



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

February 18, 2016

Action Requested

Please review for February 22 meeting

To

Information Technology Advisory Committee

Deadline

February 22, 2016

From

Tara Lundstrom, Attorney
Legal Services

Contact

Tara Lundstrom, 415-865-7650
tara.lundstrom@jud.ca.gov

Subject

Rules and Form Proposal to Implement AB
879

Introduction

During the 2016 winter cycle, the Information Technology Advisory Committee and the Family and Juvenile Law Advisory Committee (FJLAC) circulated for public comment two proposals to implement new legislation—Assembly Bills 879 and 1519—that went into effect on January 1, 2016. The rules and form proposal to implement AB 879 has been reviewed and recommended by FJLAC and by ITAC’s Rules and Policy Subcommittee.

Discussion

Assembly Bill 879 authorized e-mailing notices of hearing in juvenile dependency proceedings. To implement AB 879, the proposal would (1) amend rules 5.524, 5.534, and 5.708 of the California Rules of Court; (2) adopt mandatory form EFS-005-JV/JV-141, *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile Dependency)*; and (3) renumber form EFS-005 to EFS-005-CV. It would also make technical changes to rules 5.550 and 5.815.

In response to the Invitation to Comment, eight organizations provided comments; three agreed with the proposal, four agreed if modified, and one commentator did not indicate an opinion. After reviewing the comments, FJLAC recommended that the form be mandatory, not optional.

In addition, FJLAC recommended revising the proposed amendment to rule 5.254(e)(2) to provide that “the court must develop a process for obtaining consent from persons entitled to notice that complies with the notice statute and ensures that notice can be effectuated according to statutory timelines.”¹ During its February 16 meeting, ITAC’s Rules and Policy Subcommittee reviewed and recommended the rules and form proposal.

Committee’s Task

The committee is tasked with reviewing the draft proposal to implement AB 879 and:

- Asking staff or group members for further information and analysis;
- Recommending to the Rules and Projects Committee that all or part of the proposal be presented to the Judicial Council during its April meeting; or
- Rejecting the proposal.

Attachments

1. Draft Judicial Council report for rules and form proposal implementing AB 879 and attachments (proposed rule amendments, proposed new form, and comment chart)

¹ Although FJLAC considered adding an Advisory Committee Comment, it decided against pursuing this option based on input provided by the Rules and Policy Subcommittee.



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 15, 2016

Title

Juvenile Law: Notice of Juvenile Hearings by Electronic Mail (Implementation of AB 879)

Agenda Item Type

Action Required

Effective Date

July 1, 2016

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rules 5.524, 5.534, 5.550, 5.708, 5.815; adopt form EFS-005-JV/JV-141; renumber form EFS-005

Date of Report

February 19, 2016

Recommended by

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Contact

Diana Glick, 916-643-7012

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Tara Lundstrom, 415-865-7650

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Information Technology Advisory Committee

Hon. Terence L. Bruiniers, Chair

Executive Summary

Effective January 1, 2016, Assembly Bill 879 authorizes e-mailing notices of hearings in juvenile court under Welfare & Institutions Code sections 290.1–295. To implement AB 879, the Family and Juvenile Law Advisory Committee and the Information Technology Advisory Committee jointly propose (1) amending rules 5.524, 5.534, and 5.708 of the California Rules of Court; (2) adopting mandatory form EFS-005-JV/JV-141, *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile Dependency)*; and (3) renumbering form EFS-005 to EFS-005-CV. This proposal aligns notice provisions in the rules with this change in law and provides a form for obtaining consent to electronic notice of hearings from those persons entitled to notice of juvenile court hearings. This proposal would also make technical changes to rules 5.550 and 5.815 to update references to and eliminate inconsistencies with the statutes.

Recommendation

The Family and Juvenile Law Advisory Committee and the Information Technology Advisory Committee jointly recommend:

1. Amending rules 5.524, 5.534, 5.550, 5.708 and 5.815 of the California Rules of Court;
2. Adopting mandatory form EFS-005-JV/JV-141, *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile Dependency)*; and
3. Renumbering form EFS-005 to EFS-005-CV.

The text of the amended rules 5.524, 5.534, 5.550, 5.708, and 5.815 is attached at pages 6–10. New form EFS-005-JV/JV-141 and revised form EFS-005-CV are attached at pages 11–14.

