

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts
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SUBJECT: Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730) (Action Required)

Issue Statement

Various Judicial Council advisory committee members, court personnel, members of the public, and Administrative Office of the Courts (AOC) staff have identified issues in rules and forms concerning ambiguous language, changes in the law, and ease of form use. The proposed rule and form changes are necessary to comply with statutory mandates and policies and to facilitate consistency.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2008, make the following rule and form changes to comply with current statutes and facilitate consistency:

1. Amend rules 5.726, 5.727, 5.728, 8.450, and 8.454 of the California Rules of Court;
2. Revise forms FL-327, JV-321, JV-323, and JV-324;
3. Adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and
4. Revoke forms JV-325, JV-325-INFO, JV-720, and JV-730.

The text of the rules is attached at pages 6–10; the text of the forms is attached at pages 11–30.

Rationale for Recommendation

This proposal makes changes to rules and forms with respect to several family and juvenile law issues. Each issue will be addressed separately.

Supplemental petitions in delinquency proceedings

The committee recommends revoking forms JV-720, *Supplemental Petition for More Restrictive Placement (Attachment)*, and JV-730, *Supplemental Petition for Commitment for 30 Days or Less (Attachment)*, because they no longer reflect current law. Since March 8, 2000, section 777 of the Welfare and Institutions Code has not made a distinction between probation failures under section 777(a), on which form JV-720 is based, and violations of probation under section 777(b) and (e), on which form JV-730 is based. Since then, courts have used mandatory form JV-735, *Notice of Hearing to Modify, Change, or Set Aside Previous Orders, Violation of Probation*, to comply with section 777, which requires that probation officers or the prosecution send a notice of hearing to the youth if the youth has violated an order of the court or a condition of the probation.

Notice of intent to file writ petitions

The committee recommends amending rule 8.450 (*Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26*) and rule 8.454 (*Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights*). In 2004, the Judicial Council revised and restructured the appellate rules dealing with appeals and writs in juvenile cases as part of their multiyear project to review the appellate rules of court. In the course of revising these rules, the changes made to rules 8.450 and 8.454, while aimed at making the rules easier to understand, inadvertently altered their substantive meaning. Since these changes were made, various practitioners have contacted AOC staff to express their confusion with the altered language.

The committee therefore recommends amending rule 8.450(c) and (g) and rule 8.454(c) and (h) to reflect the language used in the rules before they were revised in 2004: specifically, in rules 8.450(c) and 8.454(c), that the party may file the notice of intent and writ petition in the absence of trial counsel; and in rules 8.450(g) and 8.454(h), that when a notice of intent is filed, the superior court clerk must immediately notify the reporter to prepare a reporter's transcript of the oral proceedings at each session of the hearing that resulted in the order under review. Because rules 8.450 and 8.454 mirror each other in the subdivisions at issue, the same changes are being recommended for both rules.

Court appointment of child custody evaluators

The committee recommends revising form FL-327, *Order Appointing Child Custody Evaluator*, to be a mandatory, not an optional, form. Rule 5.225 of the California Rules of Court outlines education, experience, and training standards for court-appointed child custody investigators and evaluators. As currently written, rule 5.225(j)(2) and form FL-327 are inconsistent: subdivision (j) requires the court to use form FL-327 when appointing a private child custody evaluator or a court-connected evaluation service, but form FL-327 is now labeled as an optional form. This was an inadvertent error. The committee therefore recommends that the Judicial Council adopt form FL-327 for mandatory use to make the form consistent with the provisions of the rule. The rule will still allow courts to supplement form FL-327 with local court forms.

The committee further recommends that the Judicial Council add language in item 1 of form FL-327 to identify the statutory authority for appointing a child custody evaluator. Finally, various minor formatting changes are necessary to make form FL-327 consistent with current form style.

Prospective Adoptive Parent Designation

The committee recommends revising forms JV-321, JV-323, and JV-324; revoking forms JV-325 and JV-325-INFO; and adopting forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328. Welfare and Institutions Code section 366.26(n) was enacted to provide judicial oversight of the removal of a dependent child from his or her caregiver's home if the caregiver is a prospective adoptive parent. (Assem. Bill 1412 [Leno]; Stats. 2005, ch. 640.) The statute identifies criteria that a caregiver must satisfy to be designated a "prospective adoptive parent"; requires notice of a request to remove a child from a prospective adoptive parent's home; and requires a hearing on the agency's request for removal if objections to the removal are raised. The statute also requires the Judicial Council to create forms to facilitate the filing of the petitions described in the section.

In June 2006, the council approved a number of forms and rules to facilitate prospective adoptive parent court procedures. To streamline the process, the forms were created with multiple parts. For example, the request for removal of a child, notice, and the court's findings and orders were all included in one form. However, in the past year, users of these forms have complained that the multipart feature is problematic in situations when all parts of the form are not applicable. Filing becomes difficult because the entire form, rather than just the applicable portion, must be filed.

The committee therefore recommends separating the multiple parts into individual forms based on subject matter. For example, form JV-321 is currently a six-page form that addresses the issues of requesting prospective adoptive parent designation, notice, and the court's findings and orders regarding the request for designation as a prospective adoptive parent. The proposed forms would separate these issues so that form JV-321

addresses the request for prospective-adoptive-parent designation and form JV-327 addresses notice of hearing and the court's findings and orders.

The committee further recommends making various technical changes for purposes of clarity. These changes do not change the content of the forms.

The committee also recommends amending rules 5.726, 5.727, and 5.728 to update references to forms to reflect the new form titles and numbers discussed above; to add a definition of notice in rule 5.727(f)(1) and (f)(2); and to add and revise portions of the language in rules 5.726, 5.727, and 5.728 for purposes of clarity. No substantive changes are being proposed in any of these rules.

Alternative Actions Considered

The proposed amendments, revisions, and revocations are necessary to bring the rules and forms into compliance with governing law and to promote clarity and ease of use. No alternative actions were considered.

Comments From Interested Parties

The invitation to comment on the proposal was circulated from April 25, 2007, through June 20, 2007, to the standard mailing list for family and juvenile law proposals as well as to the regular rules and forms mailing list. This distribution list includes judges, court administrators, attorneys, social workers, probation officers, mediators, and other family and juvenile law professionals. Staff received a total of 15 comments. Only 1 commentator disagreed; 10 commentators agreed with the proposed changes; 4 commentators agreed with the proposal if modified and suggested both technical and substantive changes.

Prospective Adoptive Parent Designation

The only area commented on was the recommended changes to the prospective adoptive parent designation rules and forms.

One commentator disagreed with the proposal. This commentator's comments focused on substantive issues related to two forms. With respect to form JV-326-INFO, *Instructions for Notice of Prospective-Adoptive-Parent Hearing*, the commentator did not feel that the court clerk should be required to give notice of the hearing and the reasons for and against removal. The commentator felt that this requirement created an undue burden on the court clerks. With respect to form JV-328, *Prospective Adoptive Parent Order After Hearing*, the commentator felt that it was unnecessary to include a place to insert the name of the child's prospective adoptive parents. Both instances involved content that is already included in the current versions of the forms adopted by the Judicial Council in 2006. The primary aim of this proposal, however, is to address the issue of separating form JV-321's multiple parts into individual forms to facilitate their use—not to address the content included in them. Moreover, the commentator's recommended changes are

substantive in nature, and, as such, are beyond the intended scope of this proposal. The committee does not recommend them at this time.

