



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
February 10, 2016	Please review for February 16 meeting
To	Deadline
Rules and Policy Subcommittee	February 16, 2016
From	Contact
Tara Lundstrom, Attorney Legal Services	Tara Lundstrom, 415-865-7650 <a href="mailto:tara.lundstrom@jud.ca.gov">tara.lundstrom@jud.ca.gov</a>
Subject	
Proposals to implement AB 879 and AB 1519	

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#### 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 proposal to implement AB 1519 was reviewed and recommended by FJLAC during its February 4 meeting. FJLAC will revisit the rules and form proposal to implement AB 879 during its February 11 meeting. Staff will orally present FJLAC’s final recommendation on the AB 879 proposal to the Rules and Policy Subcommittee during its February 16 meeting. Both proposals are intended to be presented to the Judicial Council during its April meeting and would go into effect on July 1, 2016.

#### Discussion

##### **AB 879: E-Mail notices of hearings in juvenile dependency proceedings**

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. During its February 4 meeting, FJLAC reviewed the comments and recommended that the form be mandatory, not optional. After discussing the comments related to the role of social workers in obtaining consent to electronic notices, the committee asked staff to modify the proposed amendment to rule 5.524(e)(2) and draft an advisory committee to express its concerns.

Based on feedback provided between meetings by several FJLAC members, the revised proposal would amend rule 5.24(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.” In addition, an Advisory Committee Comment would be added to recognize that “from an operational standpoint, there may be significant problems with ensuring that a person entitled to notice would have the opportunity to be fully informed of his or her right to notice and the advisability of consenting to notice of hearings by electronic mail before the initial hearing contemplated in section 290.1.” FJLAC will review the revised proposal during its February 11 meeting. Staff will report orally on the results of the FJLAC meeting during the Rules and Policy Subcommittee meeting.

#### **AB 1519: Exceptions to signature requirements on e-filed pleadings for local child support agencies**

Assembly Bill 1519 amended Family Code section 17400(b)(3) to provide for two exceptions to the signature requirements on e-filed pleadings signed by local child support agencies. Instead of maintaining the original signature made under penalty of perjury on e-filed pleadings indefinitely, local child support agencies may (1) maintain original signed pleadings by way of an electronic copy in the statewide automated child support system and (2) need retain the original signed pleadings only for the same statutory time period for which courts must retain court records under Government Code section 68152. The rules proposal would amend rule 2.257(a)(2)—the rule governing signatures made under penalty of perjury on e-filed documents—to recognize these exceptions for local child support agencies.

In response to the Invitation to Comment, six organizations provided comments; five agreed with the proposal and one agreed if modified. To address concerns raised by the Superior Court of Los Angeles, an additional sentence was added to the proposed amendment to rule 2.257(a)(2) to clarify that if the local child support agency maintains an electronic copy of the original signed pleading in the statewide automated child support system, it may destroy the paper original.

During its meeting on February 4, the Family and Juvenile Law Advisory Committee recommended the rules proposal to implement AB 1519, as revised.

#### Subcommittee's Task

The subcommittee is tasked with reviewing the draft proposals to implement AB 879 and 1519 and:

- Asking staff or group members for further information and analysis;
- Advising ITAC to recommend to the Rules and Projects Committee that all or part of the proposals be presented to the Judicial Council; or
- Rejecting the proposals.

#### 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)
2. Draft Judicial Council report for rules proposal implementing AB 1519 and attachments (proposed rule amendment and comment chart)



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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 15, 2016

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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 10, 2016

Recommended by

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Contact

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Information Technology Advisory Committee

Hon. Terence L. Bruiniers, Chair

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### 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**

Last year, 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-CV<sup>1</sup> 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 and attorneys—the new form contemplates the myriad number 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

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<sup>1</sup> Revised form EFS-005-CV also eliminates from the Proof of Electronic Service on page 2 the words “and not a party to this action,” which are not consistent with the statute and the rules on electronic service that permit parties to serve a document electronically.

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.