Previous Council Action

The Judicial Council has authorized electronic filing, but not electronic service, in juvenile proceedings. It has not taken any prior action related to e-mailing notices of hearings in juvenile dependency cases.

Code of Civil Procedure section 1010.6 and trial court rules 2.250–2.261 authorize electronic filing and electronic service in civil matters. Effective July 1, 2014, the Judicial Council amended rule 5.522 to enable the electronic filing of juvenile court documents in accordance with the trial court rules, specifically rules 2.252, et seq. However, the council expressly excluded the application of trial court rule 2.251 to juvenile proceedings. (See Cal. Rules of Court, rule 5.522(b)(4) [“This rule does not incorporate the electronic service provisions in rule 2.251”].) Rule 2.251 authorizes electronic service and sets forth technical requirements for electronic service.

Rationale for Recommendation

In 2015, the Legislature enacted Assembly Bill 879 (Stats. 2015, ch. 219), which amends six statutory provisions that govern how probation officers, social workers, and juvenile courts provide notice of a variety of different hearings in juvenile proceedings. The amended statutes authorize notice of specified hearings by e-mail and allow persons entitled to notice in these hearings to provide an e-mail address to the court for this purpose.

AB 879 allows for notice by e-mail in the following types of juvenile dependency hearings: detention, jurisdiction, disposition, review, and termination of jurisdiction. In order to provide notice of hearing by e-mail, two conditions must be met: (1) the court and the agency providing notice must choose to allow notice by e-mail; and (2) those persons who are entitled to notice of the hearing must have affirmatively consented to receive e-mail notice.

AB 879 establishes several limitations on the use of e-mail for notices of hearings:

- Minors who are between the ages of 14 and 17 years old may provide consent to receive notices of hearings by e-mail, so long as their attorneys also consent. Minors who are 14 or 15 years old will receive e-mail notices of hearings *in addition to* the other forms of notice required by law.
- If the hearing is a “selection and implementation” (permanency) hearing, at which a social worker will recommend the termination of parental rights, e-mail notice may only be provided *in addition to* the other forms of notice required by law.
- If the subject of the hearing is an Indian child, or the court has reason to know that an Indian child is involved, notice may only be given by registered or certified mail.
- If the child is detained and the persons entitled to notice are not present at the initial petition hearing, notice of the jurisdictional/dispositional hearing must be by personal service or certified mail.

This proposal implements AB 879 by amending rules 5.524, 5.534, and 5.708. To ensure the seamless implementation of AB 879’s new notice provisions, this proposal amends rule 5.524(e) to require that, if the county and the court choose to offer notice of hearing by e-mail, the court must develop a process for obtaining consent from persons entitled to notice. In addition, this proposal amends rule 5.534(m) to indicate that those entitled to notice may provide their consent to receiving e-mail notice by signing and filing the new mandatory form, *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile Dependency)* (form EFS-005-JV/JV-141). Lastly, in lieu of stating the notice requirements directly in the rule, this proposal adds a reference to the revised notice provisions in Welfare and Institutions Code section 294 to rule 5.708(n)(5) for “selection and implementation” (permanency) hearings under section 366.26.

The statute requires that consent to e-mail notice be provided on form EFS-005. This form is currently used in civil cases to allow parties to consent to electronic service and provide their electronic service address. This proposal renumbers the current civil form EFS-005 to EFS-005-CV¹ and adds a new mandatory form—titled *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile Dependency) (EFS-005-JV/JV-141)*—that is specifically designed to implement AB 879. The form was developed using plain language style and formatting features and satisfies the requirements of the legislation.

The new form recognizes that the limited authority to e-mail notices of hearing in AB 879 differs in scope from electronic service under Code of Civil Procedure and its implementing trial court rule, which have not been extended to juvenile proceedings. (See Cal. Rules of Court, rule 5.522(b)(4).) Distinct from the current form EFS-005—which allows for consent only by parties

¹ A technical amendment was also made to revised form EFS-005-CV: the words “and not a party to this action” were eliminated from the Proof of Electronic Service on page 2 because they are not consistent with the statute and the rules on electronic service that permit parties to serve a document electronically.

and attorneys—the new form contemplates the full range of individuals who are entitled by statute to receive notice of juvenile dependency hearings. The new form provides a space for the signature of the attorney, which is required before minors may consent to receive e-mail notice of hearings. The new form also provides an option to withdraw consent to e-mail notice of hearings, which is not provided for on the current form EFS-005.