Four commentators agreed with the proposal if modified. One of their comments was unrelated to this proposal and was disregarded. For the most part, the rest of the commentators focused on issues related to the language of the forms. Because of the number of recommended technical changes, we will not discuss each suggestion in this report. With the exception of those relating to the substance of the rules or forms, the committee recommends incorporating the changes as they serve the purpose of improving the clarity of the proposed rules and forms without altering their substance. As explained above, any comments that are substantive in nature are not recommended as appropriate changes during this time because they are beyond the proposal's scope.

The full text of the comments and the committee's responses are attached at pages 31–43.

Implementation Requirements and Costs

Implementation of the revised forms will incur standard reproduction costs.

Attachments

Rules 5.726, 5.727, 5.728, 8.450, and 8.454 of the California Rules of Court are amended, effective January 1, 2008, to read:

1 **Rule 5.726. Prospective adoptive parent designation (§ 366.26(n))**

2
3 **(a) Request procedure**

4
5 A dependent child’s caregiver may be designated as a prospective adoptive
6 parent. The court may make the designation on its own motion or on a
7 request by a caregiver, the child, a social worker, or the attorney for any of
8 these parties.

9
10 (1)–(2) ***

11
12 (3) If a request for prospective adoptive parent designation is made in
13 writing, it must be made on *Request for Prospective Adoptive Parent*
14 *Designation, Notice, and Order* Request for Prospective Adoptive
15 Parent Designation (form JV-321).

16
17 (4) ***

18
19 **(b)–(c) *****

20
21 **(d) Notice of designation hearing**

22
23 After the court has ordered a hearing on a request for prospective-adoptive-
24 parent designation, notice of the hearing must be as described below.

25
26 (1)–(2) ***

27
28 (3) If the request for designation was made before a request for removal
29 was filed or before an emergency removal occurred, notice must be as
30 follows:

31
32 (A) ***

33
34 (B) *Request for Prospective Adoptive Parent Designation, Notice, and*
35 *Order* (form JV-321), Prospective Adoptive Parent Designation
36 Order (form JV-327) must be used to provide notice of a hearing
37 on the request for prospective adoptive parent designation.

38
39 (C)–(D) ***

40

1 (E) *Proof of Notice of Hearing (form JV-325), Proof of Notice (form*
2 *JV-326)* must be filed with the court before the hearing on the
3 request for prospective adoptive parent designation.
4

5 (e)–(f) ***
6

7
8 **Rule 5.727. Proposed removal (§ 366.26(n))**
9

10 (a)–(b) ***
11

12 (c) **Form of notice**
13

14 DSS or the agency must provide notice on *Notice of Intent to Remove Child*
15 *and Proof of Notice, Objection to Removal, and Order After Hearing (form*
16 *~~JV-323~~)*, *Notice of Intent to Remove Child (form JV-323)*. A blank copy of
17 *Objection to Removal (form JV-325)* and *Request for Prospective Adoptive*
18 *Parent Designation (form JV-321)* must also be provided.
19

20 (d) **Service of notice**
21

22 DSS or the agency must serve notice of its intent to remove a child as
23 follows:
24

25 (1)–(3) ***
26

27 (4) Proof of service of the notice on *Notice of Intent to Remove Child and*
28 *Proof of Notice, Objection to Removal, and Order After Hearing (form*
29 *~~JV-323~~)* *Proof of Notice (form JV-326)* must be filed with the court.
30

31 (e) **Objection to proposed removal**
32

33 Each participant who receives notice under (b) may object to the ~~intent to~~
34 remove proposed removal of the child and may request a hearing.
35

36 (1) A request for hearing on the proposed removal must be made on *Notice*
37 *of Intent to Remove Child and Proof of Notice, Objection to Removal,*
38 *and Order After Hearing (form JV-323)* *Objection to Removal (form*
39 *JV-325)*.
40

41 (2)–(3) ***
42

1 (f) **Notice of hearing on proposed removal**

2
3 After the court has ordered a hearing on ~~an intent to remove a child a~~
4 proposed removal, notice of the hearing must be as follows:

5
6 (1)–(2) ***

7
8 (3) Notice must be either by personal service of ~~Notice of Intent to Remove~~
9 ~~Child and Proof of Notice, Objection to Removal, and Order After~~
10 ~~Hearing~~, (form JV-323) or by telephone. Notice by personal service
11 must include a copy of the forms *Notice of Intent to Remove Child*
12 (form JV-323) and *Objection to Removal* (form JV-325). Telephone
13 notice must include the reasons for and against the removal, as
14 indicated on ~~the form~~ forms JV-323 and JV-325.

15
16 (4) Proof of notice on ~~Proof of Notice of Hearing~~ (form JV-325) Proof of
17 Notice (form JV-326) must be filed with the court before the hearing on
18 ~~the intent to remove the child~~ proposed removal.

19
20 (g)–(i) ***

21
22
23 **Rule 5.728. Emergency removal (§ 366.26(n))**

24
25 (a)–(b) ***

26
27 (c) **Form of notice**

28
29 ~~Notice of Emergency Removal, Objection to Removal, and Order After~~
30 ~~Hearing~~ (form JV-324) Notice of Emergency Removal (form JV-324) must
31 be used to provide notice of an emergency removal, as described below.

32
33 (1)–(5) ***

34
35 (d) **Objection to emergency removal**

36
37 Each participant who receives notice under (b) may object to the removal of
38 the child and may request a hearing.

39
40 (1) A request for hearing on the emergency removal must be made on
41 ~~Notice of Emergency Removal, Objection to Removal, and Order After~~
42 ~~Hearing~~ (form JV-324) Objection to Removal (form JV-325).

1 (2) ***

2

3 (e) **Notice of emergency removal hearing**

4

5 After the court has ordered a hearing on an emergency removal, notice of the
6 hearing must be as follows:

7

8 (1) Notice must be either by personal service of *Notice of Emergency*
9 *Removal, Objection to Removal, and Order After Hearing* (form JV-
10 324) or by telephone. Notice by personal service must include a copy of
11 *Notice of Emergency Removal* (form JV-324). ~~The telephone~~
12 Telephone notice must include the reasons for and against the removal,
13 as indicated on ~~the form.~~ forms JV-324 and JV-325.

14

15 (2)–(3) ***

16

17 (4) Proof of notice on *Notice of Emergency Removal, Objection to*
18 *Removal, and Order After Hearing* (form JV 324) *Proof of Notice*
19 (form JV-326) must be filed with the court before the hearing on the
20 emergency removal.

21

22 (f)–(g) ***

23

24

25 **Rule 8.450. Notice of intent to file writ petition to review order setting hearing**
26 **under Welfare and Institutions Code section 366.26**

27

28 (a)–(b) ***

29

30 (c) **Who may file**

31

32 The petitioner's trial counsel, or, ~~—or, if the petitioner was not represented by~~
33 ~~counsel at the hearing at which the section 366.26 hearing was set, the~~
34 ~~petitioner~~ — in the absence of trial counsel, the party, is responsible for filing
35 any notice of intent and writ petition under rules 8.450–8.452. Trial counsel
36 is encouraged to seek assistance from or consult with attorneys experienced
37 in writ procedure.