Lastly, this proposal makes technical changes to rules 5.550 and 5.815. It amends rule 5.550(a)(6) to eliminate (1) an outdated cross-reference to rule 5.667 and (2) an inconsistency between rule 5.550(a) and Welfare and Institutions Code section 316.2 regarding the effect of the failure of an alleged father to return a certified mail receipt to notice. This proposal also amends rule 5.815(d) to replace, in accordance with the rule's enabling statute, the reference to Probate Code section 1511 with Welfare and Institutions Code section 294.

### **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. At this time, the implementing rule amendments provide only that the process for obtaining consent is a local decision. Nevertheless, because the committees acknowledge there may be concerns regarding consent to receiving notice of the initial hearing, they have recommended that an Advisory Committee Comment be added to rule 5.524 to clarify that “from an operational standpoint, there may be significant problems with ensuring that a person entitled to notice would have the opportunity to be fully informed of his or her right to notice and the advisability of consenting to notice of hearing by electronic mail before the initial hearing contemplated in section 290.1.”

In addition, the 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 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 a number of suggestions for changes to improve the readability of the form, which were gratefully accepted by the committees.

### **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](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 would be 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 **Advisory Committee Comment**

23  
24 Subdivision (e) of this rule was amended as a result of the passage of Assembly Bill 879 (Burke; Stats.  
25 2015, ch. 219). The legislation authorized notice of specified hearings by electronic mail and allowed  
26 persons entitled to notice in these hearings to provide an electronic mail address to the court for this  
27 purpose. The Family and Juvenile Law Advisory Committee received comments during the public  
28 comment period expressing concern about how consent would be obtained from persons entitled to notice  
29 before their first appearance on the record, specifically, consent to receive the notice of an initial petition  
30 hearing pursuant to section 290.1 of the Welfare and Institutions Code by electronic mail. The Family and  
31 Juvenile Law Advisory Committee believes that from an operational standpoint, there may be significant  
32 problems with ensuring that a person entitled to notice would have the opportunity to be fully informed of  
33 his or her right to notice and the advisability of consenting to notice of hearings by electronic mail before  
34 the initial hearing contemplated in section 290.1.

35  
36 **Rule 5.534. General provisions-all proceedings**

37  
38 (a)–(l) \* \* \*

39  
40 (m) **Address of parent or guardian—notice (§ 316.1)**

41  
42 At the first appearance by a parent or guardian in proceedings under section 300 et  
43 seq., the court must order each parent or guardian to provide a mailing address.

44  
45 (1) The court must advise that the mailing address provided will be used by the  
46 court, the clerk, and the social services agency for the purposes of notice of  
47 hearings and the mailing of all documents related to the proceedings.  
48

- 1 (2) The court must advise that until and unless the parent or guardian, or the  
2 attorney of record for the parent or guardian, submits written notification of a  
3 change of mailing address, the address provided will be used, and notice  
4 requirements will be satisfied by appropriate service at that address.  
5  
6 (3) *Notification of Mailing Address* (form JV-140) is the preferred method of  
7 informing the court and the social services agency of the mailing address of  
8 the parent or guardian and change of mailing address.  
9  
10 (A) The form must be delivered to the parent or guardian, or both, with the  
11 petition.  
12  
13 (B) The form must be available in the courtroom, in the office of the clerk,  
14 and in the offices of the social services agency.  
15  
16 (C) The form must be printed and made available in both English and  
17 Spanish.  
18  
19 (4) If the county and the court allow notice of hearings under sections 290.1–295  
20 by electronic mail, those persons who are entitled to notice and who want to  
21 receive notice of hearings by electronic mail, must indicate their consent by  
22 filing *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address*  
23 *Change (Juvenile)* (form EFS-005-JV/JV-141).  
24

25 (n)–(p) \* \* \*

26  
27  
28 **Rule 5.550. Continuances**  
29

30 (a) **Cases petitioned under section 300 (§§ 316.2, 352, 354)**  
31

- 32 (1) The court must not continue a hearing beyond the time set by statute unless  
33 the court determines the continuance is not contrary to the interest of the  
34 child. In considering the child’s interest, the court must give substantial  
35 weight to a child’s needs for stability and prompt resolution of custody status,  
36 and the damage of prolonged temporary placements.  
37  
38 (2) Continuances may be granted only on a showing of good cause, and only for  
39 the time shown to be necessary. Stipulation between counsel of parties,  
40 convenience of parties, and pending criminal or family law matters are not in  
41 and of themselves good cause.  
42  
43 (3) If a child has been removed from the custody of a parent or guardian, the court  
44 must not grant a continuance that would cause the disposition hearing under  
45 section 361 to be completed more than 60 days after the detention hearing  
46 unless the court finds exceptional circumstances. In no event may the

1 disposition hearing be continued more than six months after the detention  
2 hearing.