Comments, Alternatives Considered, and Policy Implications

This proposal circulated for comment as part of the winter 2016 invitation to comment cycle, from December 11, 2015 to January 22, 2016, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, social workers, probation officers, and other juvenile law professionals. Eight organizations provided comment; three agreed with the proposal, four agreed if modified, and one commentator did not indicate an opinion. A chart with the full text of the comments received and the committees' responses is attached at pages 15–22.

The Superior Court of Orange County asked for guidance on whether social workers would be authorized to obtain consent to electronic notice of hearing, while the sponsor of the bill, the Los Angeles County Office of County Counsel, expressed a preference for obtaining consent to e-mail notice during an in-person court appearance on the record. AB 879 does not expressly address whether a social worker is authorized to obtain the consent to notice by e-mail; yet it does appear to contemplate such a practice because (1) only the social worker would have contact with the parent before the initial detention hearing and (2) Welfare and Institutions Code section 290.1, as amended by AB 879, authorizes notice of the initial detention hearing by e-mail. Based on further discussion following the comment period, the committees recommended revising rule 5.524(e)(2) to provide that the process developed by the court must “comply with the notice statute and ensure that notice can be effectuated according to statutory timelines.”

In addition, the Los Angeles County Office of County Counsel disagreed with the need for a new form, preferring instead to use the current civil form, *Consent to Electronic Notice and Notice of Electronic Service Address* (form EFS-005). After careful consideration of this comment, the committees recommend against pursuing this option. The current form EFS-005 is not specifically tailored to implement AB 879: (1) it does not reflect that AB 879 allows for consent to only e-mail notice of hearings in juvenile proceedings, not electronic service of all documents under the Code of Civil Procedure and its implementing trial court rule; (2) it does not allow for persons other than parties and attorneys to consent to e-mail notice; (3) it does not expressly provide the option of withdrawing consent to e-mail notice; and (4) it does not provide space for the attorney's signature where the person consenting to e-mail notice is a minor.

The new proposed form, EFS-005-JV/JV-141 was circulated for comment as an optional form, with a specific request for comment regarding whether the form should be mandatory or optional. The Orange County Bar Association commented that the form should be mandatory,

whereas the San Diego Superior Court preferred an optional form. After deliberation, the committees determined that because the statute requires the use of the form, it should be mandatory. Even though the overall process of e-mail notification is optional and based on consent of those involved, once there is an agreement by the county and court to offer e-mail notices of hearings, consent by persons entitled to notice must be given on the EFS-005-JV/JV-141, thereby requiring a mandatory form. A mandatory form would assist parties by standardizing how they may give consent and assist courts by making it easier to determine when consent has been given.

The committees considered an alternative proposal that would add language to the existing EFS-005 and EFS-010 to allow persons entitled to notice in juvenile hearings to provide consent to receive notice of hearing by e-mail, to provide an e-mail address to the court, and to change their e-mail address on file with the court. However, the committees ultimately decided that creating a separate version of form EFS-005 specifically designed for juvenile hearings was the most efficient and expedient way to ensure a workable process in the juvenile court, without unnecessarily impacting the current civil law forms.

There were also a number of suggestions for changes to improve the readability of the form, which were accepted by the committees.

Lastly, the committees further discussed the amendment to rule 5.524(e)(2) following the comment period. They decided to recommend replacing the language recommending that “the court develop a process for . . . communicating with the entities that may provide notice of a hearing when consent is given.” Instead, they recommended amending subdivision (e)(2) to provide that the process that the court develops for obtaining consent must comply with the notice statute and ensure that notice can be effectuated according to statutory timelines.

Implementation Requirements, Costs, and Operational Impacts

Implementation may require changes in court procedures and training in those courts that choose to allow for notice of hearings by e-mail. Because the legislation contemplates consent being provided on a Judicial Council form, and in some cases entities other than the court issue the notices of hearings (e.g., the probation department or social services agency), it will be important for the court to coordinate with its justice partners to ensure communication about the consent provided and that each entity has an up-to-date e-mail address on file.

