

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT W16-08

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Title	Action Requested
Juvenile Dependency Petition § 300(b) Allegations for Commercially Sexually Exploited Children (CSEC)	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend forms JV-101(A) and JV-121	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Chris Cleary, 415-865-8792 christine.cleary@jud.ca.gov
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes revising form JV-121, *Failure to Protect*, to comply with new legislation (Sen. Bill 855) adding section 300(b)(2) to the Welfare and Institutions Code, to facilitate bringing Commercially Sexually Exploited Children (CSEC) into the juvenile dependency system.<sup>1</sup> The committee is also proposing technical changes responding to the new section 300(b)(2) to form JV-101(A), *Additional Children Attachment*, which was inadvertently left out of the technical change cycle approved by the Judicial Council on October 27, 2015.

### The Proposal

This form amendment is urgently needed to conform to a recent change in the law. In 2014, SB 855 established the new California Commercially Sexually Exploited Children (CSEC) Program within the California Department of Social Services (CDSS) to support prevention, intervention, services, and training to more effectively address CSEC in this state. The legislation also amended Welfare and Institutions Code section 300 to include section 300(b)(2), which specifically acknowledges that CSEC can come into the system through the juvenile dependency portal, recognizing CSEC as victims rather than perpetrators. This proposal would amend form JV-121, which currently includes the allegations corresponding to section 300(b)(1), to provide also the basic statutory allegations from the new section 300(b)(2), which reads: “The Legislature

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<sup>1</sup> The committee has already submitted and the Judicial Council has approved the petitions JV-100 and JV-110 for technical changes to bring them into compliance with Welf. & Instit., § 300(b)(2). Form JV-121 is more substantive; therefore it is being revised separately in this cycle.

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.” Additionally, this proposal would make technical changes to form JV-101(A), adding separate check boxes for sections (b)(1) and (b)(2), as was approved by the Judicial Council on October 27, 2015, for petitions JV-100 and JV-110.

### **Alternatives Considered**

The Child Welfare Services / Case Management System, pending final revision of the form, temporarily added a box to JV-121 under the section 300(b)(1) allegations allowing an allegation for general neglect “as a result of the failure or inability of the parent or guardian to protect the child from commercial sexual exploitation.” The committee considered this as a permanent fix, but concluded that the two sections needed to be separately set forth to adequately cover their separate allegations, including the allegations that constitute commercial sexual exploitation.

### **Implementation Requirements, Costs, and Operational Impacts**

Implementation will require some changes in court procedures and training, though much of that is happening through the CDSS CSEC Program planning and training with the counties that are participating in the CSEC Program. Implementation would also require some reproduction costs.

## **Request for Specific Comments**

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

- Does the proposal appropriately address the stated purpose?
- Is there a more efficient way to revise the form to incorporate the requirements of the new statutory section?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Proposed revisions to form JV-121

2. Proposed revisions to form JV-101(a)
3. SB 855: [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0851-0900/sb\\_855\\_bill\\_20140620\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0851-0900/sb_855_bill_20140620_chaptered.pdf) (Please note that this is a budget trailer bill that has many, many items in it. The relevant pages for the CSEC material are pp. 114-15; 139-41.
4. W&I s.300(b)(2): <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=300-304.7>

CHILD'S NAME:	CASE NUMBER:
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4. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code <i>(check applicable boxes; see attachment 3a for concise statements of facts):</i> <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b)(1) <input checked="" type="checkbox"/> (b)(2) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)				
b. Child's name:		c. Age:	d. Date of birth:	e. Sex:
<input type="checkbox"/> Information is the same as that given for the child in item 1. <i>(If not the same, provide different information below.)</i>				
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father <i>(check all that apply):</i> <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father <i>(check all that apply):</i> <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged			
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father <i>(check all that apply):</i> <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other <i>(state name, address, and relationship to child):</i>  <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.			
j. Prior to intervention, child resided with <input type="checkbox"/> parent <i>(name):</i> <input type="checkbox"/> parent <i>(name):</i> <input type="checkbox"/> guardian <i>(name):</i> <input type="checkbox"/> Indian custodian <i>(name):</i> <input type="checkbox"/> other <i>(state name, address, and relationship to child):</i>	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention <i>(address):</i>  <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other			

5. a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code <i>(check applicable boxes; see attachment 3a for concise statements of facts):</i> <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b)(1) <input checked="" type="checkbox"/> (b)(2) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)				
b. Child's name:		c. Age:	d. Date of birth:	e. Sex:
<input type="checkbox"/> Information is the same as that given for the child in item 1. <i>(If not the same, provide different information below.)</i>				
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father <i>(check all that apply):</i> <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father <i>(check all that apply):</i> <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged			
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown  If mother or father <i>(check all that apply):</i> <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other <i>(state name, address, and relationship to child):</i>  <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.			
j. Prior to intervention, child resided with <input type="checkbox"/> parent <i>(name):</i> <input type="checkbox"/> parent <i>(name):</i> <input type="checkbox"/> guardian <i>(name):</i> <input type="checkbox"/> Indian custodian <i>(name):</i> <input type="checkbox"/> other <i>(state name, address, and relationship to child):</i>	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention <i>(address):</i>  <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other			

6. I have asked about Indian ancestry for each child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A).

CHILD'S NAME:	CASE NUMBER:
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**FAILURE TO PROTECT****§ 300(b)****§ 300(b)(1)**

The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness,

- as a result of the failure or inability of his or her parent or legal guardian to supervise or protect the child adequately.
- as a result of the willful or negligent failure of the child's parent or legal guardian to supervise or protect the child adequately from the conduct of the custodian with whom the child has been left.
- by the willful or negligent failure of the parent or legal guardian to provide the child with adequate food, clothing, shelter, or medical treatment.
- by the inability of the parent or legal guardian to provide regular care for the child due to the parent's or legal guardian's mental illness, developmental disability, or substance abuse.

**§ 300(b)(2)**

The child's parent or guardian has failed to, or was unable to, protect the child, and the child

- has been or is being sexually trafficked, as described in section 236.1 of the Penal Code.
- has been or is receiving food or shelter in exchange for, or who is paid to perform sexual acts described in section 236.1 or 11165.1 of the Penal Code.

*(State supporting facts concisely and number them 1, 2, 3, etc.):*