3  
4 (4) In order to obtain a continuance, written notice with supporting documents  
5 must be filed and served on all parties at least two court days before the date  
6 set for hearing, unless the court finds good cause for hearing an oral motion.

7  
8 (5) The court must state in its order the facts requiring any continuance that is  
9 granted.

10  
11 ~~(6) Failure of an alleged father to return a certified mail receipt of notice as~~  
12 ~~described in rule 5.667 does not, in and of itself, constitute good cause to~~  
13 ~~continue a hearing.~~

14  
15 (b)–(c) \* \* \*

16  
17 **Rule 5.708. General review hearing requirements**

18  
19 (a)–(m) \* \* \*

20  
21 (n) **Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

22  
23 The court must make the following orders and determinations when setting a  
24 hearing under section 366.26:

25  
26 (1) The court must terminate reunification services to the parent or legal guardian  
27 and:

28  
29 (A) Order that the social worker provide a copy of the child’s birth  
30 certificate to the caregiver as consistent with sections 16010.4(e)(5) and  
31 16010.5(b)–(c); and

32  
33 (B) Order that the social worker provide a child or youth 16 years of age or  
34 older with a copy of his or her birth certificate unless the court finds  
35 that provision of the birth certificate would be inappropriate.

36  
37 (2) The court must continue to permit the parent or legal guardian to visit the  
38 child, unless it finds that visitation would be detrimental to the child;

39  
40 (3) If the child is 10 years of age or older and is placed in an out-of-home  
41 placement for 6 months or longer, the court must enter any other appropriate  
42 orders to enable the child to maintain relationships with other individuals  
43 who are important to the child, consistent with the child's best interest.  
44 Specifically, the court:  
45

- 1 (A) Must determine whether the agency has identified individuals, in  
2 addition to the child’s siblings, who are important to the child and will  
3 maintain caring, permanent relationships with the child, consistent with  
4 the child’s best interest;  
5  
6 (B) Must determine whether the agency has made reasonable efforts to  
7 nurture and maintain the child’s relationships with those individuals,  
8 consistent with the child’s best interest; and  
9  
10 (C) May make any appropriate order to ensure that those relationships are  
11 maintained.  
12  
13 (4) The court must direct the county child welfare agency and the appropriate  
14 county or state adoption agency to prepare an assessment under section  
15 366.21(i), 366.22(c), or 366.25(b);  
16  
17 (5) The court must ensure that notice is provided as follows: required by section  
18 294.  
19  
20 (A) ~~Within 24 hours of the review hearing, the clerk of the court must~~  
21 ~~provide notice by first class mail to the last known address of any party~~  
22 ~~who is not present at the review hearing. The notice must include the~~  
23 ~~advisements required by rule 5.590(b).~~  
24  
25 (B) ~~The court must order that notice of the hearing under section 366.26 not~~  
26 ~~be provided to any of the following:~~  
27  
28 (i) ~~Any parent whether natural, presumed, biological, or alleged~~  
29 ~~who has relinquished the child for adoption and whose~~  
30 ~~relinquishment has been accepted and filed with notice under~~  
31 ~~Family Code section 8700; or~~  
32  
33 (ii) ~~An alleged parent who has denied parentage and has completed~~  
34 ~~item 2 of *Statement Regarding Parentage (Juvenile)* (form JV-~~  
35 ~~505).~~  
36  
37 (6) The court must follow all procedures in rule 5.590 regarding writ petition  
38 rights, advisements, and forms.