Attachments and Link

1. Cal. Rules of Court, rules 5.524, 5.534, 5.550, 5.708, and 5.815, at pages 6–10
2. Judicial Council forms EFS-005-JV/JV-141 and EFS-005-CV, at pages 11–14
3. Chart of comments, at pages 15–21
4. AB 879 (Stats. 2015, ch. 219),
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB879

Rules 5.524, 5.534, 5.550, 5.708, and 5.815 of the California Rules of Court are amended, effective July 1, 2016, to read:

1 **Rule 5.524. Form of petition; notice of hearing**

2
3 (a)–(d) * * *

4
5 (e) **Notice of hearing—dependency (§§ 290.1, 290.2, 297, 338)**

6
7 (1) When the petition is filed, the probation officer or social worker must serve a
8 notice of hearing under section 290.1, with a copy of the petition attached.
9 On filing of the petition, the clerk must issue and serve notice as prescribed in
10 section 290.2, along with a copy of the petition. CASA volunteers are entitled
11 to the same notice as stated in sections 290.1 and 290.2.

12
13 (2) If the county and the court choose to allow notice by electronic mail of
14 hearings under sections 290.1–295, the court must develop a process for
15 obtaining consent from persons entitled to notice that complies with the
16 notice statute and ensures that notice can be effectuated according to statutory
17 timelines.

18
19
20 (f)–(h) * * *

21
22 **Rule 5.534. General provisions—all proceedings**

23
24 (a)–(l) * * *

25
26 (m) **Address of parent or guardian—notice (§ 316.1)**

27
28 At the first appearance by a parent or guardian in proceedings under section 300 et
29 seq., the court must order each parent or guardian to provide a mailing address.

30
31 (1) The court must advise that the mailing address provided will be used by the
32 court, the clerk, and the social services agency for the purposes of notice of
33 hearings and the mailing of all documents related to the proceedings.

34
35 (2) The court must advise that until and unless the parent or guardian, or the
36 attorney of record for the parent or guardian, submits written notification of a
37 change of mailing address, the address provided will be used, and notice
38 requirements will be satisfied by appropriate service at that address.

39
40 (3) *Notification of Mailing Address* (form JV-140) is the preferred method of
41 informing the court and the social services agency of the mailing address of
42 the parent or guardian and change of mailing address.

43
44 (A) The form must be delivered to the parent or guardian, or both, with the
45 petition.
46

1 (B) The form must be available in the courtroom, in the office of the clerk,
2 and in the offices of the social services agency.

3
4 (C) The form must be printed and made available in both English and
5 Spanish.

6
7 (4) If the county and the court allow notice of hearings under sections 290.1–295
8 by electronic mail, persons who are entitled to notice and who want to
9 receive notice of hearings by electronic mail, must indicate their consent by
10 filing *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address*
11 *Change (Juvenile)* (form EFS-005-JV/JV-141).
12

13 (n)–(p) * * *

14
15
16 **Rule 5.550. Continuances**

17
18 (a) **Cases petitioned under section 300 (§§ 316.2, 352, 354)**

19
20 (1) The court must not continue a hearing beyond the time set by statute unless
21 the court determines the continuance is not contrary to the interest of the
22 child. In considering the child’s interest, the court must give substantial
23 weight to a child’s needs for stability and prompt resolution of custody status,
24 and the damage of prolonged temporary placements.

25
26 (2) Continuances may be granted only on a showing of good cause, and only for
27 the time shown to be necessary. Stipulation between counsel of parties,
28 convenience of parties, and pending criminal or family law matters are not in
29 and of themselves good cause.

30
31 (3) If a child has been removed from the custody of a parent or guardian, the court
32 must not grant a continuance that would cause the disposition hearing under
33 section 361 to be completed more than 60 days after the detention hearing
34 unless the court finds exceptional circumstances. In no event may the
35 disposition hearing be continued more than six months after the detention
36 hearing.

37
38 (4) In order to obtain a continuance, written notice with supporting documents
39 must be filed and served on all parties at least two court days before the date
40 set for hearing, unless the court finds good cause for hearing an oral motion.

41
42 (5) The court must state in its order the facts requiring any continuance that is
43 granted.

44
45 (6) ~~Failure of an alleged father to return a certified mail receipt of notice as~~
46 ~~described in rule 5.667 does not, in and of itself, constitute good cause to~~
47 ~~continue a hearing.~~

1
2 (b)–(c) * * *

3
4 **Rule 5.708. General review hearing requirements**

5
6 (a)–(m) * * *

7
8 (n) **Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

9
10 The court must make the following orders and determinations when setting a
11 hearing under section 366.26:

12
13 (1) The court must terminate reunification services to the parent or legal guardian
14 and:

15
16 (A) Order that the social worker provide a copy of the child’s birth
17 certificate to the caregiver as consistent with sections 16010.4(e)(5) and
18 16010.5(b)–(c); and

19
20 (B) Order that the social worker provide a child or youth 16 years of age or
21 older with a copy of his or her birth certificate unless the court finds
22 that provision of the birth certificate would be inappropriate.

