possession.
- c. I was granted an exception, or will ask for an exception, to have body armor. Note: This exception is granted by a chief of police or sheriff. See Penal Code section 31360(c). (*Attach a copy of the letter granting permission, if you have one.*)



9 **Other Orders**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. *(Specify why you disagree in item 12 on page 4.)*
- c. I agree to the following orders *(specify below or in item 12 on page 4):*

10 **Denial**

I did not do anything described in item 8 of form SV-100. *(Skip to 12.)*

11 **Justification or Excuse**

If I did some or all of the things that the petitioner has accused me of, my actions were justified or excused for the following reasons *(explain)*:

- Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 11—Justification or Excuse" as a title. You may use form MC-025, Attachment.*



12 **Reasons I Do Not Agree to the Orders Requested**

Explain your answers to each order requested that you do not agree with.

Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 12—Reasons I Disagree" as a title. You may use form MC-025, Attachment.

[Ruled area for handwritten answers]

13 **No Fee for Filing**

- a. I ask the court to waive the filing fee because the petitioner claims in form WV-100 item 14 to be entitled to free filing.
- b. I request that I not be required to pay the filing fee because I am eligible for a fee waiver. (Form FW-001, Request to Waive Court Fees, must be filed separately.)

14 **Costs**

a. I ask the court to order the petitioner to pay my court costs. The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 14—Costs" for a title. You may use form MC-025, Attachment.

b. I ask the court to deny the request of the person asking for protection that I pay his or her lawyer's fees and costs.



Case Number:

15 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

▶ _____
Sign your name

WV-120-INFO

How Can I Respond to a Petition for Workplace Violence Restraining Orders?

What is a workplace violence restraining order?

It is a court order that prohibits you from doing certain things and going certain places.

What does the order do?

The court can order you to:

- Not contact **people who are** protected by the order.
- Stay away from **people protected by the order and their** home, workplace, and other places.
- Not have any firearms (guns), firearm parts, ammunition, **or body armor** as long as the order is in effect. This includes firearm receivers and frames, and any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531).

For more information about the items you would not be allowed to have, please see selfhelp.courts.ca.gov/restraining-orders/prohibited-items.

Who can ask for a workplace violence restraining order?

An employer **or collective bargaining representative** can ask for an order on behalf of an employee who has suffered **harassment, violence, or a credible threat of violence** at the workplace, **or members of their household or other employees.**

I've been served with a petition for private workplace violence restraining orders. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* tells you when to appear in court. There may also be a *Temporary Restraining Order* forbidding you from doing certain things. You must obey the order until the hearing.

What if I don't agree with what the order says?

You still must obey the order until the hearing. If you disagree with the orders the person is asking for, fill out form [WV-120, Response to Petition for Workplace Violence Restraining Orders](#), before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025](#). You can get the forms from legal publishers or from the California Courts website at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed form WV-120 to the person named in item ① of the petition form WV-100 (or that person's lawyer). (This is called "service by mail.")

The person who serves the form by mail for you must fill out form [WV-250, Proof of Service of Response by Mail](#). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on form WV-109, *Notice of Court Hearing*. If you do not go to the hearing, the judge can make orders against you without hearing from you.

WV-109 Notice of Court Hearing

Clerk stamps date here when form is filed.

DRAFT
2024-01-08

Not approved by the
Judicial Council

① **Petitioner (Employer or Collective Bargaining Representative)**

a. Name: _____

Lawyer for Petitioner (if any for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____ Fill in court name and street address:
 Superior Court of California, County of _____

b. Address (If you have a lawyer, give your lawyer's information.):
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____ Fill in case number:
 Email Address: _____ Case Number: _____

② **Employee Who Petitioner Assert Suffered Harassment, Violence, or Threat of Violence**
 Full Name: _____

③ **Respondent (Person From Whom Protection Is Sought)**
 Full Name: _____

The court will complete the rest of this form.