39  
40 (o) \* \* \*

41  
42 **Rule 5.815. Appointment of legal guardians for wards of the juvenile court;**  
43 **modification or termination of guardianship**  
44

1 (a)–(c) \* \* \*

2

3 (d) **Notice (§ 728(c))**

4

5 The clerk must provide notice of the hearing to the child, the child’s parents, and  
6 other individuals as required by ~~Probate Code section 1511~~ section 294.

7

8 (e)–(g) \* \* \*

9

DRAFT

**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  this case  the sibling of the child

*(name of party represented)*: \_\_\_\_\_

- 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*

*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:**



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](http://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.**





CASE NAME:	CASE NUMBER:
------------	--------------

(Note: If you serve Consent to Electronic Service and Notice of Electronic Service Address by mail, you should use form POS-030, Proof of Service by First-Class Mail–Civil, instead of using this page.)

## PROOF OF ELECTRONIC SERVICE

### CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC SERVICE ADDRESS

1. I am at least 18 years old.
  - a. My residence or business address is (*specify*):
  
  
  
  
  
  - b. My electronic service address is (*specify*):
  
2. I electronically served a copy of the *Consent to Electronic Service and Notice of Electronic Service Address* as follows:
  - a. Name of person served:
  
  - b. Electronic service address of person served:  
 On behalf of (*name or names of parties represented, if person served is an attorney*):
  
  - c. On (*date*):
  
  - d. At (*time*):

Electronic service of the *Consent to Electronic Service and Notice of Electronic Service Address* on additional persons is described in an attachment.

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF DECLARANT)



\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

**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 (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
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)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
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>Nonetheless, to express their concerns, the committees recommend adding an Advisory Committee Comment to rule 5.524, which states that “from an operational standpoint, there may be significant problems with ensuring that a person entitled to notice would have the opportunity to be fully informed of his or her right to notice and the advisability of consenting to notice of hearing by electronic mail before the initial hearing contemplated in section 290.1.”</p> <p>The committees also appreciate the other suggestions submitted by the Office of County Counsel, but have not recommended incorporating</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
				<p>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 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"> <li>• Does the proposal appropriately address the stated purpose? <b>Yes.</b></li> <li>• Are the name “E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile)” and number “EFS-005-</li> </ul>	The committees appreciate this input.

**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
			<p>JV/JV-141” clear enough to signal that this is a juvenile form? <b>Yes.</b></p> <ul style="list-style-type: none"> <li>• 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? <b>Yes.</b></li> <li>• 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 requirements for receiving notice by e-mail? <b>Yes.</b></li> <li>• 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? <b>It is sufficient.</b></li> <li>• Should the proposed form EFS-005-JV/JV-141 be mandatory or optional? <b>The form should be mandatory to encourage consistency.</b></li> </ul>	<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</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>

**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 (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>of #3 begins.</p> <p>FLEXCOM proposes consolidating items under #2 to create more space in one or both of the following ways:</p> <p>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>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.</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, the committees determined that the checkboxes are the best way to signal this important information to the court and agencies providing notice.</p> <p>This is an excellent suggestion and the committees have edited the form to eliminate unnecessary repetition of the form filer’s name.</p>
5.	State Bar of California Standing Committee on the Delivery of Legal Services By Sharon Ngim, Program Developer	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>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.</p>	The committees appreciate this feedback.

**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 (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
6.	Superior Court of California, County of Orange By Blanca Escobedo Principal Administrative Analyst Family Law & Juvenile Court	NI	<p>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.</p> <p>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 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>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.</p> <p>The committees agree and have changed the title of the form to: <i>E-mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (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</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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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
				agreements with their local social services agencies for e-mail notices of hearings.
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.
8.	Superior Court of California, County of San Diego By Mike Roddy, Executive Officer	AM	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.  EFS-005-JV/JV-141 page 1, item 3: The form is missing a word. Please keep my e-mail <u>address</u> confidential.  EFS-005-JV/JV-141 page 2, line 1: A letter is missing: e-mail notice of hearings (or hearing notices by e-mail)  EFS-005-JV/JV-141 page 2, final bullet: A letter is missing: social services agency	The committees appreciate this comment, but after deliberation, have decided to make the form mandatory.  The committees agree with the specific comments on the form and appreciate the feedback; the suggested changes have been made to the form.





## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 15, 2016

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**Title**

Family Law: Signatures by Local Child Support Agencies on Electronically Filed Pleadings (Implementation of AB 1519)

**Agenda Item Type**

Action Required

**Effective Date**

July 1, 2016

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 2.257

**Date of Report**

January 29, 2016

**Recommended by**

Family & Juvenile Law Advisory Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

**Contact**

Tara Lundstrom, 415-865-7650  
[tara.lundstrom@jud.ca.gov](mailto:tara.lundstrom@jud.ca.gov)

Information Technology Advisory Committee

Hon. Terence L. Bruiniers, Chair

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### Executive Summary

To implement Assembly Bill 1519, the Family and Juvenile Law Advisory Committee and the Information Technology Advisory Committee recommend amending California Rules of Court, rule 2.257, which governs the use of signatures on electronically filed documents. Effective January 1, 2016, AB 1519 amends Family Code section 17400(b)(3) to provide that local child support agencies (1) are required to maintain original signed pleadings only for the time period stated in Government Code section 68152(a); and (2) may maintain original signed pleadings by way of an electronic copy in the statewide automated child support system. AB 1519 requires the Judicial Council to develop implementing rules by July 1, 2016.

## **Recommendation**

The Family and Juvenile Law Advisory Committee and the Information Technology Advisory Committee recommend that the Judicial Council, effective June 1, 2016, amend the California Rules of Court to:

1. Provide in rule 2.257(a)(2) that local child support agencies may maintain original signed pleadings by way of an electronic copy in the statewide automated child support system and must maintain them only for the period of time stated in Government Code section 68152(a).

The text of the amended rule is attached at page 5.

## **Previous Council Action**

Judicial Council-sponsored legislation resulted in the enactment in 1999 of Code of Civil Procedure section 1010.6, which governs electronic filing and service in the trial courts and contains provisions regulating the use of signatures on electronically filed documents. Since its enactment, section 1010.6 has required that an attorney or person who electronically files a document signed under penalty of perjury (1) sign a printed form of the document prior to, or on the same day as, the date of filing; (2) maintain the printed document bearing the original signature; and (3) make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed. (Code Civ. Proc., § 1010.6(b)(2)(B).)

The Judicial Council subsequently adopted rule 2.257 to implement Code of Civil Procedure section 1010.6(b)(2). Rule 2.257(a) provides that the following conditions apply to electronically filed documents signed under penalty of perjury:

- (1) The document is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document.
- (2) By electronically filing the document, the electronic filer certifies that (1) has been complied with and that the original, signed document is available for inspection and copying at the request of the court or any other party.
- (3) At any time after the document is filed, any other party may serve a demand for production of the original signed document. The demand must be served on all other parties but need not be filed with the court.
- (4) Within five days of service of the demand under (3), the party on whom the demand is made must make the original signed document available for inspection and copying by all other parties.
- (5) At any time after the document is filed, the court may order the filing party to produce the original signed document in court for inspection and copying by the court. The order must specify the date, time, and place for the production and must be served on all parties.

## **Rationale for Recommendation**

In enacting AB 1519 this year, the Legislature amended Family Code section 17400(b)(3) to provide as follows:

Notwithstanding any other law, effective July 1, 2016, a local child support agency may electronically file pleadings signed by an agent of the local child support agency under penalty of perjury. An original signed pleading shall be executed prior to, or on the same day as, the day of electronic filing. Original signed pleadings shall be maintained by the local child support agency for the period of time proscribed by subdivision (a) of Section 68152 of the Government Code. A local child support agency may maintain the original signed pleading by way of an electronic copy in the Statewide Automated Child Support System. The Judicial Council, by July 1, 2016, shall develop rules to implement this subdivision.

In effect, AB 1519 carves out two exceptions to Code of Civil Procedure section 1010.6(b)(2)(B) for electronically filed pleadings that are signed by local child support agencies under penalty of perjury. First, whereas Code of Civil Procedure section 1010.6(b)(2)(B) requires that the printed document bearing the original signature be maintained in its paper form, Family Code section 17400(b)(3) authorizes local child support agencies to maintain original signed pleadings in electronic form through the statewide automated child support system.