23
24 (2) The court must continue to permit the parent or legal guardian to visit the
25 child, unless it finds that visitation would be detrimental to the child;

26
27 (3) If the child is 10 years of age or older and is placed in an out-of-home
28 placement for 6 months or longer, the court must enter any other appropriate
29 orders to enable the child to maintain relationships with other individuals
30 who are important to the child, consistent with the child's best interest.
31 Specifically, the court:

32
33 (A) Must determine whether the agency has identified individuals, in
34 addition to the child’s siblings, who are important to the child and will
35 maintain caring, permanent relationships with the child, consistent with
36 the child’s best interest;

37
38 (B) Must determine whether the agency has made reasonable efforts to
39 nurture and maintain the child’s relationships with those individuals,
40 consistent with the child’s best interest; and

41
42 (C) May make any appropriate order to ensure that those relationships are
43 maintained.
44

- 1 (4) The court must direct the county child welfare agency and the appropriate
- 2 county or state adoption agency to prepare an assessment under section
- 3 366.21(i), 366.22(c), or 366.25(b);
- 4
- 5 (5) The court must ensure that notice is provided as follows: required by section
- 6 294.
- 7
- 8 (A) ~~Within 24 hours of the review hearing, the clerk of the court must~~
- 9 ~~provide notice by first class mail to the last known address of any party~~
- 10 ~~who is not present at the review hearing. The notice must include the~~
- 11 ~~advisements required by rule 5.590(b).~~
- 12
- 13 (B) ~~The court must order that notice of the hearing under section 366.26 not~~
- 14 ~~be provided to any of the following:~~
- 15
- 16 (i) ~~Any parent whether natural, presumed, biological, or alleged-~~
- 17 ~~who has relinquished the child for adoption and whose~~
- 18 ~~relinquishment has been accepted and filed with notice under~~
- 19 ~~Family Code section 8700; or~~
- 20
- 21 (ii) ~~An alleged parent who has denied parentage and has completed~~
- 22 ~~item 2 of *Statement Regarding Parentage (Juvenile)* (form JV-~~
- 23 ~~505).~~
- 24
- 25 (6) The court must follow all procedures in rule 5.590 regarding writ petition
- 26 rights, advisements, and forms.
- 27

28 (o) * * *

29

30 **Rule 5.815. Appointment of legal guardians for wards of the juvenile court;**

31 **modification or termination of guardianship**

32

33 (a)-(c) * * *

34

35 (d) **Notice (§ 728(c))**

36

37 The clerk must provide notice of the hearing to the child, the child's parents, and

38 other individuals as required by ~~Probate Code section 1511~~ section 294.

39

40 (e)-(g) * * *

41

**E-Mail Notice of Hearing: Consent,
Withdrawal of Consent, Address
Change (Juvenile Dependency)**

Clerk stamps date here when form is filed.

**DRAFT
NOT APPROVED BY THE
JUDICIAL COUNCIL**

Use this form to:

- Tell the court that you **agree to receive** hearing notices by e-mail and give the court your e-mail address;
- **Change** the e-mail address where you want to receive hearing notices; or
- Tell the court that you **do not want to receive** hearing notices by e-mail anymore.

- ① I agree to receive hearing notices by e-mail in this case. (This is the first time that I agree to receive hearing notices by e-mail.)
- I want to change the e-mail address where I can receive a hearing notice. I want to receive notices at the new e-mail address below starting *(date)*:
- I want to stop receiving hearing notices by e-mail starting *(date)*:

- ② I have a right to notice in a juvenile court hearing because I am the *(choose one of the following)*:
- Child or nonminor dependent who is the subject of the hearing, and I am: 14 or 15 years old 16 or 17 years old 18+ years old
- Parent or presumed/alleged parent
- Legal guardian
- Lawyer for *(name of party or person represented)*:

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:

- Grandparent/other adult relative *(relationship to the child or nonminor dependent)* _____
- Caregiver for the child or nonminor dependent the sibling of the child *(name of sibling)*: _____
- Sibling of the child *(age, if minor)*: _____
- Other *(relationship to child or nonminor dependent)*: _____

- ③ I agree to receive hearing notices at this e-mail address *(please print carefully)*:

Please keep my e-mail address confidential.