38

39 (d)–(f) ***

40

41 (g) **Preparing the record**

42

43 When the notice of intent is filed, the superior court clerk must:

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(1) Immediately notify the reporter by telephone and in writing to prepare a reporter's transcript of the oral proceedings at each session of the hearing that resulted in the order under review and deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; and

(2) ***

(h)–(i) ***

Rule 8.454. Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights

(a)–(b) ***

(c) Who may file

The petitioner's trial counsel, ~~or, —or, if the petitioner was not represented by counsel at the hearing at which the posttermination placement order was issued, the petitioner—~~ in the absence of trial counsel, the party, is responsible for filing any notice of intent and writ petition under rules 8.454–8.456. Trial counsel is encouraged to seek assistance from, or consult with, attorneys experienced in writ procedure.

(d)–(g) ***

(h) Preparing the record

When the notice of intent is filed, the superior court clerk must:

(1) Immediately notify the reporter by telephone and in writing to prepare a reporter's transcript of the oral proceedings at each session of the hearing that resulted in the order under review and to deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; and

(2) ***

(i)–(j) ***

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/> TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 5 09/18/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:	
RESPONDENT/DEFENDANT:	
ORDER APPOINTING CHILD CUSTODY EVALUATOR	CASE NUMBER:

THE COURT ORDERS AS FOLLOWS:

1. Name: _____

- a. local court-connected child custody evaluation service (specify):
- b. private child custody evaluator
- c. other (specify):

is appointed in this matter to perform (check one):

- a full child custody evaluation
- a partial child custody evaluation

under the statutory authority of:

- Family Code, section 3111.
- Family Code, section 3118.
- Evidence Code, section 730.
- Chapter 15 (commencing with section 2032.010) of title 4, part 4 of the Code of Civil Procedure.

2. The scope of the evaluation is (specify):

3. Within 10 court days of receipt of this order and prior to commencing the evaluation, the child custody evaluator must file a *Declaration of Private Child Custody Evaluator Regarding Qualifications* (form FL-326) with the court, unless the person is a court-connected employee who must annually file the *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (FL-325).

Date:

JUDGE OF THE SUPERIOR COURT

Number of pages attached: _____

Clerk stamps date here when form is filed.

**DRAFT 8
09/27/07 xyz
Not approved by the
Judicial Council**

After filling out this form, bring it to the clerk of the court. If you want to keep an address or telephone number confidential, fill out form JV-322, Confidential Information—Prospective Adoptive Parent, and do not write the address or phone number on this form.

- ① Information about the person or persons you want to be designated as prospective adoptive parents:
 - a. Name: _____
 - b. Name: _____
 - c. Address: _____
 - d. Phone number: _____

Fill in court name and street address:

Superior Court of California, County of

- ② If you are not a person in ①, fill out below.
 - a. Name: _____
 - b. I am the child child's attorney other
(specify role): _____
 - c. Address: _____
 - d. Phone number: _____

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Fill in case number:

Case Number:

- ③ If you are not the child's attorney and you know who the child's attorney is, fill out below.
 - a. Name of child's attorney: _____
 - b. Address of child's attorney: _____
 - c. Phone number of child's attorney: _____

- ④ The child is 10 years of age or older. Child's phone number: _____
or Telephone number is confidential.

- ⑤ The child has lived with the person from *(date):* _____ to the present.
In order for the person in ① to become a prospective adoptive parent, the child must be living with that person now.

- ⑥ Date of Welfare and Institutions Code section 366.26 hearing: _____
The person in ① should not file this form with the court until a Welfare and Institutions Code section 366.26 hearing has been scheduled.

- ⑦ The person in ① is committed to adopting the child.



Clerk stamps date here when form is filed.

**DRAFT 6
07/20/07 mc
Not approved by the
Judicial Council**

This notice must be served with a blank copy of form JV-321, Request for Prospective Adoptive Parent Designation, and a blank copy of form JV-325, Objection to Removal.

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:

Fill in case number:

Case Number:

1 To:

- a. Court: _____
- b. Designated prospective adoptive parent or caregiver who may fit the definition of "prospective adoptive parent" (*name*):

- c. Child's attorney (*name*): _____
- d. Child, if 10 years of age or older (*name*): _____
- e. Child's identified Indian tribe, if any (*name*): _____
- f. Child's Indian custodian, if any (*name*): _____
- g. Child's Court Appointed Special Advocate (CASA) program, if any (*name of person notified*): _____

2 Name of agency proposing move: _____

Address: _____

Phone number: _____

This agency is asking for a court order to remove (*name of child*):

from his or her current home because (*explain*): _____

If more space is needed, attach a sheet of paper and write "JV-323, Item 2—Reasons for Removal" at the top.

Number of pages attached: _____



Case Number:

Child's name: _____

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- ③ **If you do not agree with the removal, you may request a court hearing.** To do this, you must fill out form JV-325, **Objection to Removal**, and file it with the court within five court days or seven calendar days, whichever is longer, from the date you received this notice. If the court has not designated you as a prospective adoptive parent, you must complete form JV-321, Request for Prospective Adoptive Parent Designation, and file it with this form.

I declare under penalty of perjury under the laws of the State of California that the information in items 1 and 2 is true and correct, which means that if I lie on this form, I am committing a crime.

Date: _____

Type or print your name



Sign your name

This notice must be served with a blank copy of form JV-321, Request for Prospective Adoptive Parent Designation, and a blank copy of form JV-325, Objection to Removal.

Clerk stamps date here when form is filed.

**DRAFT 4
07/24/07 mc
Not approved by the
Judicial Council**

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:

Fill in case number:

Case Number:

1 To:

- a. Court: _____
- b. Designated prospective adoptive parent or caregiver who may fit the definition of "prospective adoptive parent" (*name each*):

- c. Child's attorney (*name*): _____
- d. Child, if 10 years of age or older (*name*): _____
- e. Child's identified Indian tribe, if any (*name*): _____
- f. Child's Indian custodian, if any (*name*):

- g. Child's Court Appointed Special Advocate (CASA) program, if any (*name of person notified*): _____

2 Name of adoption agency: _____
Address: _____ Phone number: _____

The adoption agency has removed (*name of child*): _____ from his or her current home because of an immediate risk of harm (*explain*): _____

3 *If you do not agree with the removal, you may request a court hearing by filling out form JV-325, Objection to Removal, and filing it with the court within five court days or seven calendar days, whichever is longer, from the date you received this notice. If the court has not designated the caregiver as a prospective adoptive parent, you must complete form JV-321, Request for Prospective Adoptive Parent Designation, and file it with this form.*

If you do not agree with the removal, you can request a court hearing by filling out this form. The following people can object to removal: a current caregiver, the child's attorney, the child (if 10 years of age or older), the child's identified Indian tribe or custodian, and the child's CASA program. Bring this form to the clerk of the court. If you want to keep an address or a phone number confidential, fill out form JV-322, Confidential Information—Prospective Adoptive Parent, and do not write the address or phone number on this form.

If you are a caregiver or the child and you requested the hearing, the clerk will provide notice of the hearing to you and any other participants.

If you are the child's attorney and you requested the hearing, you must provide notice of the hearing to all other participants.

Clerk stamps date here when form is filed.