Second, whereas Code of Civil Procedure section 1010.6(b)(2)(B) provides that the signed, printed form must be maintained and made available for review upon request without specifying when, if ever, the printed document may be destroyed, Family Code section 17400(b)(3) provides that local child support agencies need to maintain the original signed pleadings only for the statutory retention periods for trial court records stated in Government Code section 68152(a). The retention period, which begins upon final disposition of the case, is 30 years for court records in family cases; for adoption and parentage cases, the records are maintained permanently. (Gov. Code, § 68152(a)(7)–(9).)

To implement AB 1519, this proposal amends subdivision (a)(2) of rule 2.257 to recognize the two limited exceptions for child support agencies stated in Family Code section 17400(b)(3). Rule 2.257(a)(2) currently provides that by electronically filing a document, the electronic filer certifies that he or she has complied with subdivision (a)(1), which requires that a printed form of the document be signed before filing, and that the original, signed document is available for inspection and copying at the request of the court or any other party.

This proposal adds the following language to subdivision (a)(2): “Local child support agencies may maintain original signed pleadings by way of an electronic copy in the Statewide Automated Child Support System and must maintain them only for the period of time stated in Government Code section 68152(a). If the local child support agency maintains an electronic copy of the

original signed pleading in the statewide automated child support system, it may destroy the paper original.”

### **Comments, Alternatives Considered, and Policy Implications**

This proposal circulated for comment from December 11, 2015 to January 22, 2016, as part of the winter 2016 invitation to comment cycle. It was distributed to the standard mailing list for family and juvenile law proposals, which includes 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. Six organizations provided comment; five agreed with the proposal and one agreed if modified. A chart with the full text of the comments received and the committee’s responses is attached at pages 6–9.

The Superior Court of Los Angeles County recommended adding language to the rule amendment to clarify that local child support agencies need not retain the original signed pleading in paper form if they maintain an electronic copy in the statewide automated child support system. The advisory committees agree with the recommendation and modified the rule amendment to make this clear.

Because the rule amendment is mandated by legislation, the advisory committees did not consider any alternatives.

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

The rule amendment is directed toward local child support agencies and governs how and for how long they maintain original signed pleadings. It is not expected that the amendment will result in any costs or operational impacts on the courts.

### **Attachments and Links**

1. Cal. Rules of Court, rule 2.257, at page 5
2. Chart of comments, at pages 6–9
3. Attachment A: AB 1519 (Stats. 2015, ch. 416),  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1519](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1519)

Rule 2.257 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 **Rule 2.257. Requirements for signatures on documents**

2  
3 **(a) Documents signed under penalty of perjury**

4  
5 When a document to be filed electronically provides for a signature under penalty  
6 of perjury, the following applies:

- 7  
8 (1) The document is deemed signed by the declarant if, before filing, the  
9 declarant has signed a printed form of the document.
- 10  
11 (2) By electronically filing the document, the electronic filer certifies that (1) has  
12 been complied with and that the original, signed document is available for  
13 inspection and copying at the request of the court or any other party. Local  
14 child support agencies may maintain original signed pleadings by way of an  
15 electronic copy in the statewide automated child support system and must  
16 maintain them only for the period of time stated in Government Code section  
17 68152(a). If the local child support agency maintains an electronic copy of  
18 the original signed pleading in the statewide automated child support system,  
19 it may destroy the paper original.
- 20  
21 (3) At any time after the document is filed, any other party may serve a demand  
22 for production of the original signed document. The demand must be served  
23 on all other parties but need not be filed with the court.
- 24  
25 (4) Within five days of service of the demand under (3), the party on whom the  
26 demand is made must make the original signed document available for  
27 inspection and copying by all other parties.
- 28  
29 (5) At any time after the document is filed, the court may order the filing party to  
30 produce the original signed document in court for inspection and copying by  
31 the court. The order must specify the date, time, and place for the production  
32 and must be served on all parties.