- I do not want to receive hearing notices by e-mail anymore. I am attaching a copy of the Judicial Council form, *Notification of Mailing Address (JV-140)*, with my current mailing address.

Date: _____

Type or print name

▶ _____
Signature

If you are a child (under 18 years old) filling out this form, your lawyer must also agree for you to receive e-mail hearing notices.

Date: _____

Type or print name of lawyer for child

▶ _____
Signature of lawyer for child



Child's name: _____

If your court and social services agency offer e-mail notice of hearings, and you have a right to receive hearing notices:

- You can (but do not have to) **agree to receive** hearing notices by e-mail. If you want to receive hearing notices by e-mail, you must fill out and sign this form, the EFS-005-JV/JV-141, and return it to the court.
- The e-mail address you provide will be used to tell you about hearings unless and until you tell the court that you have changed your e-mail address.
- The court and social services agency will use your e-mail address to send you notices of hearings that are required when a social worker asks the court to open a case to protect a child from abuse or neglect. You can read more about this process and the different types of hearings that will be held in *What happens if your child is taken from your home?* (form JV-050-INFO) and on the California Courts website: www.courts.ca.gov/selfhelp-childabuse.htm.
- You may ask the court or social services agency to keep your e-mail address confidential by checking the box underneath your e-mail address.
- **If a social worker will recommend terminating parental rights over a child** at the hearing, you will still receive the hearing notice by mail or in person. You will also receive the hearing notice by e-mail.
- If you are a child **age 14 or 15** and agree to receive hearing notices by e-mail, **your lawyer must also sign this form** and agree for you to receive hearing notices by e-mail. If you and your lawyer agree, you will receive hearing notices by e-mail *in addition* to notice by regular mail.
- If you are a child **age 16 or 17** and agree to receive hearing notices by e-mail, **your lawyer must also sign this form** and agree for you to receive hearing notices by e-mail. **If you and your lawyer agree, you will receive hearing notices only by e-mail.**

-
- You may also use this form to tell the court when you **change your e-mail address**.
 - You may also use this form to **stop** receiving hearing notices by e-mail. If you gave the court or social services agency an e-mail address and agreed to receive hearing notices by e-mail, you can use this form to tell the judge that you do not want to receive hearing notices by e-mail anymore. **If you decide to stop receiving hearing notices by e-mail, please fill out and attach a copy of the Judicial Council form *Notification of Mailing Address (JV-140)* with your current mailing address when you submit this form.**

W16-10

Juvenile Law: Notice of Juvenile Hearings by E-Mail (Implementation of AB 879) (Amend Cal. Rules of Court, rules 5.524, 5.534, 5.550, 5.708, 5.815; adopt form EFS-005-JV/JV-141; renumber form EFS-005)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Los Angeles Dependency Lawyers, Incorporated By Robert Stevenson, Director of Policy	A	<p>LADL concurs with Judicial Council’s conclusion that a new form, EFS-005-JV, should be created to provide for the provision of an initial and a change of email address. This form parallels the logic behind the JV-140. The EFS-005-JV form should also allow for persons entitled to notice in a juvenile proceeding to provide their consent to receiving notice via electronic mail.</p> <p>Thank you for inserting in your comment chart that WIC § 316.1 (c), AB 879 and California Rule of Court 5.708(n)(5), need to be clarified so they are consistent as applied to a termination of parental rights recommendation.</p>	<p>The committees appreciate this support.</p> <p>AB 879 provides an exception to e-mail notice for hearings at which the termination of parental rights is recommended. The committees recognize that AB 879 is confusing to the extent that this exception appears twice in the Welfare and Institutions Code—once in section 294 for “selection and implementation” (permanency) hearings under section 366.26, and again in section 316.1(c) for any hearing where the county recommends termination of parental rights.</p> <p>In implementing AB 879, the committees recommend amending rule 5.708(n)(5)—the juvenile rule governing section 366.26 hearings—to reference only section 294. The reference to only section 294 was preferred for purposes of clarity and simplicity; because section 294 is specific to section 366.26 hearings; and because adding a reference to section 316.1(c) would be duplicative and would not add anything to the rule.</p>