Draft 10
10/02/07 xyz
Not approved by the
Judicial Council

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:

Fill in case number:

Case Number:

- ① Information about the caregiver or caregivers:
- Name: _____
 - Name: _____
 - Address: _____
 - Phone number: _____

- ② If you (the person objecting to the removal) are not the caregiver, fill out below.
- Name: _____
 - I am the child child's attorney child's identified Indian tribe
 child's identified Indian custodian child's CASA program

- Address: _____
- Phone number: _____

- ③ If you are not the child's attorney and you know who the child's attorney is, fill out below.
- Name of child's attorney: _____
 - Address of child's attorney: _____
 - Phone number of child's attorney: _____

- ④ The child is 10 years of age or older. Child's phone number: _____
 Confidential phone number in court file

- ⑤ The child has an identified Indian tribe (specify tribe): _____
 Phone number of tribe: _____

- ⑥ The child has a Court Appointed Special Advocate (CASA) volunteer.
 Phone number of CASA program, if known: _____

- ⑦ The caregiver or caregivers have been designated by the judge as the child's prospective adoptive parent or parents.



Case Number: _____

Child's name: _____

8 The caregiver or caregivers may meet the definition of prospective adoptive parent or parents. Form JV-321, *Request for Prospective Adoptive Parent Designation*, will be filed with this objection and request for hearing.

9 The social worker should not remove the child from the caregiver's home because *(give reasons)*:

If you need more space, attach a sheet of paper and write "JV-325, Item 9—Reasons to Not Remove Child" at the top. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct, which means that if I lie on this form, I am committing a crime.

Date: _____

Type or print your name

▲

Sign your name

What if I am deaf or hard of hearing?



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.courtinfo.ca.gov/forms for a *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code, § 54.8.)

Clerk stamps date here when form is filed.

Draft 6
07/25/07 mc
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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:

Fill in case number:

Case Number:

- 1 Notice of [] Intent to remove
[] Emergency removal
[] Hearing on
[] Prospective adoptive parent designation
[] Intent to remove
[] Emergency removal

set for (date): _____ at (time): _____
in Department _____ of the superior
court at (address): _____

was given to:

a. [] The adoption agency (name of agency employee notified):

- (1) [] Orally, in person, on (date): _____
at (time): _____
(2) [] Orally, by telephone, on (date): _____
at (time): _____
Phone number: _____
(3) [] By personally delivering copies to the person served on
(date): _____ at (time): _____
(4) [] By placing copies as addressed below in a sealed envelope and depositing the envelope:
(a) [] directly in the U.S. mail with postage paid or
(b) [] at my place of business for same-day collection and mailing with the U.S. mail, following
our ordinary business practice.

Address: _____

b. [] The caregiver (name): _____

- (1) [] Orally, in person, on (date): _____ at (time): _____
(2) [] Orally, by telephone, on (date): _____ at (time): _____
Phone number: _____ or [] Confidential phone number in court file
(3) [] By personally delivering copies to the person served on (date): _____ at (time): _____
(4) [] By placing copies as addressed below in a sealed envelope and depositing the envelope:
(a) [] directly in the U.S. mail with postage paid or
(b) [] at my place of business for same-day collection and mailing with the U.S. mail, following
our ordinary business practice.

Address: _____

or [] Confidential address in court file



Child's name: _____

- c. The child's attorney (name): _____
 - (1) Orally, in person, on (date): _____ at (time): _____
 - (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____ or Confidential phone number in court file
 - (3) By personally delivering copies to the person served on (date): _____ at (time): _____
 - (4) By placing copies as addressed below in a sealed envelope and depositing the envelope:
 - (a) directly in the U.S. mail with postage paid or
 - (b) at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice.
 Address: _____

- d. The child if 10 years of age or older (name): _____
 - (1) Orally, in person, on (date): _____ at (time): _____
 - (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____ or Confidential phone number in court file
 - (3) By personally delivering copies to the person served on (date): _____ at (time): _____
 - (4) By placing copies as addressed below in a sealed envelope and depositing the envelope:
 - (a) directly in the U.S. mail with postage paid or
 - (b) at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice.
 Address: _____

or Confidential address in court file

- e. The child's identified Indian tribe, if any (name of tribe and person notified): _____
 - (1) Orally, in person, on (date): _____ at (time): _____
 - (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____ or Confidential phone number in court file
 - (3) By personally delivering copies to the person served on (date): _____ at (time): _____
 - (4) By placing copies as addressed below in a sealed envelope and depositing the envelope:
 - (a) directly in the U.S. mail with postage paid or
 - (b) at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice.
 Address: _____

- f. The child's Indian custodian, if any (name): _____
 - (1) Orally, in person, on (date): _____ at (time): _____
 - (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____ or Confidential phone number in court file



Child's name: _____

- f. (3) By personally delivering copies to the person served on (date): _____ at (time): _____
- (4) By placing copies as addressed below in a sealed envelope and depositing the envelope:
 - (a) directly in the U.S. mail with postage paid *or*
 - (b) at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice.

Address: _____

or Confidential address in court file

- g. The child's Court Appointed Special Advocate (CASA) program, if any (name of person notified): _____

- (1) Orally, in person, on (date): _____ at (time): _____
- (2) Orally, by telephone, on (date): _____ at (time): _____
Phone number: _____ *or* Confidential phone number in court file
- (3) By personally delivering copies to the person served on (date): _____ at (time): _____
- (4) By placing copies as addressed below in a sealed envelope and depositing the envelope:
 - (a) directly in the U.S. mail with postage paid *or*
 - (b) at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice.

Address: _____

- h. The court (name of court employee notified): _____

- (1) Orally, in person, on (date): _____ at (time): _____
- (2) Orally, by telephone, on (date): _____ at (time): _____
Phone number: _____

2 At the time of notice, I was at least 18 years of age and not a party to this matter. I live or am employed in the county where the service occurred. My residence or business address is (specify): _____

3 I declare under penalty of perjury under the laws of the State of California that the information in items 1 and 2 is true and correct, which means that if I lie on this form, I am committing a crime.

Date: _____

Type or print your name

Sign your name

Below are basic instructions for providing notice of a hearing on prospective adoptive parent designation, an intent to remove, or an emergency removal. If you are unfamiliar with this notice process, please refer to Welfare and Institutions Code section 366.26(n) and rules 5.726, 5.727, and 5.728 of the California Rules of Court.

Notice of designation hearing

- ① The **clerk** must provide notice of the hearing if the caregiver or the child filed form JV-321.
- ② The **child's attorney** must provide notice of the hearing if the child's attorney filed form JV-321.
- ③ If the request for designation was made at the same time as a request for a hearing on an intended or emergency removal, notice of the designation hearing must be provided with notice of the removal hearing and can be given by telephone.
- ④ If the request for designation was made before a request for removal was filed or before an emergency removal occurred, notice must be either by first-class mail or by personal service. Notice must include form JV-321, *Request for Prospective Adoptive Parent Designation*, and the order setting a hearing on form JV-327, *Prospective Adoptive Parent Designation Order*.
- ⑤ *Proof of Notice*, form JV-326, must be filed with the court before the hearing on the request for prospective adoptive parent designation.

Notice of proposed removal hearing

- ① The **clerk** must provide notice of the hearing if the court, the caregiver, or the child is requesting a hearing.
- ② The **child's attorney** must provide notice of the hearing if the child's attorney is requesting a hearing.
- ③ Notice may be given by personal service or by telephone. Telephone notice must include the reasons for and against the removal, as indicated on forms JV-323, *Notice of Intent to Remove Child*, and JV-325, *Objection to Removal*.
- ④ If notice is made by personal service, forms JV-323, *Notice of Intent to Remove Child*, and JV-325, *Objection to Removal*, must be used.
- ⑤ *Proof of Notice*, form JV-326, must be filed with the court before the hearing on the intended removal.