④ **Notice of Hearing**
 A court hearing is scheduled on the request for restraining orders against the respondent:

Name and address of court if different from above:

Hearing Date → Date: _____ Time: _____
 Dept.: _____ Room: _____

- To the person in ③:
- If you attend the hearing (in person, by phone, or by videoconference) and the judge grants a restraining order against you, the order will be effective immediately, and you could be arrested if you violate the order.
 - If you do not attend the hearing, the judge may still grant the restraining order that could last up to five years. After you receive a copy of the order, you could be arrested if you violate the order.



How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide to continue or cancel the order. Any order issued at the hearing can last for up to three years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the people to be protected at the court hearing?

Yes. Assume that the people to be protected will attend the hearing. Do not talk to them unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030](#) for this.

Information about the process is also available online.

See selfhelp.courts.ca.gov/WV-restraining-order.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to selfhelp.courts.ca.gov/request-interpreter.

What if I have a gun?

If a restraining order is issued, you cannot own, possess, or have a firearm (gun), firearm parts, ammunition, or body armor while the order is in effect. If you have a firearm (gun) or firearm parts in your immediate possession or control, you must sell it to or store it with a licensed gun dealer, or turn it in to a law enforcement agency.

Can I agree with the protected person to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the employer would have to file a request with the court to cancel the order.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Clerk stamps date here when form is filed.

DRAFT

01/29/2024

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Employer or Collective Bargaining Representative)

- a. Name: _____
 Lawyer for Petitioner *(if any, for this case)*
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address *(If you have a lawyer, give your lawyer's information.)*
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

2 Protected Person or Persons

- Full Name: _____
- Full Name: _____
- Full Name: _____
- Full Name: _____

Additional protected persons are listed at the end of this Order on Attachment 2.

3 Respondent (Restrained Person)

(Give all the information you know. Information with a star () is required to add this order to the California police database. If age is unknown, give an estimate.)*

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

4 Expiration Date

This Order, except for any award of lawyer's fees, expires at

Date: _____ Time: _____ a.m. p.m.

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



5 Hearing

- a. There was a hearing on (date): _____ at (time): _____ in Dept.: _____ Room: _____ (Name of judicial officer): _____ made the orders at the hearing.
b. These people were at the hearing:
(1) [] The petitioner (name): _____
(2) [] The lawyer for the petitioner (name): _____
(3) [] The respondent (4) [] The lawyer for the respondent (name): _____
[] Additional persons present are listed at the end of this Order on Attachment 5b.
c. [] The hearing is continued. The parties must return to court on (date): _____ at (time): _____.

To the Respondent:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You are ordered not to do the following things to the protected person or persons listed in 2
(1) [] Harass, molest, strike, assault (sexually or otherwise), batter, abuse, destroy personal property of, or disturb the peace of the person.
(2) [] Commit acts of violence or make threats of violence against the person.
(3) [] Follow or stalk the person during work hours or to or from the place of work.
(4) [] Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.
(5) [] Enter the person's workplace.
(6) [] Take any action to obtain the person's address or locations. If this item is not checked, the court has found good cause not to make this order.
(7) [] Other (specify):
[] Other personal conduct orders are attached at the end of this Order on Attachment 6a(7).
b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



7 Stay-Away Orders

a. You **must** stay at least _____ yards away from *(check all that apply)*:

(1) Each protected person listed in **2** **3** Other *(specify)*:

(2) For each protected person listed in **2** _____

(a) The person's workplace _____

(b) The person's home _____

(c) The person's school _____

(d) The person's children's school _____

(e) The person's children's place of child care _____

(f) The person's vehicle _____

b. This stay-away order does not prevent you from going to or from your home or place of employment.

8 No Firearms (Guns), Firearm Parts, or Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed below in b.

b. **Prohibited items are:**

(1) Firearms (guns);

(2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and

(3) Ammunition.

c. If you have not already done so, you must:

- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your custody or control or that you possess or own.