W16-10

Juvenile Law: Notice of Juvenile Hearings by E-Mail (Implementation of AB 879) (Amend Cal. Rules of Court, rules 5.524, 5.534, 5.550, 5.708, 5.815; adopt form EFS-005-JV/JV-141; renumber form EFS-005)

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	Commentator	Position	Comment	Committee Response
2.	Office of County Counsel, County of Los Angeles By Alyssa Skolnick, Principal Deputy County Counsel	AM	Los Angeles County sponsored this bill and has begun to implement the email notification process. We don't think new forms specifically for Juvenile Court are needed. In our opinion the existing forms are sufficient. In regards to who gets noticed of the party's election to receive email notice, we feel it should just be the court and child welfare agency. In Los Angeles County we are pushing to have consent given only when a party appears in court. There is a concern that if the social worker gets the consent in the field the parent may then appear in court and deny giving the consent. We feel the rules of court should specify that consent for electronic service shall be given in court and on the record.	<p>The committees appreciate these comments. In addition to helping us properly shape the rules for this process, these comments will be helpful to other courts and agencies that are developing procedures for e-mail notices of hearings.</p> <p>AB 879 does not expressly address whether a social worker is authorized to obtain the consent to notice by e-mail; yet it does appear to contemplate such a practice because only the social worker would have contact with the parent before the initial detention hearing and because section 290.1, as amended by AB 879, authorizes notice of the initial detention hearing by electronic mail. Accordingly, at this time, the implementing rule amendments provide only that the process for obtaining consent is a local decision that must comply with statute.</p> <p>The committees also appreciate the other suggestions submitted by the Office of County Counsel, but have not recommended incorporating them into this proposal for the following reasons. First, the statute does not mandate that consent be provided in court and on the record; therefore, the committees have decided not to recommend that this requirement be part of the statewide rule. Second, the statute specifically requires the use of form EFS-005, which is currently a civil form developed to allow litigants in civil matters to provide consent to <i>electronic service</i> and an <i>electronic service address</i>. Neither is germane to juvenile dependency matters, where electronic</p>

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	Commentator	Position	Comment	Committee Response
				<p>service is not authorized by statute or rule. (See Cal. Rules of Court, rule 5.522(b)(4) [expressly declining to incorporate the trial court rule on electronic service].)</p> <p>In addition, the civil form provides for the consent of only parties and attorneys; it does not account for the multitude of persons who may be entitled to notice in a dependency matter and therefore provide consent to receive notices of hearings by e-mail. The proposed form EFS-005-JV/JV-141 was developed as a plain language form that allows for consent to receive notices of hearings by e-mail and can be filled out and submitted by any of the parties and persons statutorily entitled to notice.</p>
3.	Orange County Bar Association By Todd G. Friedland, President	A	<ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? Yes. • Are the name “E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile)” and number “EFS-005-JV/JV-141” clear enough to signal that this is a juvenile form? Yes. • Is the EFS-005-JV/JV-141 as drafted, sufficiently clear for the use of all persons who may be entitled to notice in a juvenile court hearing, including children? Yes. • Is the information on the second page of the proposed EFS-005-JV/JV-141 sufficient to help those persons entitled to notice in a juvenile court hearing understand the 	The committees appreciate this input.

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			<p>requirements for receiving notice by e-mail? Yes.</p> <ul style="list-style-type: none"> Is the proposed addition to rule 5.524(e) sufficient to ensure that courts will create a process and protocols for obtaining consent and communicating with justice partners, while still allowing for local court discretion in the exact parameters of the process? It is sufficient. Should the proposed form EFS-005-JV/JV-141 be mandatory or optional? The form should be mandatory to encourage consistency. 	<p>The committees appreciate this feedback and after deliberation, have decided to make the form mandatory.</p>
4.	<p>State Bar of California Executive Committee of the Family Law Section (FLEXCOM) By Saul Bercovitch, Legislative Counsel</p>	AM	<p>The Executive Committee of the Family Law Section of the State Bar (FLEXCOM) comments as follows:</p> <p>FLEXCOM agrees with all parts of the proposal but suggests modifying #2 on Form EFS-005-JV/JV-141. Specifically there should be more space between #2 and #3 to avoid confusion about where items of #2 end and the first item of #3 begins.</p> <p>FLEXCOM proposes consolidating items under #2 to create more space in one or both of the following ways: 1) have the first item of #2, second line, read “and I am ___ years old.”, allowing the age to be written in. It may be necessary to add a little more space between that line and the one above for legibility’s sake;</p>	<p>The committees appreciate this comment and agree that there should be additional space between items 2 and 3 on the form. Space has been added, using a slightly different approach to arranging the items on the form.</p> <p>The decision was made to retain the three checkbox options for age because: 1) only minors ages 14 and above may consent to electronic mail notices of hearings; 2) there are different notice requirements for minors ages 14 and 15, who must only receive e-mail notice in addition to other forms of legally required notice; and 3) the attorney must also provide consent if the form filer is a minor. From an operational standpoint,</p>