Notice of emergency removal hearing

- ① The **clerk** must provide notice of the hearing if the court, the caregiver, or the child is requesting a hearing.
- ② The **child's attorney** must provide notice of the hearing if the child's attorney is requesting a hearing.
- ③ Notice of an emergency removal hearing may be by personal service or by telephone. Telephone notice must include the reasons for and against the removal, as indicated on forms JV-324, *Notice of Emergency Removal*, and JV-325, *Objection to Removal*.
- ④ If notice is made by personal service, forms JV-324, *Notice of Emergency Removal*, and JV-325, *Objection to Removal*, must be used.
- ⑤ *Proof of Notice*, form JV-326, must be filed with the court before the hearing on the emergency removal.

Clerk stamps date here when form is filed.

**DRAFT6
08/16/07 xyz
Not approved by the
Judicial Council**

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:

Fill in case number:

Case Number:

- 1 This order was made:
 - a. On the court's own motion
 - b. At the request of
 (name): _____
 (relationship to the child): _____
 - c. The request was made:
 - (1) Orally at the hearing held on (date): _____
 - (2) In writing by filing form JV-321, *Request for Prospective Adoptive Parent Designation*, on (date): _____

The court finds and orders:

- 2 The child's current caregiver or caregivers
 (name): _____
 (name): _____
 is are designated as the child's prospective adoptive parent or parents because:
 - a. The child has lived with the caregiver or caregivers for at least six months
 - b. The caregiver or caregivers currently expresses a commitment to adopting the child *and*
 - c. The caregiver or caregivers has taken at least one step to facilitate the adoption.

- 3 The child's current caregiver or caregivers
 (name): _____
 (name): _____
 does do not qualify as the prospective adoptive parent or parents of the child, and the request for designation as the prospective adoptive parent or parents is denied, because:
 - a. The child has not lived with the caregiver or caregivers for at least six months.
 - b. The caregiver or caregivers does not currently express a commitment to adopting the child.
 - c. The caregiver or caregivers has not taken any steps to facilitate the adoption.
 - d. Other (*explain*): _____

- 4 The court thinks that the request for designation as a prospective adoptive parent will be contested or wants more evidence on the request, and orders a hearing on the request.
 The hearing will be on (date): _____ at (time): _____ a.m. p.m.
 in department _____ of the superior court located at: _____

Date: _____

Judge (or Judicial Officer)

Clerk stamps date here when form is filed.

**DRAFT 7
08/01/07 mc
Not approved by the
Judicial Council**

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:

Fill in case number:

Case Number:

- ① This hearing on the child's removal from the home of the prospective adoptive parent or parents took place on *(date)*: _____
- ② The child's prospective adoptive parent or parents are:
(name): _____
(name): _____

The court finds and orders:

- ③ Notice was given as required by law.
- ④ The proposed removal is not in the best interest of the child.
The child will remain in the home of the prospective adoptive parent or parents.
- ⑤ The proposed removal is in the best interest of the child. The child is ordered removed from the home of the prospective adoptive parent or parents, and the designation as prospective adoptive parent or parents is terminated. The agency may place the child with *(name)*: _____
- ⑥ The emergency removal is not in the best interest of the child. The child will remain in the home of the prospective adoptive parent or parents.
- ⑦ The emergency removal is in the best interest of the child. The child is ordered removed from the home of the prospective adoptive parent or parents, and the designation as prospective adoptive parent or parents is terminated. The agency may place the child with *(name)*: _____
- ⑧ Other orders *(specify)*: _____

Date: _____

▶ _____
Judge (or Judicial Officer)

Clerk stamps date here when form is filed.

- 1 Notice of the hearing on Prospective adoptive parent designation
- Intent to remove
- Emergency removal

set for (date): _____ at (time): _____
 in department _____ of the superior court at (address): _____

was given to:

- a. The adoption agency (name of agency employee notified): _____

- (1) Orally, in person, on (date): _____ at (time): _____
- (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____
- (3) By personally delivering copies to the person served on (date): _____ at (time): _____
- (4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

- b. The caregiver (name): _____

- (1) Orally, in person, on (date): _____ at (time): _____
- (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____ or Confidential phone number in court file
- (3) By personally delivering copies to the person served on (date): _____ at (time): _____
- (4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

or Confidential address in court file

- c. The child's attorney (name): _____

- (1) Orally, in person, on (date): _____ at (time): _____
- (2) Orally, by telephone, on (date): _____ at (time): _____
 Phone number: _____ or Confidential phone number in court file

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: _____

Clerk fills in case number when form is filed.

Case Number: _____

REVOKED



Child's name: _____

(3) By personally delivering copies to the person served on (date): _____ at (time): _____

(4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

d. The child if 10 years of age or older (name): _____

(1) Orally, in person, on (date): _____ at (time): _____

(2) Orally, by telephone, on (date): _____ at (time): _____

Phone number: _____ or Confidential phone number in court file

(3) By personally delivering copies to the person served on (date): _____ at (time): _____

(4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

or Confidential address in court file

e. The child's identified Indian tribe, if any (name of tribe and person notified): _____

(1) Orally, in person, on (date): _____ at (time): _____

(2) Orally, by telephone, on (date): _____ at (time): _____

Phone number: _____ or Confidential phone number in court file

(3) By personally delivering copies to the person served on (date): _____ at (time): _____

(4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

f. The child's Indian custodian, if any (name): _____

(1) Orally, in person, on (date): _____ at (time): _____

(2) Orally, by telephone, on (date): _____ at (time): _____

Phone number: _____ or Confidential phone number in court file

(3) By personally delivering copies to the person served on (date): _____ at (time): _____

(4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

or Confidential address in court file

REVOKE



Case Number:

Child's name:

g. The child's Court Appointed Special Advocate (CASA) program, if any (name of person notified):

(1) Orally, in person, on (date): _____ at (time): _____

(2) Orally, by telephone, on (date): _____ at (time): _____

Phone number: _____ or Confidential phone number in court file

(3) By personally delivering copies to the person served on (date): _____ at (time): _____

(4) By placing copies in a sealed envelope and depositing the envelope directly in the U.S. mail with postage paid at my place of business for same-day collection and mailing with the U.S. mail, following our ordinary business practice addressed as follows: _____

2 At the time of notice I was at least 18 years of age and not a party to this matter. I live or am employed in the county where the mailing occurred. My residence or business address is (specify): _____

3 I declare under penalty of perjury under the laws of the State of California that the information in items 2 and 3 is true and correct, which means if I lie on this form I am committing a crime.

REVOKE

Date: _____

Type or print your name

Sign your name

Below are basic instructions for providing notice of a hearing on prospective adoptive parent designation, an intent to remove, or an emergency removal. If you are unfamiliar with this notice process, please refer to Welfare and Institutions Code section 366.26(n) and rules 5.726, 5.727, and 5.728 of the California Rules of Court.

Notice of designation hearing

- ① The **clerk** must provide notice of the hearing, if the caregiver or the child filed form JV-321.
- ② The **child's attorney** must provide notice of the hearing, if the child's attorney filed form JV-321.
- ③ If the request for designation was made at the same time as a request for a hearing on an intended or emergency removal, notice of the designation hearing must be provided with notice of the removal hearing, and can be provided by telephone.
- ④ If the request for designation was made before a request for removal was filed or before an emergency removal occurred, notice must be either by first-class mail or by personal service. Notice must include the Proof of Notice of Hearing from form JV-325, and form JV-321, *Request for Prospective Adoptive Parent Designation, Notice, and Order*.
- ⑤ *Proof of Notice of Hearing*, form JV-325, must be filed with the court before the hearing on the request for prospective adoptive parent designation.