- File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form WV-800) for the receipt.)

d. The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

e. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in **3** is not required to relinquish this firearm *(specify make, model, and serial number of firearm(s))*: _____

The firearm must be in the physical possession of the person in **3** only during scheduled work hours and during travel to and from their place of employment. Even if exempt under California law, the person in **3** may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



9 No Body Armor

You cannot own, possess, or buy body armor (defined in Penal Code section 16288). You must relinquish any body armor you have in your possession.

10 **Costs**

You must pay the following amounts for costs to the petitioner:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment **10**.

11 **Other Orders** (*specify*):

Additional orders are attached at the end of this Order on Attachment **11**.

To the Person in 1:

12 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, the petitioner or the petitioner’s lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

Additional law enforcement agencies are listed at the end of this Order on Attachment **12**.

This is a Court Order.



13 Service of Order on Respondent

- a. The respondent personally attended the hearing, either physically or remotely (by telephone or videoconference). No other proof of service is needed.
- b. The respondent did not attend the hearing.
 - (1) Proof of service of form WV-110, *Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in form WV-110 except for the expiration date. The respondent must be served with this Order. Service may be by mail.
 - (2) The judge’s orders in this form are different from the temporary restraining orders in form WV-110. Someone—but not the petitioner or anyone protected by this order—must personally serve a copy of this Order on the respondent.

14 No Fee to Serve (Notify) Restrained Person **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on a credible threat of violence or stalking.
- b. The petitioner is entitled to a fee waiver.

15 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warning and Notice to the Respondent:

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

Unless item 8e is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 8b on page 3 while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in **(8)** above. The court will require you to prove that you did so.

This is a Court Order.



Instructions for Law Enforcement

Enforcing the Restraining Order

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). Agencies are encouraged to enter violation messages into CARPOS. If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing (see (12)), the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

Start Date and End Date of Orders

This Order *starts* on the date next to the judge’s signature on page 5 and *ends* on the expiration date in (5) on page 1.

If a Protected Person Contacts the Restrained Person

Even if a protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting a protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 6a(4) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk’s Certificate
[seal]

(Clerk will fill out this part.)
—Clerk's Certificate—

I certify that this *Workplace Violence Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT
2024-01-09

Not approved by the
Judicial Council

1 Petitioner (Employer or Collective Bargaining Representative)

Name: _____

2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Name: _____

3 Respondent (Person From Whom Protection Is Sought)

Name: _____

4 Notice to Server

The server must:

- Be 18 years of age or older.
- Not be listed in items **1**, **2**, or **4** of form WV-100.
- Give a copy of all documents checked in **5** below to the respondent. (You cannot send them by mail.) Then complete and sign this form and give or mail it to the petitioner.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

PROOF OF PERSONAL SERVICE

5 I gave the respondent a copy of the forms checked below:

- a. WV-109, *Notice of Court Hearing*
- b. WV-110, *Temporary Restraining Order*
- c. WV-100, *Petition for Workplace Violence Restraining Orders*
- d. WV-120, *Response to Petition for Workplace Violence Restraining Orders* (blank form)
- e. WV-120-INFO, *How Can I Respond to a Petition for Workplace Violence Restraining Orders?*
- f. WV-130, *Workplace Violence Restraining Order After Hearing*
- g. WV-250, *Proof of Service by Mail* (blank form)
- h. WV-800, *Receipt for Firearms and Firearm Parts* (blank form)
- i. Other (specify): _____

6 I personally gave copies of the documents checked above to the respondent

a. On (date): _____ b. At (time): _____ a.m. p.m.

c. At this address: _____

City: _____ State: _____ Zip: _____

7 Server's Information

Name: _____ Telephone: _____

Address: _____

City: _____ State: _____ Zip: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server's name

Server to sign here

Clerk stamps date here when form is filed.

DRAFT

01/09/2024

**Not approved by
the Judicial Council**

1 Petitioner (Employer or Collective Bargaining Representative)

Name: _____

2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Name: _____

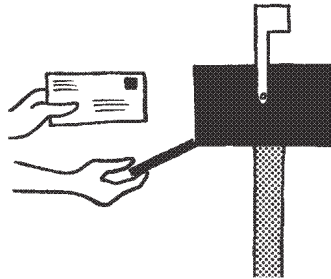
3 Respondent (Person From Whom Protection Is Sought)

Name: _____

4 Notice to Server

The server must:

- Be 18 years of age or older.
- Be a resident of or employed in the county where the mailing took place.
- Not be the respondent.
- Mail a copy of all documents checked in **5** below to the petitioner or the petitioner’s lawyer.
- Complete and sign this form and give it to the respondent.



Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

PROOF OF SERVICE BY MAIL

5 I am 18 years of age or older and not a party to this proceeding. I live or am employed in the county where the mailing took place. I mailed the petitioner or the petitioner’s lawyer a copy of:

- a. Form WV-120, *Response to Petition for Workplace Violence Restraining Order* (completed)
- b. Other(*specify*): _____

6 I placed copies of the documents listed above in a sealed envelope and mailed them as described below:

- a. Mailed to (*name*): _____
- b. To this address: _____
 City: _____ State: _____ Zip: _____
- c. On (*date*): _____ Mailed from: City: _____ State: _____

7 Server’s Information

Name: _____ Telephone: _____

Address: _____

City: _____ State: _____ Zip: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server’s name

▲

Server to sign here

Clerk stamps date here when form is filed.

**DRAFT
2024-01-09**

**Not approved by the
Judicial Council**

You may serve form WV-130, Workplace Violence Restraining Order After Hearing, on the respondent by mail if the respondent was not at the hearing and:

- Before the hearing, the respondent was personally served with form WV-110, Temporary Restraining Order, and proof of service of form WV-110 was presented to the court at the hearing; and
- The judges orders in form WV-130 are the same as in form WV-110 except for the expiration date.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Petitioner (Employer or Collective Bargaining Representative)

Name: _____

2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Name: _____

3 Respondent (Restrained Person)

Name: _____

PROOF OF SERVICE BY MAIL

4 I am 18 years of age or older and live or am employed in the county where the mailing took place. I am not the petitioner, the employee, or any person listed in item **4** of form WV-130. I mailed the respondent a copy of:

- a. Form WV-130, *Workplace Violence Restraining Order After Hearing*
- b. Other (specify): _____

5 I placed copies of the documents above in a sealed envelope and mailed them as described below:

- a. Mailed to (name): _____
- b. To this address: _____
City: _____ State: _____ Zip: _____
- c. On (date): _____ Mailed from: City: _____ State: _____

6 Server's Information

Name: _____ Telephone: _____
 Address: _____
 City: _____ State: _____ Zip: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print server's name

▶ _____
Server to sign here

Clerk stamps below when form is filed.

DRAFT

01/09/2024

**Not approved by
the Judicial Council**

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____
Lawyer for Petitioner *(if any for this case)*:
Name: _____ State Bar No.: _____
Firm Name: _____

b. Address *(If you have a lawyer, give your lawyer's information.)*:
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Court name and street address:

Superior Court of California, County of

2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Full Name: _____

Fill in case number:

Case Number:

3 Respondent (Restrained Person)

Full Name: _____

Address *(if known)*: _____

City: _____ State: _____ Zip: _____

4 Request to Renew Restraining Order

I ask the court to renew the *Workplace Violence Restraining Order After Hearing* (form WV-130). A copy of the order is attached.

- a. The order ends on *(date)*: _____
- b. This is my first request to renew the order.
 The order has been renewed _____ times.
- c. I want the order to be renewed for three years other *(specify)*: _____
- d. I ask the court to renew the order because *(explain below)*: Response is stated in Attachment 4d.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

 _____
Sign your name

This is not a Court Order.

Notice of Hearing to Renew Restraining Order

Clerk stamps below when form is filed.

DRAFT

2024-01-09

**Not approved by the
Judicial Council**

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____
Lawyer for Petitioner (if any for this case):
Name: _____ State Bar No.: _____
Firm Name: _____

b. Address (If you have a lawyer, give your lawyer's information.):
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax No.: _____
Email Address: _____

Court name and street address:

Superior Court of California, County of

2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence

Full Name: _____

Fill in case number:

Case Number:

3 Respondent (Restrained Person)

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

To the Respondent:

4 Court Hearing

The judge has set a court hearing date. *Court will fill in box below.*

The current restraining order stays in effect until the end of the hearing.