33  
34 **(b) \* \* \***

35  
36 **(c) \* \* \***

37  
38 **(d) \* \* \***

39  
40 **(e) \* \* \***

## W16-13

### Family Law: Signatures by Local Child Support Agencies on Electronically Filed Pleadings (amend Cal. Rules of Court, rule 2.257)

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

	Commentator	Position	Comment	Committee Response
1.	Los Angeles County Bar Association (no name provided)	A	<p>“<b>PROPOSAL:</b> AB 1519 proposes to amend subdivision (a) (2.257) to recognize two limited exceptions for child support agencies under Family Code § 17400(b)(3). Currently Rule 2.257(a)(2) requires that the electronic filer keep a printed form of the document signed before filing and that the original signed document is available for inspection and copying at the request of the court or any other party. The rule proposal would add a sentence to subdivision (a)(2) to recognize that local child support agencies may maintain original signed pleadings by way of an electronic copy in the statewide automated child support system and must maintain them only for a period of time stated in Government Code §68152(a) which is 30 years.</p> <p><b>REQUEST FOR COMMENTS:</b> The Advisory Committee is interested in receiving comments on whether this proposal addresses the stated purpose of AB 1519. LACBA Response: Yes”</p>	No response required.
2.	Orange County Bar Association by Todd G. Friendland, President	A	“Does the proposal appropriately address the stated purpose? YES.”	No response required.
3.	State Bar of California Family Law Section by Fariba R. Soroosh and Saul Bercovitch	A	“The Executive Committee of the Family Law Section supports this proposal.”	No response required.

**W16-13**

**Family Law: Signatures by Local Child Support Agencies on Electronically Filed Pleadings** (amend Cal. Rules of Court, rule 2.257)

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

4.	Superior Court of Los Angeles County (no name provided)	AM	<p>“Assembly Bill 1519 <u>The proposal appropriately addresses the stated purpose:</u></p> <ul style="list-style-type: none"><li>• Yes. Currently there is in place methodology for handling electronic filing of the Summons and Complaint by the local child support agency (LCSA) in accord with FC Sec 174000(3). The current practice is to receive the completed Summons and Complaint from the State in an electronic format. The documents are then printed and that documentation becomes the original. The documents are maintained for the statutory period provided.</li></ul> <p><u>Language Clarification of proposal:</u></p> <ul style="list-style-type: none"><li>• We agree with the proposed changes to implement AB 1519 with the following modification. By adding the Council’s proposed language, e.g., a sentence to subdivision (a)(2), it clarifies the two limited exceptions for child support agencies. However, it does not promote consistency between the Code of Civil Procedures and Family Code. CCP section 1010.6(b)(2)(B) requires the documents bearing the original signature to be maintained in the paper form, the language added to the rule should explicitly state the electronic filing</li></ul>	<p>No response required.</p> <p>The committees agree with the court’s recommendation and have added language to the rule to clarify that local child support agencies are not required to maintain the original signed pleadings in paper form if they maintain an electronic copy in the statewide automated child support system.</p>
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**W16-13**

**Family Law: Signatures by Local Child Support Agencies on Electronically Filed Pleadings** (amend Cal. Rules of Court, rule 2.257)

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

			<p>exception. The following additional language is proposed to eliminate any ambiguities, possible confusion and to promote consistency between CCP and the Family Code.</p> <ul style="list-style-type: none"> <li>○ “Local child support agencies may maintain original signed pleading by way of an electronic copy in the Statewide Automated Child Support System, <i>in lieu of the paper original</i>, and must maintain them only for the period of time stated in Government Code Section 68152(a).”</li> <li>○ By adding the words “in lieu of a paper original,” ambiguities are eliminated and consistency is promoted.</li> </ul> <p><u>Forms:</u></p> <ul style="list-style-type: none"> <li>• There are no new forms.</li> </ul> <p><u>Costs/Operational Impact:</u></p> <ul style="list-style-type: none"> <li>• No new costs or operational changes are associated as the proposed amendment to the rule is the current method of maintaining and receiving electronic filings by the LASC.”</li> </ul>	
5.	Superior Court of Riverside County (no name provided)	A	No specific comment.	No response required.



**W16-13**

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6.	Superior Court of San Diego County by Mike Roddy, Court Executive Officer	A	No specific comment.	No response required.
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