Notice of intended removal hearing

- ① The **clerk** must provide notice of the hearing, if the court, the caregiver, or the child is requesting a hearing.
- ② The **child's attorney** must provide notice of the hearing, if the child's attorney is requesting a hearing.
- ③ Notice may be given by personal service or by telephone. Telephone notice must include the reasons for and against the removal, as indicated on form JV-323.
- ④ If notice is made by personal service, form JV-323, *Notice of Intent to Remove Child and Proof of Notice, Objection to Removal, and Order After Hearing* must be used.
- ⑤ *Proof of Notice of Hearing*, form JV-325, must be filed with the court before the hearing on the intended removal.

Notice of emergency removal hearing

- ① The **clerk** must provide notice of the hearing, if the court, the caregiver, or the child is requesting a hearing.
- ② The **child's attorney** must provide notice of the hearing, if the child's attorney is requesting a hearing.
- ③ Notice of an emergency removal hearing may be by personal service or by telephone. The telephone notice must include the reasons for and against the removal, as indicated on form JV-324, *Notice of Emergency Removal, Objection to Removal, and Order After Hearing*.
- ④ *Proof of Notice of Hearing*, form JV-325, must be filed with the court before the hearing on the emergency removal.

CASE NAME: 	CASE NUMBER:
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SUPPLEMENTAL PETITION FOR MORE RESTRICTIVE PLACEMENT (ATTACHMENT)
Welfare and Institutions Code, § 777(a)

1. The child is a ward of the court under Welfare and Institutions Code section 601 602,
2. Under a previous order of this court, dated _____, the child has been in the home of:
 - a. Parent
 - b. Guardian
 - c. Relative
 - d. Other (specify): _____
3. The previous disposition has not been effective in the protection of rehabilitation of the child (state supporting facts concisely, and number them a-1, a-2, etc.):

REVOKE

4. The recommended modified disposition is:

CASE NAME:	CASE NUMBER.
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**SUPPLEMENTAL PETITION FOR COMMITMENT FOR 30 DAYS OR LESS (ATTACHMENT)
Welfare and Institutions Code, § 777(b)**

VIOLATION OF PROBATION

1. The child is a ward of the court under Welfare and Institutions Code section 601 602, and the child has violated a condition of probation.

(State supporting facts concisely, and number them b-1, b-2, etc.):

REVOKE

2. Petitioner requests that the child be confined in a county juvenile institution for *(specify)*: _____ days.

Page _____ of _____

SPRING 07-29

Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730)

LIST OF ALL COMMENTATORS AND THEIR OVERALL POSITIONS ON THE PROPOSAL					
	Commentator	Position	Comment on behalf of group?	Comment Excerpt or Summary	Committee Response
1	Sandy Almansa Supervising Legal Clerk II Superior Court of Stanislaus County	A	Y	See comments on specific items below.	See response below.
2	Grace Andres Program Manager Superior Court of Solano County	A	N	No narrative comments submitted.	No response required.
3	L. David Casey Senior Deputy County Counsel Office of County Counsel Juvenile Dependency Division San Diego	A	N	<p>Forms JV-720 and JV-730. Revoking forms JV-720 and JV-730, which applies to probation.</p> <p>Rules 8.450(c) and 8.454(c). Rules 8.450(c) and 8.454(c) were modified in 2004 but left out significant meaning to these rules. The language that was used prior to 2004 is being added back in.</p> <p>Prospective Adoptive Parent Designation. There are minor language changes. San Diego Adoptions is complying with this law and Rules of Court.</p> <p>Court Appointment of Child Custody Evaluators. This form does not affect CWS. This is a form that is being mandated for child custody evaluators.</p>	No response required.
4	Jenny Cheung Writ Supervisor	AM	Y	See comments on specific items below.	See response below.

SPRING 07-29

Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730)

LIST OF ALL COMMENTATORS AND THEIR OVERALL POSITIONS ON THE PROPOSAL					
	Commentator	Position	Comment on behalf of group?	Comment Excerpt or Summary	Committee Response
	Children’s Law Center Los Angeles				
5	Tari L. Cody Juvenile Dependency Judge Superior Court of Ventura County	N	Y	See comments on specific items below.	See response below.
6	Heather Fontes Probation Unit Supervisor San Joaquin County Juvenile Probation French Camp	A	Y	No narrative comments submitted.	No response required.
7	Paula Forthun-Baldwin Administrative Analyst Inland Regional Center San Bernadino	A	Y	No narrative comments submitted.	No response required.
8	Mark Johnson Citizen Sacramento	AM	N	Forms DV-110 and DV-130. These forms contain an unnecessary reference to gender. The phrase “Violence Against Women Act” is followed by a citation to federal law. This gives an appearance of gender bias. Portions of the VAWA have been found unconstitutional under federal law. Unnecessary references in the judiciary to race or gender are considered evidence of bias under California case law.	This comment concerns forms that were not a part of this proposal. Staff will review the comment in light of applicable law and recommend appropriate action.
9	Superior Court of Los Angeles County	A	Y	No narrative comments submitted.	No response required.

SPRING 07-29

Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730)

LIST OF ALL COMMENTATORS AND THEIR OVERALL POSITIONS ON THE PROPOSAL					
	Commentator	Position	Comment on behalf of group?	Comment Excerpt or Summary	Committee Response
10	Andrea Nelson Director of Operations Superior Court of Butte County	A	N	I agree with the proposed changes, but I dislike the format of the plain language forms.	No response required.
11	James M. Owens Assistant County Counsel Office of the County Counsel— Dependency Division	AM	N	See comments on specific items below.	See response below.
12	Rolanda Pierre Dixon Assistant District Attorney Santa Clara County District Attorney’s Office	A	Y	No narrative comments submitted.	No response required.
13	Michael M. Roddy Executive Officer Superior Court of San Diego County	AM	Y	See comments on specific items below.	See response below.
14	Isabelle Voit Chief Probation Officer Solano County Probation Department	A	N	No narrative comments submitted.	No response required.
15	Cynthia J. Wojan Juvenile Court Coordinator Superior Court of Solano County	A	N	No narrative comments submitted.	No response required.