Hearing Date

→ Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above:

At the hearing, the judge can renew the current restraining order for up to another three years. You *must* continue to obey the current restraining order until the hearing. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out form WV-720, *Response to Request to Renew Restraining Order*. File the original with the court before the hearing and have someone age 18 or older—**not you**—mail a copy of it to the petitioner at the address in ① at least _____ days before the hearing. Also file form WV-250, *Proof of Service of Response by Mail*, with the court before the hearing.

This is a Court Order.



To the Petitioner:**5 Service and Response**

Someone age 18 or older—**not you or anyone else protected by the restraining order**—must personally serve (give) a copy of the following forms on the respondent at least _____ days before the hearing.

- WV-700, *Request to Renew Restraining Order*;
- WV-710, *Notice of Hearing to Renew Restraining Order* (this form);
- WV-720, *Response to Request to Renew Restraining Order* (blank copy);
- WV-130, the current *Workplace Violence Restraining Order After Hearing* for which renewal is requested.

After the respondent has been served, file form WV-200, *Proof of Personal Service*, with the court clerk. For help with service, read form WV-200-INFO, *What Is “Proof of Personal Service”?*

Date: _____

Judicial Officer**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons with Disabilities and Response (form MC-410)*. (Civ. Code, § 54.8.)

This is a Court Order.

Clerk stamps date here when form is filed.

Instructions: Either party may use this form to ask the court to reschedule the hearing (court date) listed on form [WV-710, Notice of Hearing to Renew Restraining Order](#). Note: If the hearing is rescheduled, the restraining order will be extended until the new court hearing.

1 My Information

a. My name is: _____

b. I am the (*check one*):(1) **Petitioner** (employer or collective bargaining representative) (*skip to 2*).(2) **Restrained Party** (*give your contact information below*).**Address where I can receive mail:**

This address will be used by the court and by the other party to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission. If you have a lawyer, give their information.

Address: _____

City: _____ State: _____ Zip: _____

Additional contact information (*optional*)

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*)

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:**2 Information About Your Case**a. The other party in this case is (*full name*): _____b. The court date is currently scheduled for (*date*): _____**This is not a Court Order.**

3 Why does your court date need to be rescheduled?

- a. I need more time to have the restrained party served.
b. Other reason:

Multiple horizontal lines for providing a reason for rescheduling.

4 Signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

Type or print your name



Sign your name

5 Lawyer's signature (if you have one)

Date:

Lawyer's name



Lawyer's signature

Your Next Steps

- Complete form WV-716, Order to Reschedule Hearing to Renew Restraining Order (only items 1 and 2).
File forms WV-715 and WV-716 with the court. A judge will review your forms and decide whether to reschedule your court date.
If the judge grants your request to reschedule your court date, you must have someone serve a copy of all forms listed on form WV-716, item 5. Your server can be the sheriff or another adult who is not involved in the case. For more information on how to serve the restrained person, go to selfhelp.courts.ca.gov/WV-restraining-order/renew/sheriff-serves.
If the judge denies your request to reschedule, you must go to your court hearing (listed on form WV-710).

Clerk stamps date here when form is filed.

(Complete ① and ② only. The court will complete the rest of this form.)

① **Petitioner (Employer or Collective Bargaining Representative):**

② **Restrained Party:** _____

③ **Next Court Date**

a. **Denied:** The request to reschedule the court date is denied.

Your court date is: _____

(1) The *Workplace Violence Restraining Order After Hearing* (form [WV-130](#)) granted in this case stays in full force and effect until your court date.

(2) Your court date is not rescheduled because:

b. **Granted:** The request to reschedule the court date is granted. Your court date is rescheduled for the day and time listed below. The current restraining order stays in effect until the hearing date below or the original expiration date, whichever is later. See ④–⑦ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

Warning and Notice to the Restrained Party:
You must obey the restraining order while it is in effect.