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			2) (with either directions to circle or a checkbox for each) linearly set out the various relationships to the child that are possible for the items following the one above about the child her/himself, separated by either commas or semi-colons. Only under "Other" does there need to be a line to describe the relationship. Otherwise the name is printed below, so doesn't need to be repeated for each type.	the committees determined that the checkboxes are the best way to signal this important information to the court and agencies providing notice. This is an excellent suggestion and the committees have edited the form to eliminate unnecessary repetition of the form filer's name.
5.	State Bar of California Standing Committee on the Delivery of Legal Services By Sharon Ngim, Program Developer	A	Does the proposal appropriately address the stated purpose? Yes. The proposal provides for a form for obtaining consent to electronic notice of hearings from those entitled to notice of juvenile court hearings. The form includes an opt-out option to stop receiving notifications by e-mail.	The committees appreciate this feedback.
6.	Superior Court of California, County of Orange By Blanca Escobedo Principal Administrative Analyst Family Law & Juvenile Court	NI	The proposal appropriately addresses the stated purpose. We recommend adding clarification on whether or not it would be acceptable for the social workers to obtain this form from the parties, since they have first contact with them. This clarification should be incorporated into the proposed ruled. The form's name makes it clear that it's a juvenile form. We recommend further clarifying that this form is to be used for	The committees appreciate this suggestion. Please see the committees' response above to the comment received from the Office of County Counsel of Los Angeles County. The committees agree and have changed the title of the form to: <i>E-mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change</i>

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			<p>juvenile dependency cases only.</p> <p>EFS-005/JV141 is clear as drafted. We recommend the following changes: Provide clarification on the title of the form to reflect this form is to be used on juvenile dependency cases only.</p> <p>Move the last selection box to be its own line item to improve the flow of the form.</p> <p>Expand the case number box for minors with multiple cases (dependency and nonminor cases). Or, if there should be one form per case, add this clarification.</p> <p>We recommend revising form JV-050-INFO (What happens if your child is taken from your home?) to inform parties of their option to receive notices via e-mail.</p>	<p><i>(Juvenile Dependency)</i></p> <p>Please see above for clarification of the use of this form in dependency only.</p> <p>The committees agree that the final selection box was rather cramped at the bottom of the page; we have made some changes to increase the amount of white space on the page and improve the flow.</p> <p>The committees agree with this suggestion and have expanded the Case Number box on the form.</p> <p>This suggestion is outside the scope of this proposal as circulated. However, the committees will consider this suggestion in the future, which may be appropriate as more courts enter into agreements with their local social services agencies for e-mail notices of hearings.</p>
7.	Superior Court of California, County of Riverside	AM	The name of the form is sufficient; however, suggest that the form be numbered EFS-005-JV.	The committees appreciate this comment and agree that the proposed form has a long number sequence associated with it. However, the committees believe it is important to have both a juvenile number, so the form may be stored electronically in sequence with other juvenile forms, and a civil number, in order to comport with the language of the statute.

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8.	Superior Court of California, County of San Diego By Mike Roddy, Executive Officer	AM	<p>Our court is in favor of optional forms. The form number is kind of confusing, but we do understand why it was numbered that way.</p> <p>EFS-005-JV/JV-141 page 1, item 3: The form is missing a word. Please keep my e-mail <u>address</u> confidential.</p> <p>EFS-005-JV/JV-141 page 2, line 1: A letter is missing: e-mail notice of <u>hearings</u> (or hearing notices by e-mail)</p> <p>EFS-005-JV/JV-141 page 2, final bullet: A letter is missing: <u>social services</u> agency</p>	<p>The committees appreciate this comment, but after deliberation, have decided to make the form mandatory.</p> <p>The committees agree with the specific comments on the form and appreciate the feedback; the suggested changes have been made to the form.</p>
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