SPRING 07-29

Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730)

COMMENTS ABOUT SPECIFIC RULES AND FORMS
Rule 5.726

Commentator	Comment Excerpt or Summary	Committee Response
<p>James M. Owens Assistant County Counsel Office of the County Counsel— Dependency Division</p>	<p>Rule 5.726(a). Although form JV-321 clearly states that a person “must wait until the Welfare and Institutions Code section 366.26 hearing is scheduled and parental rights are terminated to be designated as a prospective adoptive parent,” it is not so clearly stated in rule 5.726(a). Rule 5.726(a) provides that: “A request for designation as a prospective adoptive parent may be made at a hearing where parental rights are terminated or thereafter, whether or not the child’s removal from the home is at issue.” As written, the language could be interpreted to allow for the designation of a prospective adoptive parent at the hearing where parental rights are terminated, but before the termination order is made. This would be inconsistent with the legislative intent of Welfare and Institutions Code section 366.26(n). Suggestion: Rule 5.726(a)(1) be amended to read: “A request for designation as a prospective adoptive parent may be made <u>at a Welfare and Institutions Code section 366.26 hearing after parental rights have been terminated, or at any hearing thereafter,</u> whether or not the child’s removal from the home is at issue.”</p>	<p>This comment is outside of the intended scope of this proposal. This rule, as well as the other rules dealing with prospective adoptive parent designation, was recirculated with the intent of updating the form references contained within it to reflect the new proposed form titles and numbers. Because this rule was not circulated with the intent of making any substantive changes, it is not recommended that we make any changes to the content. However, this suggestion will be kept in mind during a future Rules and Projects cycle involving this rule.</p>
<p>Michael M. Roddy Executive Officer</p>	<p>a. Rule 5.726(a). Add language so that it states: “<u>After the court has terminated parental rights,</u></p>	<p>a. This comment is outside of the intended scope of this proposal. This rule, as well as the other rules dealing with prospective adoptive</p>

SPRING 07-29

Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730)

COMMENTS ABOUT SPECIFIC RULES AND FORMS		
Rule 5.726		
Commentator	Comment Excerpt or Summary	Committee Response
Superior Court of San Diego County	[a] dependent child’s caregiver may be designated as a prospective adoptive parent.”	parent designation, was recirculated with the intent of updating the form references contained within it to reflect the new proposed form titles and numbers. Because this rule was not circulated with the intent of making any substantive changes, it is not recommended that we make any changes to the content. However, this suggestion will be kept in mind during a future Rules and Projects cycle involving this rule.

COMMENTS ABOUT SPECIFIC RULES AND FORMS		
Rule 5.727		
Commentator	Comment Excerpt or Summary	Committee Response
Michael M. Roddy Executive Officer Superior Court of San Diego County	<p>b. Rule 5.727(e). Revise language so that it states: “Each participant who receives notice under (b) may object to the intent to remove <u>proposed removal of</u> the child and may request a hearing.”</p> <p>c. Rule 5.727(f). Revise language so that it states: “After the court has ordered a hearing on an intent to remove a child <u>a proposed removal</u>, notice of the hearing must be as follows:”</p> <p>d. Rule 5.727(f)(4). Revise language so that it states: “Proof of notice ... must be filed with the</p>	<p>b. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity without altering the substance.</p> <p>c. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity without altering the substance.</p> <p>d. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity</p>

SPRING 07-29

Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325-INFO, JV-720, and JV-730)

COMMENTS ABOUT SPECIFIC RULES AND FORMS Rule 5.727		
Commentator	Comment Excerpt or Summary	Committee Response
	court before the hearing on the intent to remove the child <u>proposed removal.</u> "	without altering the substance.

COMMENTS ABOUT SPECIFIC RULES AND FORMS Rule 5.728		
Commentator	Comment Excerpt or Summary	Committee Response
Michael M. Roddy Executive Officer Superior Court of San Diego County	Rule 5.728(e)(1). Revise language so that it states: "... <u>Notice by</u> [p]ersonal service must include <u>a copy of Notice of Emergency Removal</u> (form JV-324). The Telephone notice must include the reasons for and against the removal, as indicated on the form <u>forms JV-324 and JV-325.</u>	The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity without altering the substance.

COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-321		
Commentator	Comment Excerpt or Summary	Committee Response
Jenny Cheung Writ Supervisor	Children’s Law Center suggests the following modification for clarity:	Welfare and Institutions Code section 366.26(n)(1) states that “the court, at a hearing held pursuant to this section or anytime thereafter,

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COMMENTS ABOUT SPECIFIC RULES AND FORMS		
Form JV-321		
Commentator	Comment Excerpt or Summary	Committee Response
Children’s Law Center Los Angeles	On part 6 of the form, change “The person in 1 must wait until the WIC 366.26 hearing is scheduled “and parental rights are terminated” to wait until the WIC 366.26 hearing is scheduled “or anytime thereafter” to conform to language in WIC 366.26(n)(1).	may designate a current caretaker as a prospective adoptive parent” The committee feels that the language that circulated for public comment is confusing. It is recommended that the language be kept simple and state that “The person in 1 should not file this form with the court until a Welfare and Institutions Code section 366.26 hearing has been scheduled.”
Tari L. Cody Juvenile Dependency Judge Superior Court of Ventura County	This form requests the name, address, and phone numbers of prospective adoptive parents. If this is confidential, this form in no way makes this clear.	At the top of form JV-321, it states that “If you want to keep an address or telephone number confidential, fill out form JV-322, <i>Confidential Information—Prospective Adoptive Parent</i> , and do not write the address or phone number on this form.” This language makes it sufficiently clear that, in question number one, the person should not identify personal information relating to the prospective adoptive parents that is confidential information.
Michael M. Roddy Executive Officer Superior Court of San Diego County	<p>a. Item 3a. Revise language so that it states “Name of child’s attorney” instead of “child’s attorney’s.”</p> <p>b. Items 3b and 3c. Switch the order of items b and c so that the address is requested in item b and the phone number is requested in item c.</p> <p>c. Item 8e. Revise language so that it states “Been designated by the juvenile court or the licensed adoption agency as the adoptive <u>family parent</u>”</p>	<p>a. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity without altering the substance and is grammatically correct.</p> <p>b. The committee agrees that the recommended changes should be incorporated into the proposal. The proposed changes are technical in nature, and the recommended order is logical.</p> <p>c. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity without altering the substance.</p>

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COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-321		
Commentator	Comment Excerpt or Summary	Committee Response
	d. Item 8f. Add a hyphen in the phrase “Court-Appointed Child Special Advocate.”	d. It is not the established style of the Administrative Office of the Courts (AOC) to include a hyphen in “Court Appointed Child Special Advocate.”

COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-323		
Commentator	Comment Excerpt or Summary	Committee Response
Jenny Cheung Writ Supervisor Children’s Law Center Los Angeles	Children’s Law Center suggests the following modification for clarity: Remove “blank copy” language from the instructions on the top part of the form and allow the petitioner to file JV-323 on its own. It does not make sense to ask the person filling out this form to serve this copy along with blank copies of JV-321 (<i>Request for Prospective Adoptive Parent Designation</i>) and JV-325 (<i>Objection to Removal</i>) when the purpose of changing the use of the forms is to simplify the process.	The committee feels it is appropriate to include blank copies of forms that the responding party may need to file, and it is common practice to do so. It should not pose too much of a hardship to include a blank copy of forms JV-321 and JV-325 when serving form JV-323, <i>Notice of Intent to Remove Child</i> .
Michael M. Roddy Executive Officer Superior Court of San Diego County	Item 1. Add the following language to make it consistent with item 1 on form JV-324: e. Child’s identified Indian tribe, if any (name): _____ f. Child’s Indian custodian, if any (name): _____	The committee agrees that the recommended changes should be incorporated into the proposal. The proposed language mirrors that found in form JV-324 and logically should be included on both form JV-323 (<i>Notice of Intent to Remove Child</i>) and JV-324 (<i>Notice of Emergency Removal</i>).