This is a Court Order.



4 Reason Court Date Is Rescheduled

- a. The petitioner has not served the restrained party.
- b. Other reason:

5 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner**

b. **Restrained party**

c. **Court**

(1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.

(1) Further notice is not required.

(2) You must have the restrained party personally served with a copy of all the forms listed on form [WV-710](#), item **5**, by (date): _____

(2) You must have the petitioner personally served with a copy of this order by (date): _____

(2) The court will mail a copy of this order to all parties by (date): _____

(3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) You must have the petitioner served with a copy of this order. This can be done by mail. You must serve by (date): _____

(3) Other: _____

(4) Other: _____

(4) Other: _____

This is a Court Order.



6 No Fee to Serve (Notify) Restrained Person **Ordered** **Not Ordered**

The sheriff or marshal will serve this order for free because:

- a. The order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person in **1** is entitled to a fee waiver.

7 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* (form [MC-410](#)). (Civ. Code, § 54.8.)

Instructions to Clerk

If the court rescheduled the court date, the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order to Reschedule Hearing to Renew Restraining Order* (form WV-716) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Use this form to respond to the Request to Renew Restraining Order (form WV-700)

- Fill out this form and then take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the petitioner by mail with a copy of this form and any attached pages. (*Use form WV-250, Proof of Service of Response by Mail.*)

DRAFT

01/29/2024

**Not approved by
the Judicial Council**

1 Petitioner (Employer or Collective Bargaining Representative)

Name: _____

2 Employee Who Petitioner Asserts Suffered Harassment, Violence, or Threat of Violence

Name: _____

3 Respondent (Restrained Person)

a. Your Name: _____

Your Lawyer (*if you have one for this case*):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (*you may give a mailing address if you want to keep your street address private; skip this if you have a lawyer*):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

4 Response

- a. I agree to extend the order.
- b. I do not agree to extend the order.
- c. I agree to the following order instead (*specify below*):

Check here if there is not enough space for your answer. Attach a sheet of paper and write "Attachment 4c—Order Requested" for a title. You may use form MC-025, Attachment.

d. I ask the court not to renew the order for the following reasons (*specify below*):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 4d—Reasons Not to Renew," for a title.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

The court will consider your *Response* at the hearing. Write your hearing date, time, and place from form WV-710 item ④ here.

Hearing Date → Date: _____
Time: _____

Dept.: _____ Room: _____

You must continue to obey the current restraining order until the hearing. At the hearing, the court can extend the order against you for up to another three years.



Case Number:

Date: _____

Lawyer's name, if you have one



Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name



Sign your name

**DRAFT
2024-01-22
Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner (Employer or Collective Bargaining Representative)

a. Name: _____
Lawyer for Petitioner *(if any for this case)*:
Name: _____ State Bar No.: _____
Firm Name: _____
b. Address *(If you have a lawyer, give your lawyer's information.)*:
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

2 Employee Who Suffered Harassment, Violence, or Threat of Violence

Full Name: _____

3 Respondent (Restrained Person)

Full Name: _____
Address *(if known)*: _____
City: _____ State: _____ Zip: _____

4 Hearing

There was a hearing on *(date)*: _____ at *(time)*: _____ a.m. p.m. Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.

These people were at the hearing:

- a. The petitioner
- b. The respondent
- c. The lawyer for the petitioner *(name)*: _____
- d. The lawyer for the respondent *(name)*: _____
- Additional persons present are listed on Attachment 4.

5 Renewal and Expiration

The request to renew the attached *Workplace Violence Restraining Order After Hearing*, originally issued on *(date)* _____, is:

a. **GRANTED**. The attached order is renewed and will now expire on:

Time: _____ a.m. p.m. or midnight on *(date)*: _____

If no expiration date is written here, the order expires three years from the date of the hearing in item **4**.

b. **DENIED**. The attached order expires as stated in item **5** of the order.

Date: _____

Judicial Officer

This is a Court Order.