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COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-323		
Commentator	Comment Excerpt or Summary	Committee Response
	g. Child’s Court Appointed Special Advocate (CASA) program, if any (<i>name of person notified</i>): _____	

COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-324		
Commentator	Comment Excerpt or Summary	Committee Response
Michael M. Roddy Executive Officer Superior Court of San Diego County	a. Add the following language at the top of the form to make it consistent with form JV-323: “This notice must be served with a blank copy of form JV-321, <i>Request for Prospective Adoptive Parent Designation</i> , and a blank copy of form JV-325, <i>Objection to Removal</i> . b. Item 1g. Add a hyphen to “Court-Appointed Special Advocate (CASA) program.”	a. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language mirrors that found at the top of form JV-323 and logically should be included on both form JV-323 (<i>Notice of Intent to Remove Child</i>) and JV-324 (<i>Notice of Emergency Removal</i>). b. It is not the established style of the Administrative Office of the Courts’ (AOC) Center for Families, Children & the Courts to include a hyphen in “Court Appointed Child Special Advocate.”

COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-325		

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Commentator	Comment Excerpt or Summary	Committee Response
<p>Michael M. Roddy Executive Officer Superior Court of San Diego County</p>	<p>a. Items 1, 2, and 3. Switch the order of “Phone number” and “Address” so that the space to list the address is before the space to list the phone number.</p> <p>b. Item 4. Add a box that states “Telephone number is confidential” in case the child’s phone number is confidential.</p> <p>c. Item 6. Add a hyphen to “Court-Appointed Special Advocate (CASA) volunteer.”</p>	<p>a. The committee agrees that the recommended change should be incorporated into the proposal. The proposed change is technical in nature, and the recommended order is logical.</p> <p>b. The committee agrees that a checkbox should be added in case the child’s phone number is confidential.</p> <p>c. It is not the established style of the Administrative Office of the Courts (AOC) to include a hyphen in “Court Appointed Child Special Advocate.”</p>

COMMENTS ABOUT SPECIFIC RULES AND FORMS
Form JV-326

Commentator	Comment Excerpt or Summary	Committee Response
<p>Michael M. Roddy Executive Officer Superior Court of San Diego County</p>	<p>a. Items 1c, 1e, and 1g. Remove the checkbox that states “Confidential phone number in court file” because it is unnecessary as related to the “child’s attorney,” the “child’s identified Indian tribe,” and the child’s “Court-Appointed Special Advocate (CASA) program.”</p> <p>b. Item g. Add a hyphen to “Court-Appointed Special Advocate (CASA) program.”</p> <p>c. Item 2. Revise the language so that it states “I live or am employed in the county where the</p>	<p>a. It is unnecessary to remove the checkboxes with respect to the child’s attorney, the child’s Indian tribe, and the child’s CASA. If they are inapplicable to the case at issue, they will not be checked.</p> <p>b. It is not the established style of the Administrative Office of the Courts’ (AOC) to include a hyphen in “Court Appointed Child Special Advocate.”</p> <p>c. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity</p>

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COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-326		
Commentator	Comment Excerpt or Summary	Committee Response
	<p>mailing <u>service</u> occurred.”</p> <p>d. Item 3. Revise the language so that it states “the information in items 2-1 and 3-2 is true and correct”</p>	<p>without altering the substance.</p> <p>d. The committee agrees that the recommended change should be incorporated into the proposal. The commentator caught an inadvertent technical error.</p>

COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-326-INFO		
Commentator	Comment Excerpt or Summary	Committee Response
<p>Tari L. Cody Juvenile Dependency Judge Superior Court of Ventura County</p>	<p>I disagree with the requirement that the clerk not only be required to give notice of the hearing, but the additional obligation that the clerk must, as part of that notice, “include the reasons for and against removal.” No clerk of any court will understand what this means, and from personal experience, it will never occur. I believe this is an undue burden on the court clerks. The parties requesting the hearing should be obligated to give notice and any additional information.</p>	<p>This comment is outside of the intended scope of the proposal. The forms dealing with prospective adoptive parent designation are being recirculated for public comment this year to address the issue of separating the individual forms into multiple parts based on subject matter. The requirement that the clerk provide notice of the hearing, including the reasons for and against the removal if such notice is by telephone, is already included in the current version of form JV-323, which was adopted by the Judicial Council in 2006. There were no changes made to this form other than the renumbering of the form number. While the committee has considered the commentator’s response, it is not recommended that any action be taken at this time given that the comment is substantive in nature and outside of the scope of the proposal. However, this comment will be considered in any future Rules and Projects cycles addressing this form.</p>

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COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-326-INFO		
Commentator	Comment Excerpt or Summary	Committee Response
Michael M. Roddy Executive Officer Superior Court of San Diego County	<p>a. Items 1 and 2 in each section. Eliminate the comma after “The clerk must provide notice of the hearing;”</p> <p>b. Revise language so that the second heading reads “Notice of intended <u>proposed</u> removal hearing.”</p> <p>c. Item 3 in the “Notice of emergency removal hearing” section. Revise language so that it states: “The [T]elephone notice must include the reasons”</p> <p>d. Item 4. Add a new item 4 that reads “If notice is made by personal service, forms JV-324, <i>Notice of Emergency Removal</i>, and JV-325, <i>Objection to Removal</i>, must be used.”</p>	<p>a. The committee agrees that the recommended changes should be incorporated into the proposal. The proposed changes are technical in nature and grammatically correct.</p> <p>b. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language provides clarity without altering the substance.</p> <p>c. The committee agrees that the recommended change should be incorporated into the proposal. The proposed language is more succinct and does not alter the substance.</p> <p>d. The committee agrees that, in the “Notice of emergency removal hearing” section, the form should contain information on what forms to use if notice is made by personal service.</p>

COMMENTS ABOUT SPECIFIC RULES AND FORMS Form JV-328		
Commentator	Comment Excerpt or Summary	Committee Response
Tari L. Cody Juvenile Dependency Judge Superior Court of Ventura County	<p>Why is there a place to fill in the name of the person with whom the child may be placed (#5)? If a child is ordered removed from a prospective</p>	<p>This comment is outside of the intended scope of the proposal. The forms dealing with prospective adoptive parent designation are being recirculated for public comment this year to address the issue of</p>

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COMMENTS ABOUT SPECIFIC RULES AND FORMS		
Form JV-328		
Commentator	Comment Excerpt or Summary	Committee Response
	<p>adoptive parent, then in most cases the agency will have the legal authority to decide with whom the child will be placed (e.g., a foster home). This is not a court decision in most cases.</p>	<p>separating the individual forms into multiple parts based on subject matter. The space to list the person with whom the agency may place the child if the child is ordered to be removed from the home of the prospective adoptive parent or parents is already included in the current version of forms JV-323 and JV-324, which were adopted by the Judicial Council in 2006. Form JV-328 replicates the “Order After Hearing” sections of forms JV-323 and JV-324—there were no changes made to these forms other than their renumbering. While the committee has considered the commentator’s response, it is not recommended that any action be taken at this time given that the comment is substantive in nature and outside of the scope of the proposal. However, this comment will be considered for any future Rules and Projects cycles addressing this form.</p>
<p>Michael M. Roddy Executive Officer Superior Court of San Diego County</p>	<p>a. Add a new item 6 checkbox that states: “The emergency removal was not in the best interest of the child. The child is ordered returned to the home of the prospective adoptive parents.</p> <p>b. Add a new item 7 checkbox that states: “The emergency removal was in the best interest of the child. The designation as prospective adoptive parents is terminated.”</p>	<p>a. The committee agrees that there should be a checkbox pertaining to emergency removal added to this form to make it clear which type of removal took place and whether or not that removal was in the best interests of the child.</p> <p>b. The committee agrees that there should be a checkbox pertaining to emergency removal added to this form to make it clear which type of removal took place and whether or not that removal was in the best interests of the child.</p>